

Start 5-1-98

LEASE

This lease executed and dated as of April 9, 1998 between the City of Superior, Wisconsin, a municipal corporation duly organized and existing under the laws of the State of Wisconsin (hereinafter also referred to as the City) and Timothy Rainaldo. (hereinafter also referred to as Tenant).

WITNESSETH

1. Description:

The City, in consideration of the rents and covenants hereafter mentioned, does hereby demise, lease, let and grant exclusive possession unto the Tenant, and the Tenant does hereby hire and take from the City, the parcel of land in Douglas County, Wisconsin, described as follows:

LOTS 1 - 3, BLOCK 10,
WEST SUPERIOR, FIRST DIVISION, IN THE CITY OF SUPERIOR,
COUNTY OF DOUGLAS, STATE OF WISCONSIN

which parcel shall hereinafter be referred to as the Land.

2. Option to Purchase:

City hereby grants to tenant the right and option to purchase the land. Such option may be exercised by the tenant throughout the term of the lease upon the following terms and conditions:

- (a) The tenant shall elect its option to purchase by providing notice to the authority in writing.
- (b) The purchase price for the land shall be fair market value of the land, without regard to tenant improvements on the date the notice provided in subparagraph 1 above is received by City.
- (c) The fair market value of the land shall be established by an appraisal prepared by an appraiser knowledgeable in valuing industrial/commercial land in the City of Superior and selected by agreement of tenant and City.
- (d) The closing date for the sale of land shall be on a date agreeable to the parties within 60 days after the purchase price is established.
- (e) The City will sell and convey to tenant its interest in the land by quit claim deed and tenant will accept the land in an "as in" condition. The City will make no warranty, representation or assurance as to the condition and quality thereof.
- (f) The purchase price established for the land shall be the net amount payable to City. The tenant shall bear all expenses in connection with the exercise of the option establishing the purchase price and transfer of title.
- (g) Notwithstanding any other provision herein, tenants' option to purchase, including its right to close the purchase after providing notice under subparagraph 1 above, shall terminate upon termination of this lease.

3. Term:

The Tenant shall have and hold said land for a term of Fifty (50) years, commencing effective as of the date of execution herein as shown above. This lease may be extended an additional 25 years subject to the condition of the property, as established by a third-party inspection of the land and building, being in compliance with the codes, and the overall condition of the property being consistent with adjacent properties. The third-party inspector shall be mutually agreed to and the cost of the inspection shall be paid by the Tenant. In the event that the property at the end of the lease is to be released or if the property at any time during the term of or at the end of the lease is to be sold, the tenant shall have the right of first refusal. Value of the Land shall be established by a certified appraiser mutually agreed upon. The Tenant shall pay all related costs of the appraiser and transfer documents, The appraisal format shall meet federal written narrative standards that apply at the time of the appraisal

4. Use:

The Land shall be used as a custom furniture and cabinet shop or such other use as may be permitted by applicable zoning and other laws, together with such warehousing, offices, parking and loading facilities as are necessary for such uses. The Tenant hereby agrees to construct a 2,400 square foot building on the land at Tenant's cost which cost shall exceed in value the sum of Thirty Five Thousand Dollars (\$35,000). The Tenant agrees to substantially complete the landscaping, paving of parking lots, sidewalks and driveways. All of the above shall be completed on or before September 30, 1998. The Tenant may from time to time at its own expense, without the need for consent from the City, make any additions, modifications or improvements to the Land as it may deem desirable for its business purposes, provided, however, that this sentence will not be interpreted as exempting Tenant from the requirements of applicable building and zoning codes.

