R-4650

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** OFFICIAL RECORDS **
BK: 1402 PG: 1150

GROUND LEASE

THIS IS A GROUND LEASE dated as of March 13, 2001, between **HERNANDO COUNTY,** a political subdivision of the State of Florida, as **LESSOR** whose address is 20 N. Main Street, Room 460, Brooksville, FL 34601, and **SHO-ME NUTRICEUTICALS, ACQUISITION, INC.**, whose address is 15431 Flight Path Drive, Brooksville, FL 34604.

Whereas Pearson Industries, Inc. will transfer the ground lease interests of Lot 59 of the Airport Industrial Park at 15431 Flight Path Drive, Brooksville, Florida 34604 to SHO-ME Nutriceuticals, Acquisition, Inc. and,

Whereas SHO-ME Nutriceuticals, Acquisition, Inc. by execution of this Agreement is now the LESSEE and the previous Agreement with Pearson Industries, Inc. is terminated, and

Now, therefore, in consideration of the premises and mutual covenants contained in this Agreement, the parties hereby agree as follows:

SECTION 1. LEASE OF LEASED LAND

The **LESSOR** hereby demises and leases Lot 59 of the Hernando County Airport Industrial Park, Unit 1, as recorded in Plat Book 17, Pages 80-83, Public Records of Hernando County, Florida, to the **LESSEE** and the **LESSEE** hereby hires, takes and leases the Leased Land as is from the **LESSOR**, for the term, at the rental and on the conditions herein set forth.

SECTION 2. LEASE TERM

The lease term for the Leased Land shall commence on the Effective Date of this lease as defined herein, and shall end on July 31, 2039. **LESSEE** shall have the option, upon giving written notice to **LESSOR** three months prior to the expiration of the initial term, to renew the lease for an additional fifty (50) year term provided **LESSEE** has complied with all the terms and conditions of the original lease and is not in default under the original lease and **LESSEE** and **LESSOR** can reach mutual agreement on the renewal of the lease term(s) and on the conditions and lease payments for renewal of the term(s). Any requests for renewal will automatically subject any new lease to any rules, regulations, covenants, or restrictions affecting the use of the subject property that are in effect at the time of the renewal. The **LESSEE**, prior to the termination of the lease, shall obtain and present to the **LESSOR** regardless of whether a lease renewal is sought by **LESSEE**, at the sole expense of the **LESSEE**, an environmental audit, prepared by a firm which is acceptable to the **LESSOR** to determine the environmental condition of the Leased Land.

The Effective Date of this lease shall be the date of closing for the sale of the existing building on the subject lot pursuant to contract dated January 15, 2001 by and between Pearson Industries, Inc. and Sho-Me Nutriceuticals Acquisitions, Inc., except that the Effective Date may not be later than April 15, 2001. **LESSEE** shall notify **LESSOR** in writing within five business days of closing

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HERNANDO COUNTY, FLORIDA
RCD 03M 19 2001 09:24am
KAREN NICOLAI, CLERK

as to the final determination of the Effective Date of this Lease pursuant to this paragraph. In the event said contract does not close on or before April 15, 2001, then this lease shall be null and void and of no effect.

SECTION 2a. PERMITTED USES

LESSEE shall use the demised premises for the purposes of manufacturing and packaging food, drug and nutritional products and for the related storage and distribution of same. It is understood and agreed that any other use or occupancy that may now or in the future be proposed for said building or site, shall conform to the type of industry or business envisioned by Park restrictions and covenants, the conformance of which shall be determined and approved in writing in advance by the **LESSOR** through the Airport Director.

LESSOR hereby grants permission to the **LESSEE** to execute and deliver unto Regions Bank, a Leasehold Mortgage and Security Agreement pledging this lease, and the buildings and attendant facilities, excluding fixed County property, erected upon the leased premises, as security for said loan, as contemplated by this Section.

