

4. DEVELOPER agrees that DEVELOPER shall keep, or cause to be kept, the CAFE in a clean, neat condition at all times and shall keep such area exposed to the elements free from ice and snow. Without limiting the generality of the foregoing, in each calendar year during the period within which CAFE is operating DEVELOPER shall perform or cause to be performed the following custodial maintenance activities:

- (i) All trash and garbage receptacles in the CAFE shall be emptied, and the trash and garbage removed as needed, but in any event at least once daily.
- (ii) Sweep, vacuum or wash-down the CAFE as needed, but in any event at least once daily, and buff all polished areas at least once each week.
- (iii) Pick up paper, trash or food in the CAFE each day prior to opening and keep all areas adjacent to the CAFE free from paper, trash or food as needed.

Further DEVELOPER shall perform, or cause to be performed the following additional maintenance activities at times and in frequency as shall be reasonably necessary.

- (a) Maintain all planted areas of the CAFE and replace all plants, shrubs or trees.
- (b) Maintain in good repair and paint the exterior of the CAFE.
- (c) Keep CAFE and areas adjacent free from paper, trash and/or debris.

5. If DEVELOPER shall fail to comply with any one of the requirements of Section 4. of this Amendment, MERCANTILE shall have all the rights and remedies with regard to the CAFE that it possesses under Article 12.4 of the OPERATING AGREEMENT.

6. Except as expressly amended hereby, all other terms, conditions and covenants of the OPERATING AGREEMENT are hereby ratified, confirmed, acknowledged and agreed by MERCANTILE and DEVELOPER to be in full force and effect.