

KM 101

**** OFFICIAL RECORDS ****
BK: 1472 PG: 1237

⑤ R 42.00

GROUND LEASE

THIS IS A GROUND LEASE dated as of November 6, 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.**, as **LESSEE**, whose address is 15431 Flight Path Drive, Brooksville, FL 34604.

WITNESSETH: FILE# 2001-055385
HERNANDO COUNTY, FLORIDA

The **LESSOR** and the **LESSEE** hereby covenant and agree as follows:

SECTION 1. LEASE OF LEASED LAND

RCD 11M 13 2001 08:45a
KAREN NICOLAI, CLERK

The **LESSOR** hereby demises and leases Lot 58 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 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 November 6, 2001, and shall end at 11:59 PM local time on November 5, 2031. **LESSEE** shall have the option, upon giving written notice to **LESSOR** not less than three months prior to the expiration of the initial term, to renew the lease for one additional ten (10) year term; and the further option, upon giving written notice to **LESSOR** not less than three months prior to expiration of the first ten year renewal term, to renew the lease for a second additional ten year term; provided **LESSEE** has complied with all the terms and conditions of the original lease or the lease as amended, and is not in default under the 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. Any renewal term shall end at 11:59 PM local time of the day before the anniversary date of any such renewal term. At the request of the **LESSEE**, the term of this Ground Lease may, subject to regulations in effect at that time, be further extended under mutually agreeable lease provisions and conditions. 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.

SECTION 2a. PERMITTED USES

LESSEE shall use the demised premises for the purposes of office/warehouse for the manufacture and packaging of 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 or improvements 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 _____ 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

The **LESSEE** agrees to pay to the **LESSOR** an annual sum of \$4,500.00 (Four thousand, Five hundred dollars) for the leased land; such rental shall be paid in monthly installments of \$375.00 (Three hundred Seventy Five dollars). The first rental payment shall be due December 1, 2001 and subsequent payments shall be due and payable on the first day of each month. 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, etc.

This rental amount shall be in effect for a five (5) year year period and then shall be subject to review for adjustments every fifth (5th) anniversary of this lease including extensions to the lease. The new rental amount for the next five year period shall be the current amount at the end of the prior period or ten percent (10%) 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 ten percent (10%) 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 raise each subsequent year thereafter by not more than five percent (5%) until the value of the rental amount reaches the ten percent (10%) value of the appraised amount or until the next adjustment period.

SECTION 4. MAINTENANCE

In addition to the rental payments in Section 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 and Industrial Park. 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, FL 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 or sublet the premises, in whole or in part, without the written consent of LESSOR. LESSOR hereby grants permission to _____ Bank to become a substitute lessee in the event of loan failure by the LESSEE. _____ 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 may authorize subletting or sale of any building or portion thereof on the demised premises, provided the prior written approval of LESSOR shall be obtained, as set forth in this lease for other required LESSOR approvals. Prior to any requested assignment 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.

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 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 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 and permits necessary for the development and use of said premise shall be at LESSEE's sole expense.

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 1.

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. ESTOPPEL CERTIFICATES

Within ten (10) days after any request by either party to this lease, the requested party shall deliver to the other party a written estoppel certificate certifying any facts that are then true with respect to this Lease, including without limitation; (a) that the Lease is in full force and effect whether unmodified or modified; (b) the date to which rent and any other sums payable hereunder have been paid; (c) that no default exists on the part of LESSEE; and (d) any other matters as may be reasonably requested.

SECTION 21. DESIGNATION OF LESSOR AGENT

This LESSOR designates and the LESSEE agrees that the Hernando County 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 22. 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 23. 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.

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:

Rockelle Siguano

LESSEE

Sho-Me Nutraceuticals, Aquistion, Inc.

By: Theodore King

CONCURRENCE

WITNESS:

[Signature]

HERNANDO COUNTY AVIATION AUTHORITY

By: [Signature]

LESSOR

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

By: [Signature]
Christopher A. Kingsley, Chairman

ATTEST:

[Signature]
**KAREN NICOLAI,
CLERK OF CIRCUIT COURT**

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY: [Signature] 10/29/9
County Attorney's Office