Lessor agrees that, in the event that Lessee shall pledge this Lease pursuant to the terms of a Leasehold Mortgage and Security Agreement, then Lessor, so long as said Leasehold Mortgage and Security Agreement remains outstanding and has not been satisfied of record, will not enter into any agreement with Lessee purporting to change, modify, amend or terminate the Ground Lease without the mortgagee's joinder and prior consent, which consent shall not be unreasonably withheld as to any non-material change, modification or amendment. Lessor agrees that any attempted change, modification, amendment or mutual termination between Lessor and Lessee without the mortgagee's joinder and prior written consent shall be void and of no force or effect. In the event that Lessee shall pledge this Ground Lease pursuant to a Leasehold Mortgage and Security Agreement as herein provided, then Lessor agrees that if and when Lessor notifies Lessee of a default or claim of default by Lessee under the Ground Lease, Lessor shall send a copy of the written notice or a written explanation of any oral notice ("Notice") concurrently therewith to the mortgagee, at an address certified to Lessor in writing by said mortgagee upon the granting of said Leasehold Mortgage and Security Agreement. The mortgagee shall be permitted to remedy any such default or claimed default specified in the Notice within an equal period of time, commencing on the date mortgagee receives or is deemed to have received such Notice, as Lessee would be permitted to remedy same pursuant to this Ground Lease. Notwithstanding the foregoing provisions of this paragraph, said mortgagee shall have a minimum of thirty (30) days after its receipt of the Notice to remedy the default. Lessor further agrees that in the event that Lessee pledges the Ground Lease pursuant to a Leasehold Mortgage and Security Agreement, then should said mortgagee, or a purchaser at a foreclosure sale, acquire the **LESSEE's** interest under the Ground Lease, through foreclosure or otherwise, Lessor shall recognize said mortgagee, or such purchaser, as the lessee or tenant under the Ground Lease and shall accept performance by said mortgagee or purchaser under the Ground Lease provided that said mortgagee or purchaser agrees to be bound by the terms and conditions for the rest of the unexpired term of the Ground Lease or that **LESSOR** , mortgagee or purchaser can reach mutual

agreement on any changes to the terms of the Ground Lease. **LESSOR** further agrees that in the event that **LESSEE** shall hereafter file for protection under the bankruptcy laws of the United States and shall reject or otherwise terminate the Ground Lease, **LESSOR** shall enter into a new Ground Lease on the exact same terms and conditions as the then-existing Ground Lease with the mortgagee, but only to the extent of the original term of the Ground Lease.

SECTION 2b. RESTRICTIVE COVENANTS

The property leased hereunder is subject to the Declaration of Protective and Restrictive Covenants Applicable to Hernando County Airport Industrial Park, Unit 1 which is recorded in OR Book 1067, Page(s) 1594 through 1605, of the Public Records of Hernando County, Florida.

SECTION 3. RENT

A) The **LESSEE** agrees to pay to the **LESSOR** for the period through July 31, 2001 for the leased land the monthly rent of $304.88 (Three hundred Four and 88/100 dollars) which payments shall be due and payable on the first day of each month. July 31, 2004 is the end of the five year rental period per the previous lease as amended. The monthly rents for the following annual periods are as follows:

8/1/01 thru 7/31/02	$320.12	or	$3,841.44 annual
8/1/02 thru 7/31/03	$336.13	or	$4,033.56 annual
8/1/03 thru 7/31/04	$352.94	or	$4,235.28 annual

B) For the next five year period beginning August 1, 2004, the **LESSEE** agrees to pay to the **LESSOR** the current amount of $4,235.28 per year or twelve percent (12%) of the then current appraised value of the land, whichever is greater, and then shall be subject to review for adjustments every fifth (5th) anniversary of this lease including extensions to the lease, and will be the current amount at the end of the five year period or twelve percent (12%) of the then current appraised land value whichever is greater; provided however, that any adjustment of the rental amount shall not exceed five percent (5%) increase per year during the subsequent five-year period. Should the twelve percent (12%) appraised value provide for an increase in excess of the five percent (5%) per year, then the rental amount will be increased to the five percent (5%) per year value and then raised each subsequent year thereafter by not more than five percent (5%) until the value of the rental amount reaches the twelve percent (12%) value of the appraised amount or until the next adjustment period.

A ten percent (10%) penalty or an amount of $25.00 (twenty-five dollars), whichever is greater, will be applied to all rents received after 5:00 PM on the tenth (10th) of the month. **LESSEE** is separately responsible for taxes, sales tax, late fees, special assessments, buildings rents, and other fees as assessed or charged by lawful authority.