5. Rent:

- (a) **Base Rent:** The Tenant shall pay to the City as a base rent for the land, the sum of \$ 28.00 per month, payable in advance on the first day of every month. Rental for any fractional months of this lease shall be prorated. All monthly rentals shall be paid in advance and shall be payable to the City Treasurer at 1407 Hammond Avenue, Superior, Wisconsin 54880, or such other place as the City may direct.
- (b) **Cost of Living Adjustments:** Effective January 1, 2003 and on the first day of January of each fifth year thereafter during the full term of this lease, the monthly rental set forth in paragraph A shall be adjusted for the next succeeding five (5) years in accordance with the change in the "Consumer Price Index" (All Urban Consumers Index for Minneapolis-St. Paul) published by the United States Department of Labor, Bureau of Labor Statistics or its successor index. The rent shall be adjusted to an amount which bears the same ratio to the base rent as the Consumer Price Index for the adjustment month (December in 2002, and in each fifth year thereafter) bears to the Consumer Price Index (All Urban Consumer Index for Minneapolis-St. Paul December, 1997.) In no event, however, will the rent as adjusted under this paragraph be less than the base rent set out in paragraph (a). The Consumer Price Index for each adjustment year shall be adjusted, if necessary, to reflect any change in the base period used to compute the Consumer Price Index for December, 1997. Payment of adjusted rental for the period from January in each adjustment year to the time when the December Consumer Price Index figure is known shall be made with the monthly payment for the month immediately following the month in which the December Consumer Price Index figure is published.

6. Taxes:

In addition to all rent payable under this lease, the Tenant shall promptly pay to the City a payment in lieu of real estate taxes on the Land. The payment in lieu of real estate taxes shall be determined in the same manner and shall be subject to the same objection and appeal procedures as are set forth by Wisconsin Law for the payment, objection and appeal of real estate taxes on taxable real estate. The Tenant shall promptly pay all special assessments and charges levied against the Land during the term of this lease, provided, however, that the Tenant may object or appeal to such special assessments and charges under the procedure set forth by Wisconsin Law. The Tenant shall promptly pay all property taxes on the building, improvements and personal property located on the land, provided, however, that the Tenant may object or appeal to such taxes under the procedure set forth by Wisconsin Law. Tenant shall pay its costs of any objections to or appeals of payments in lieu of real estate taxes, special assessments and charges, or property taxes.

7. Construction:

The buildings and all other improvements to the Land shall be of sound construction, and shall in every respect comply with all governmental laws, ordinances, regulations and other requirements. The Tenant shall at its expense, obtain all necessary permits and licenses. The Tenant shall use and maintain said buildings and other improvements in good, safe and sanitary condition and in conformance with all applicable governmental laws, ordinances, regulations and other requirements. The Tenant shall pave all driveways and parking areas with hard surfaced bituminous or concrete material and shall, to the extent required by the City to meet applicable ordinances, repave and repair the sidewalks adjacent to the Land. The Tenant shall landscape the Land with trees, bushes and grass in accordance with a landscaping plan which Tenant shall submit to the City for approval, which approval will not be unreasonably withheld. The Tenant shall screen from view any outdoor storage of supplies, materials, products, refuse or debris. Such screening shall be with a six-foot high fence completely enclosing the storage area and blocking the view.

8. Soil Conditions and Title:

The Tenant acknowledges that it has examined and knows the condition of the Land and accepts the same in "as is" condition. The City makes no warranties or representations concerning the condition of the Land, including but not limited to the soil and subsoil conditions, buried demolition debris, foundations and other defects. The City makes no representation to its title of land however, if title can not be perfected by the City the lease shall be void. The City will not perform a level one environmental of the land, but will provide a land use history of the property pursuant to City records. The City agrees to provide evidence of good title to the tenant prior to the tenant's commencing construction of the proposed improvement.

9. Repairs, Maintenance and Additions:

During the term of this lease, the Tenant may, in its sole discretion, remove, remodel, modify, add to or improve the buildings and improvements on the Land. The Tenant shall, at its expense, perform all maintenance and repairs on the property and shall remove snow from the adjacent sidewalks. All obligations pursuant to statutes, ordinances, regulations or other government requirements which apply to an owner or occupant of land shall be the sole responsibility of the Tenant. The City shall have no responsibility to maintain or repair the building, land, or any improvements to the Land.

10. Damage or Destruction:

In the event the building or any other improvements on the Land are damaged or destroyed, neither the City nor the Tenant has an obligation to restore the building or the other improvements on the Land. If the building becomes untenable because of such damage or destruction and the Tenant elects not to restore the building, the Tenant may, in its sole discretion, terminate this Lease and the rent shall be abated during the unexpired portion of this Lease. The Tenant shall notify the City within six (6) months of the date of such damage whether it has elected to terminate this Lease and if this Lease is so terminated, the Tenant shall immediately thereafter demolish any buildings and other improvements on the Land except as otherwise consented to by the City and shall level the site.

