

SURRENDER AGREEMENT

This **SURRENDER AGREEMENT** ("**Agreement**") is made effective as of March ____, 2019 by and between **CITY OF ORLANDO, successor-in-interest to Jowers, Inc.**, a Florida municipal corporation, with offices at c/o The City of Orlando, Real Estate Management Division, 400 South Orange Avenue, 7th Floor, Orlando, Florida 32801 ("**Landlord**"), and **VALLEY NATIONAL BANK, successor-in-interest to CNLBank**, a national banking association, having an address at 1720 Route 2, Wayne, New Jersey 07470 ("**Tenant**").

W I T N E S S E T H

WHEREAS:

A. Jowers, Inc., predecessor-in-interest to Landlord and CNLBank, as predecessor-in-interest to Tenant, have heretofore entered into that certain Ground Lease Agreement dated as of October 10, 2007 (the "**Lease**"), with respect to certain premises located at 1802 Edgewater Drive, Orlando Florida 3280, as more particularly described in the Lease (the "**Premises**");

B. Jowers, Inc. assigned and Landlord assumed the obligations of Landlord under this Lease pursuant to that certain [Assignment and Assumption Agreement], dated as of March 1, 2019; and

C. Tenant desires to surrender the Lease and possession of the Premises to Landlord such that the term of the Lease shall expire prior to the expiration date as set forth in the Lease; and

D. Landlord is willing to accept such surrender of the Lease and possession of the Premises in the manner and upon the terms and conditions hereinafter set forth, provided that Tenant makes payment to Landlord and otherwise complies with the provisions of this Agreement,

NOW, THEREFORE, in consideration of the premises and the agreements hereinafter contained, it is mutually covenanted and agreed as follows:

1. Capitalized terms used in this Agreement, if not otherwise defined herein, shall have the meanings ascribed to them in the Lease. In the event of a conflict between the provisions of this Agreement and the provisions of the Lease, the provisions of this Agreement shall control.

2. As and for full payment of all rental and other payments due under the Lease, including all Base Rent, taxes, additional rent, and all obligations under the Lease accrued as of the Effective Date, Tenant has agreed to pay to the Landlord the sum of ONE MILLION and 00/100 (\$1,000,000.00) Dollars. The payment of the ONE MILLION and 00/100 (\$1,000,000.00) Dollars is referred to as the "Consideration."

Tenant shall pay the Consideration to the Landlord no later than the Effective Date of this Agreement. Landlord's receipt of the Consideration, in indefeasible form, is a condition precedent to the effectiveness of this Agreement. The "Effective Date" is defined as April 1, 2019, on which date Tenant shall have vacated the Premises in accordance with Paragraph 3 herein.

3. Provided that the Consideration is timely received by the Landlord, Tenant shall surrender the Premises to Landlord as of the Effective Date, so that the estate of Tenant in and to the Premises shall be wholly extinguished, and that the term of the Lease shall expire on the Effective Date in the same manner and with the same effect as if such date were the date set forth in the Lease for the expiration of the term thereof. Tenant shall remove all personal property from the Premises. Tenant shall leave the Premises "broom swept" upon vacating.

4. In consideration of the surrender of the Premises by Tenant, and of the acceptance of such surrender by Landlord, and the indefeasible payment of the Consideration, and provided that Tenant does not default in its obligations under this Agreement, Tenant and Landlord do hereby mutually release each other, their respective officers, directors, employees, guarantors, representatives, agents, affiliates, successors and assigns, of and from any and all claims, damages, obligations, liabilities, actions and causes of action, of every kind and nature whatsoever arising under or in connection with the Lease. Notwithstanding the above, neither party releases the other from any obligations arising under this Agreement, nor shall anything contained in this Agreement be deemed to constitute a release or discharge of any party with respect to any obligation under the Lease to indemnify, hold harmless or defend the other party from and against any and all claims or causes of action asserted by third parties and arising out of acts or omissions of the indemnifying party up to the Effective Date, to the extent required by such indemnifying party under the provisions of the Lease.