SECTION 4. MAINTENANCE FEE

In addition to the rental payments in paragraph 3, the **LESSEE** agrees to pay the **LESSOR** an annual sum of $500.00 (five-hundred dollars) which sum shall be for the cost, operation, and

maintenance of the Airport's common use areas. This amount shall be paid in equal monthly installments of $41.67 (forty-one dollars sixty-seven cents) each. This annual fee shall be adjusted every five (5) years, provided, however, that any adjustment shall not exceed five (5%) percent of the previous annual fee.

SECTION 5. NOTICES

All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, postage prepaid, addressed as follows if to the **LESSEE**, at:

15431 Flight Path Drive
Brooksville, Florida 34604

and, if to **LESSOR**, at:

20 North Main Street, Room 460,
Brooksville, Florida 34601

The **LESSOR** and the **LESSEE** may, by notice given hereunder, designate in writing any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

SECTION 6. BINDING EFFECT

This Ground Lease shall inure to the benefit of and shall be binding upon the **LESSOR** and the **LESSEE** and their respective successors and assigns.

SECTION 7. SEVERABILITY

In the event any provision of this Ground 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.

SECTION 8. COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS

LESSEE will use the premises and conduct or allow any activities upon the premises only in compliance with all applicable laws, governmental regulations, and regulations established, from time to time, by **LESSOR**.

SECTION 9. ASSIGNMENT AND SUB-LETTING

LESSEE may not assign this lease nor sublet the premises, in whole or in part, without the prior written consent of **LESSOR**. **LESSOR** hereby grants permission to Regions Bank to become a substitute lessee in the event of loan failure by the **LESSEE**. Regions Bank shall become the substitute lessee only upon written request made to **LESSOR** and execution of a Consent to Assignment, by both parties, which said Consent to Assignment shall bind substitute lessee to the terms and conditions contained herein. **LESSOR** envisions subletting of the building hereunder to

future sub-lessees of the premises or sale of the building constructed thereon requiring the prior approval of the **LESSOR** as outlined in this lease. Prior to any requested assignment or sublease of this lease, **LESSOR** may require **LESSEE**, at **LESSEE's** expense, to obtain and present to **LESSOR** an environmental audit which determines the environmental condition of the Leased Land. The environmental audit shall be prepared by a firm acceptable to the **LESSOR** and **LESSEE**. To the extent the context permits, the terms set forth in Section 2 above with respect to an environmental audit shall apply to such an audit as required herein for assignment or sublease.

SECTION 10. INSURANCE

At all times while this lease remains in force, **LESSEE** agrees to maintain, at **LESSEE's** expense, fire and casualty insurance on the improvements located on the premises up to the full insurable and replacement value thereof, and to maintain general liability insurance with respect to the premises and coverage not less than $1,000,000 single combined limit or an amount commensurate to normal amounts as the age of this lease increases, with the **LESSOR** being named as an additional insured. **LESSEE** shall deliver to **LESSOR** certificates or binders evidencing the existence of the insurance upon issuance of the Certificate of Occupancy and shall be obligated to provide evidence of continuing coverage throughout the term of this lease. The insurance binder shall provide that the insurance carrier shall notify **LESSOR** twenty (20) days prior to the date of expiration of coverage thereunder. **LESSEE** shall notify **LESSOR** in writing a minimum of twenty (20) days in advance in the event of future insurability cancellation. Failure to maintain required insurance and to provide continuing evidence of insurance to **LESSOR** is a material breach of this lease and shall be grounds for **LESSOR** to take immediate action to evict **LESSEE** pursuant to applicable law. In addition to any other remedy available to **LESSOR** under this lease or applicable law, lapse of insurance coverage required herein on leasehold improvements and/or for liability shall subject **LESSEE** to a penalty of five hundred dollars ($500.00) to be added to the amount of rent due for the first rental period after notice to **LESSOR** of such lapse.

SECTION 11. INDEMNIFICATION

LESSEE agrees to indemnify and hold harmless the **LESSOR** from any claim arising out of injury to any person or damage to any property resulting from **LESSEE's** activity upon the premises herein demised or upon the streets or property of the **LESSOR**. The **LESSEE** and any officer signing this lease on behalf of a corporate **LESSEE** hereby agree that either or both shall indemnify and hold harmless **LESSOR** from any and all damages, claims, costs, expenses, fines, liabilities or attorney's fees resulting from any prohibited environmental degradation of the leased land caused by **LESSEE's** use of the leased land.