11. Insurance and Indemnification:

- (a) During the term of the Lease, the Tenant hereby binds itself to indemnify and hold the City harmless against all claims for damages and expenses of every kind and character to parties who may claim or sue or demand damages for injuries sustained upon the Land, and the Tenant will defend any such suit or claim for damages or injuries at its own expense. For this purpose, the Tenant shall, at its expense, procure and continuously maintain in force Public Liability Insurance written on an "occurrence" basis under a Comprehensive General Liability Form in limits of not less than Five Hundred Thousand Dollars (\$500,000) aggregate per occurrence for personal and bodily injury and death and not less than Fifty Thousand Dollars (\$50,000) with respect to damage to property, such policy to be written so as to indemnify and protect both the City and the Tenant as their respective interests may appear. Effective January 1, 2003, and on the first day of January of each fifth year thereafter, during the full term of this Lease, the amount of liability insurance and property damage insurance under this paragraph 11 (a) for the next succeeding five (5) years, and until the next adjustment date, shall be adjusted to reflect changes in the Consumer Price Index. The amounts of changes in the insurance will be adjusted at the times and through the procedure for adjusting the rent as set forth in paragraph 5(b) hereof.
- (b) The Tenant shall, at its expense, procure and continuously maintain in force direct damage insurance covering the buildings and any other improvements on the Land; such policy, at a minimum, shall provide for demolition and debris removal and shall be in such amounts as are necessary, in the reasonable opinion of the Tenant, to demolish the buildings and other improvements on the Land and to restore the Land to its condition at the inception of this Lease, in the event this Lease is terminated pursuant to paragraph (10) hereof. The Tenant shall cause the City to be named as an additional insured under this policy.
- (c) The Tenant shall deposit with the City Clerk of the City a certificate or certificates of insurance of the respective insurers stating that such insurance is in force and effect. Each policy of insurance herein required shall contain a provision that the insurer shall not cancel, refuse to renew or materially modify it without giving written notice to the City at least ten (10) days before the cancellation, non-renewal or modification becomes effective. Before the expiration of any policy of insurance herein required, the Tenant shall furnish the City evidence satisfactory to the City that the policy has been renewed or replaced by another policy conforming to the provisions of this paragraph.
- (d) The Tenant shall indemnify and hold the City harmless from any claim, damage, injury, death, loss or course of action arising on the Land or arising out of activities occurring on the Land or in or about any building or other improvement.

12. Protection of the Land Against Liens:

The Tenant further covenants and agrees with the City that in entering into contracts for furnished materials or labor upon the Land, it will provide for the waiver of all claims for contractors' liens and will for such purpose execute and deliver or cause to be executed and delivered such additional forms of agreement or notice of waiver or release of claim of mechanics' liens in advance as are required by the contractor's lien laws of the State of Wisconsin. The Tenant shall at its expense promptly pay all costs and charges for labor and materials and shall indemnify and hold the City harmless against any debt, claim or lien arising out of the Tenant's construction of a building or other improvements. The Tenant shall keep the Land free of construction or mechanics' liens. If any such liens are filed, the Tenant shall immediately cause the same to be released or discharged or provide adequate and acceptable security or bond to protect the City's interest with in 60 days of said notice.

13. Eminent Domain:

If any part of the Land shall be taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain or by private purchase in lieu thereof, the Tenant, may, in its sole discretion, terminate this Lease and the rent shall be abated during the unexpired portion of this Lease, effective when the physical taking of the Land shall occur. Separate awards for damage to the respective interests of the City and the Tenant shall be made, and each shall be entitled to receive and retain such awards as shall be made to them, and the termination of this Lease shall not affect the rights of the respective parties to the awards. If any part of the Land shall be taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain or by private purchase in lieu thereof, and if the Tenant elects not to terminate this Lease, the rent payable hereunder during the unexpired portion of this Lease shall be reduced in the same ratio as the area of the portion of the Land so taken bears to the total area of the Land. Separate awards shall be made in such event for damages to the respective interests of the City and the Tenant.