5. Tenant and Landlord each covenant, represent and warrant to the other that neither has had any dealings or communications with any broker or agent in connection herewith. Tenant and Landlord each covenant and agree to pay, hold harmless and indemnify the other, their respective officers, directors, employees, representatives, agents and affiliates, successors and assigns from and against any and all cost, expense (including reasonable attorneys' fees and disbursements) or liability for any compensation, commissions or charges claimed by any other broker or agent with respect hereto.

6. Landlord hereby represents and warrants that no party's consent including, but not limited to, any mortgagee or any ground landlord, is required with respect to Landlord's execution and delivery of this Agreement and the effectiveness of this Agreement. Landlord further represents and warrants that it owns and holds the entire interest of Landlord under the Lease. Each party represents and warrants that it is authorized to execute this Agreement on behalf of the respective party to this Agreement and that this Agreement when executed by such party shall become a valid

and binding obligation enforceable by and against such party in accordance with its terms.

7. On or after the Effective Date, the parties agree that upon written request of Landlord (and at Landlord's expense), Tenant will reasonably cooperate in the execution of a termination of the Memorandum of Lease of record for the Lease in the Public Records of Orange County, Florida.

8. This Agreement shall not be altered, amended, changed, waived, terminated or otherwise modified in any respect or particular, unless the same shall be in writing and signed by or on behalf of the party to be charged.

9. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and to their respective heirs, executors, administrators, successors and permitted assigns.

10. All prior statements, understandings, representations and agreements between the parties, oral or written, with respect to the subject matter of this Agreement, are superseded by and merged in this Agreement, which alone expresses the agreement between them in connection with this transaction and which is entered into after full investigation, neither party relying upon any statement, understanding, representation or agreement made by the other not embodied in this Agreement or the Lease.

11. This Agreement shall be interpreted and enforced in accordance with the laws of the state in which the Premises is located without reference to principles of conflicts of laws.

12. LANDLORD AND TENANT HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY, UNCONDITIONALLY AND IRREVOCABLY WAIVE ANY RIGHT EACH MAY HAVE TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER ARISING IN TORT OR CONTRACT) BROUGHT BY EITHER AGAINST THE OTHER ON ANY MATTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR ANY OTHER DOCUMENT EXECUTED AND DELIVERED BY EITHER PARTY IN CONNECTION HERewith (INCLUDING ANY ACTION TO RESCIND OR CANCEL THIS AGREEMENT ON THE GROUNDS THAT THIS AGREEMENT WAS FRAUDULENTLY INDUCED OR IS OTHERWISE VOID OR VOIDABLE).

13. Each party represents that it has not made any assignment, transfer, conveyance, or other disposition of the Lease, or interest in the Lease, or any claim, demand, obligation, liability, action, or cause of action arising from the Lease, and that it has full right, power and authority to enter into this Agreement.

14. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all such counterparts shall constitute one

and the same instrument. Facsimile or PDF email signatures shall have the same binding effect as original signatures. No party hereto shall raise the use of a facsimile machine or PDF email to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine or PDF email as a defense to the formation of a legal, valid and binding contractual obligation and each such party forever waives any such defense.

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IN WITNESS WHEREOF, the parties have caused their respective authorized representatives to sign this Agreement as of the date first written above and each of the undersigned hereby represents and warrants that it is authorized to execute this Agreement on behalf of the respective party to this Agreement and that this Agreement when executed by such party shall become a valid and binding obligation enforceable by and against such party in accordance with its terms.

Signed, sealed and delivered in the presence of:

(Signature of Witness)

(Name of Witness)

(Signature of Witness)

(Name of Witness)

Signed, sealed and delivered in the presence of:

Attest:

By: _____
Denise Aldridge, City Clerk

TENANT:

VALLEY NATIONAL BANK,
a national banking association

By: _____

Name:

Title:

LANDLORD:

CITY OF ORLANDO, a Florida municipal corporation

By: _____
Mayor/Pro Tem

Approved as to form and legality for the use and reliance of the City of Orlando, Florida only.

Dated this ____ day of _____, 2019.

By: _____
Assistant City Attorney