SECTION 12. UTILITIES, FEES AND TAXES

LESSEE shall pay all applicable taxes including sales tax, special assessments, and all costs and charges for water, gas, fire protection, electricity, water/sewer services, garbage service, telephone service, and other utilities or fees as levied by lawful authority used in connection with the

premises while this lease remains in force.

SECTION 13. SUITABILITY OF PREMISES

LESSEE has examined the premises before entering into this lease and does not rely upon any representations by **LESSOR** as to the condition of the premises or its suitability for **LESSEE's** purposes. All fees, costs and permits necessary for the development and use of said premise shall be at **LESSEE's** sole expense. The **LESSEE** shall be responsible for and accept the condition of the land with respect to previous tenancies and current environmental conditions.

SECTION 14. LESSOR'S REMEDIES FOR LESSEE'S DEFAULT

If **LESSEE** fails to pay **LESSOR** the rent required hereunder when due, or otherwise defaults in the performance of **LESSEE's** obligations hereunder and fails to cure said default within ten (10) days after receipt of written notice to **LESSEE** by **LESSOR** of said default, **LESSOR** may; (a) take possession of the premises and recover immediately from **LESSEE** the unpaid rent specified herein less the fair rental value of the premises for the remainder of the lease period, reduced to present worth, or (b) take possession of the premises and recover from **LESSEE**, at the end of the lease period or at the time each payment of rent becomes due hereunder, as **LESSOR** may choose, the unpaid rent specified herein less the net rent, if any, received by **LESSOR** from re-leasing or renting. In either event, **LESSOR** shall also be entitled to recover from **LESSEE** any special damages to **LESSOR** by reason of **LESSEE's** default. The remedies specified above are not in limitation of any other remedies allowed in law and equity. All costs incurred by **LESSOR** in enforcing the terms of this lease shall be borne by **LESSEE**, including reasonable attorney fees.

SECTION 15. AIRPORT MATTERS

This Lease is subordinate to the provision of any existing or future agreement between the **LESSOR** and the United States of America, the State of Florida or their agencies, relative to the operation or maintenance of the Hernando County Airport and specifically subject to all rules and regulations of the Federal Aviation Administration.

SECTION 16. EXCLUSIVE RIGHTS

Notwithstanding anything herein contained that may be, or appear to be to the contrary, it is expressly understood and agreed that the rights granted under this Lease are non-exclusive and the **LESSOR** herein reserves the right to grant similar privileges to another operator or other operators in other portions of the airport property including Hernando County Airport Industrial Park, Unit I.

SECTION 17. NON-DISCRIMINATION

The **LESSEE** for itself, its heirs, personal representatives, successors in interest and assigns, as a part of the consideration hereof does hereby covenant and agree that in the event facilities are constructed, maintained or otherwise operated on said property described in this Lease for a purpose which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the **LESSEE** shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR, Part 21, Non-Discrimination in Federally Assisted Programs of the Department of Transportation, as said regulations may be amended.

SECTION 18. STANDARD PROTECTION CLAUSES

A. The **LESSOR** reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the real property herein described together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for use of said airspace for landing on, taking off from, or operating at the Hernando County Airport.

B. The **LESSEE** expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the herein described real property to such a height so as to comply with Federal Aviation Regulations, Part 77, as said regulations may be amended.

C. The **LESSEE** expressly agrees for itself, its successors and assigns, to prevent any use of the herein described real property which would interfere with or adversely affect the operation or maintenance of the airport, or otherwise constitute an airport hazard.

SECTION 19. COVENANTS

A. As a part of the consideration for this lease, the **LESSEE** covenants and agrees:

1. To further pay or discharge all taxes, assessments, penalties, charges, rates, or liens of any nature whatsoever which may for the period following the effective date of this lease be levied, assessed, charged, imposed, or claimed on or against said lot or any improvements of fixtures thereon or appurtenances thereto, or any part thereof, or against the Owner or Owners of said land or the improvements, by reason of said ownership, by whatsoever authority levied, assessed, charged, imposed, claimed, and whether the same be on or against the property herein leased, its improvements, fixtures, or appurtenances, or any part thereof, or on or against the income from said land or its improvements, it being the intention of the parties to this lease that the rents herein reserved shall constitute a net income to the **LESSOR** from said land herein leased, equal in amount to said rents.