14. Utilities and Other Charges:

The Tenant and City agree that this Lease is a "net" lease to the City. The Tenant agrees to provide at its own cost, gas, water, electricity, sewer and telephone connections to the Land and shall pay all charges incurred for any utility or other charges for services used on the Land.

15. Assignment and Sublease:

The Tenant may, with the consent of the City, assign this Lease, in whole or in part. The exception, to the consent is that the Lease may be assigned to any lending institution for financing purposes. Within thirty (30) days after an assignment of the Lease, the Tenant and/or any assignee shall provide a copy of such assignment, which shall expressly assume all obligations of the Tenant hereunder to the City. The City shall withhold consent to the assignment upon presentation of adequate proof establishing that the assignee has a financial ability to assume any mortgages on the Land. Upon the assumption of all obligations under this Lease by the assignee, the Tenant shall be relieved of its contractual obligations hereunder. The Tenant is hereby given the absolute right without any further consent from the City to mortgage the tenant's interest in this Lease and the Tenant's improvements thereon, provided that no such mortgage shall extend to or affect the fee, the reversionary interest or the estate of the City in and to the Land. No mortgage of this Lease or assignment thereof shall be binding upon the City in the enforcement of its rights under this Lease, nor shall the City be deemed to have any notice thereof, unless and until a fully conformed copy of each instrument affecting such mortgage or assignment, in form proper for recording shall be delivered to the City. If the holder of any such mortgage shall give to the City, before any default shall have occurred in the Lease, a written notice containing the name and post office address of such holder, the City shall

thereafter give to such holder a copy of each notice of default by the Tenant or such other notice as may be required by this Lease, at the time as any such notice shall be given by the City to the Tenant. A copy of such notice shall, in each instance, be sent to the holder of such mortgage in the same manner provided for in paragraph 24 of this Lease. The City will accept performance by the holder of any such mortgage of any terms of this Lease required to be performed by the Tenant, with the same force and effect as though performance by the Tenant, if at the time of such performance the City had been furnished with evidence satisfactory to the City of the interest in the Land claimed by the person, firm or corporation tendering such performance or payment. In defining this lease, this lease is a ground lease and any fixture built on it shall be real property. The tenant may also transfer or assign the lease within the Tenants family or as part of the estate of Tenant and the heirs and successors shall then become for all purposes the Tenant. Such assignment within the family or as part of an estate shall not require the consent of the City however, the City shall be notified of such change in writing with in thirty days.

16. Removal of Building and Improvements or Termination:

Upon the termination of this Lease, the Tenant shall at its cost remove or demolish the buildings and all other improvements to the Land and shall at its cost restore the Land to its condition at the inception of this Lease; provided, however, that the City may, upon written notice delivered to Tenant One hundred and eighty (180) days before the date of termination, take ownership of the building and/or any other improvement to the Land in which case, the Tenant shall execute such documents as may be reasonably required by the City to transfer ownership of such building and/or any other improvement. Upon executing such document, the Tenant shall be released of its obligation to demolish the building or the other improvement which has been transferred to the City, but shall remain obligated to demolish the remainder.

17. Equal Employment Opportunity and Hiring:

The Tenant shall conduct its activities in compliance with Title VI of the Civil Rights Act of 1964 (Pub. L. 68-852) and implementing regulations thereto issued at 24 CFR, Part 1, and in compliance with Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284) as amended and implementing regulations. The Tenant agrees that, to the extent possible, it will hire employees through the Wisconsin Job Service and will hire, to the extent possible, persons of low and moderate incomes as that term may from time to time be defined by the United States Department of Housing and Urban Development.

18. Default and Remedies of the City:

Any one or more of the following events is an event of default under this Lease:

- (a) If the Tenant shall fail to pay the rent on or before the dates on which payment is due and in such case shall continue to be in arrears for a period of ten (10) days after written notice has been given to the Tenant by the City specifying such default and requesting that it be remedied; or
- (b) If the Tenant shall fail to observe and perform any other covenant, condition or agreement on its part under this Lease for a period of thirty (30) days after written notice has been given to the Tenant by the City specifying such default and requesting that it be remedied. The Tenant shall provide evidence within that 30 days of cure of the default or otherwise taking actions necessary to cure the default within a reasonable time.

Whenever any such event of default shall have happened and be subsisting, the City may terminate

this Lease and recover possession of the Land in accordance with the provisions of Wisconsin Statutes, Section 704.31 or may sue for damages or costs incurred by such breach.

19. Attorneys' Fees and Expenses:

In the event either party shall default under any of the provisions of this Lease and the other party should employ attorneys or incur other expenses for the collection of rents or other amounts payable hereunder or the enforcement of performance of any other obligation or agreement on the part of said other party, that other party will on demand pay the reasonable fee of such attorneys and such other expenses so incurred.

20. Waiver of Past Defaults:

The City may waive any past default hereunder; provided, however, each waiver must be in writing. Upon such waiver, such default shall cease to exist and shall be deemed to have been cured for every purpose of this Lease; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

21. Holding Over:

If the Tenant shall continue in possession of the Land beyond the termination of this Lease, such holding over shall be considered an extension of this Lease for a further period of one (1) month and so on from month to month until terminated by either party by giving not less than thirty (30) days written notice of termination.

22. Binding Effect:

This Lease shall inure to the benefit of and shall be binding upon the city and the Tenant and their respective successors and assigns.

23. Severability:

In the event any provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

24. Amendments, Changes and Modifications:

Except as otherwise provided in this Lease, this Lease may not be effectively amended, changed, modified, altered or terminated without the written consent of the parties hereto.

25. Execution Counterparts:

This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

26. Law Governing:

This Lease shall be construed in accordance with the laws of the State of Wisconsin.

27. Required Approvals:

Consents, approvals and other actions required by this Lease to be obtained from the Tenant or the City shall not be unreasonably withheld or delayed.

28. Notices:

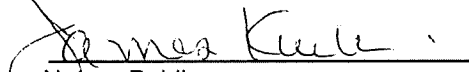
All notices required under this Lease shall be in writing and shall be deemed to be properly served when mailed by certified United States mail, postage prepaid, return receipt requested, addressed to the party to whom directed at the address herein set forth or at such other address as may be from time to time designated in writing by the party changing such address.

To the City of Superior

City Clerk
City of Superior
1407 Hammond Avenue
Superior, Wisconsin 54880

STATE OF WISCONSIN)
) ss.
COUNTY OF DOUGLAS)

On this 9th day of April, 1998, before me, a notary public within and for said County, personally appeared Margaret Ciccone, and Carol Ahlberg to me personally known, who, being by me duly sworn, did say that they are the Mayor and the City Clerk, respectively, of the City of Superior, Wisconsin, a municipal corporation duly organized and existing under the laws of the State of Wisconsin, and that the seal affixed to the within instrument is the corporate seal of said municipal corporation, and that said instrument was signed and sealed on behalf of said municipal corporation by authority of its Common Council, and said Margaret Ciccone and Carol Ahlberg acknowledged said instrument to be the free act and deed of said municipal corporation.




Notary Public

NOTARY PUBLIC
State of Wisconsin
James Kumbara

STATE OF WISCONSIN)
) ss.
COUNTY OF DOUGLAS)

On this 9th day of April, 1998, before me, a notary public within and for said County, personally appeared Timothy Rainaldo, to me personally known, who, being by me duly sworn, did say that he acknowledged said instrument to be his free act and deed.



Notary Public

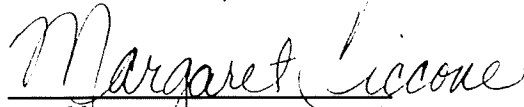
NOTARY PUBLIC
State of Wisconsin
James Kumbara

To the Tenant:

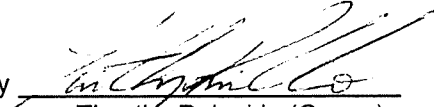
Timothy Rainaldo
1912 N. 62nd Street
Superior, WI 54880

IN WITNESS WHEREOF, the parties have signed this Lease as of the day and year first above written.

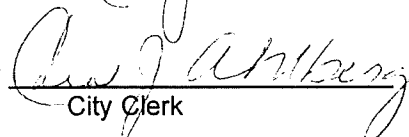
CITY OF SUPERIOR, WISCONSIN

By 

Mayor

By 

Timothy Rainaldo (Owner)

By 

City Clerk