2. That if part of or one of the buildings be destroyed or rendered untenable by fire or other unavoidable accident, the **LESSEE** shall make appropriate repairs or replacement or demolition within a period of three (3) months. Time extension(s) may be granted by **LESSOR** for good cause upon written request by **LESSEE and** all such actions by **LESSEE** must be approved by **LESSOR** in writing.

3. That in the event the **LESSEE**, without the prior written consent of the **LESSOR**, shall sell, assign or in any manner encumber or pledge this lease, or if the **LESSEE** shall fail to comply with any statute, ordinance, rule, order, regulation or requirement of the Federal or State governments, or Hernando County, or any of its departments, or bureaus applicable to said premises, the **LESSOR** may, if it elects, at any time thereafter, terminate this lease or any of the terms thereof, on giving the **LESSEE** fifteen (15) days notice thereof in writing of its intention to do so, and upon giving such notice the lease or those terms thereof shall terminate, expire and come to an end on the date fixed in this lease for the termination and expiration thereof. However, if **LESSEE** cures the default within fifteen (15) days of receipt of the notice mentioned above, then **LESSOR's** right to terminate this lease shall be abated.

4. That if at any time prior to the date fixed as the commencement of the term of this lease or if at any time during the term hereby demised there shall be filed by or against **LESSEE** in any court pursuant to any statute either of the United States or of any State, a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of **LESSEE's** property, or if **LESSEE** makes an assignment for the benefit of creditors, this lease, at the option of the **LESSOR**, exercised within a reasonable time after notice of the happening of any one or more of such events, may be canceled and terminated. In such event neither **LESSEE** nor any person claiming through or under **LESSEE** by virtue of any statute or of order of any court shall be entitled to possession or to remain in possession of the premises demised but shall forthwith quit and surrender the premises. **LESSOR**, in addition to the other rights and remedies it has by virtue of any other provision herein or elsewhere in this lease contained or by virtue of any statute or rule of law, may retain as liquidated damages any rent, security, deposit of moneys received by it from **LESSEE** or others in behalf of **LESSEE**.

B. As a part of the consideration for this lease, the **LESSOR**, upon its part, hereby covenants and agrees as follows:

1. That the **LESSEE** may quietly hold and enjoy the premises hereby leased without any interruption by the **LESSOR**, or any persons claiming through or under it, provided that on the breach of any of the covenants by the **LESSEE** herein contained the **LESSOR** may thereupon re-enter said premises and immediately the said term will be terminated.

2. That the **LESSOR** had obtained a Phase I Environmental Audit at the commencement of development of the Airport Industrial Park, Unit 1 property, and **LESSOR's** obligations and liabilities with respect to environmental matters shall be limited to matters appearing

in said Environmental Audit.

SECTION 20. DESIGNATION OF LESSOR AGENT

This **LESSOR** designates and the **LESSEE** agrees that the Airport Director shall do and perform on behalf of the **LESSOR** all acts requiring the discretion of its agent hereunder, including at all reasonable times, the right to enter upon the premises for the inspection of same.

SECTION 21. EXECUTION IN COUNTERPARTS

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

SECTION 22. LEASE RECORDING

This Ground Lease shall be recorded at **LESSEE's** expense. Recording of said Lease will be completed following the agreement and execution by the **LESSOR**. The processing of this Lease for recording will be completed by County Staff.

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IN WITNESS WHEREOF, the **LESSOR** and the **LESSEE** have caused this Ground Lease to be executed in their respective names and their respective seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

LESSEE

WITNESS: Iris Mezzapelle

Iris Mezzapelle
TYPED NAME OF WITNESS

SHO-ME Nutriceuticals, Acquisition, Inc.
15431 Flight Path Dtive
Brooksville, FL 34604

By: Christopher K. Reckner
Christopher K. Reckner, President

CONCURRENCE

WITNESS:

HERNANDO COUNTY AVIATION AUTHORITY

By:
Robert Morris, Jr., Chairman

LESSOR

BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA
20 N. MAIN STREET. ROOM 460
BROOKSVILLE, FL 34601

ATTEST:
KAREN NICOLAI,
CLERK OF CIRCUIT COURT

By:
Christopher A. Kingsley, Chairman

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY: 3/6/01
County Attorney's Office

Prepared By: Hernando Co., Airport, lselot59, 2/9/01