

AMENDMENT TO THE LEASE AGREEMENT

This **AMENDMENT TO THE LEASE AGREEMENT** (the “Amendment”) is executed this ____ day of _____ 2024, (“Effective Date”) between the City of Angels Camp, a California municipal corporation, hereinafter referred to as (“Lessor”), and CYA Team, LLC (a.k.a Pickled Porch Café), a California limited liability company, hereinafter referred to as the (“Lessee”). Lessor and Lessee may be referred to in this Amendment individually as a (“Party”) or collectively as the (“Parties”). There are no other parties to this Amendment.

RECITALS

A. Lessor and Lessee entered into a Lease Agreement (“Agreement”) on October 17, 2023, for Lessee to lease a six hundred twenty-six (626) square foot building owned by Lessor (the “Leased Premises”), located at 1192 South Main Street, Assessor Parcel #60-010-34, in the City of Angels Camp, County of Calaveras, State of California;

B. A six hundred (600) square foot covered deck is attached to the Leased Premises (the “Deck”), and adjacent to the Leased Premises are ten (10) units of public restrooms (the “Restrooms”), a public drinking fountain, and a public parking area (the “Public Parking Lot”) with thirty (30) parking spaces, including one (1) ADA parking space, operated by the Lessor (the “Unleased Premises”);

C. Yummy Ha Ha operates within the vicinity of the Leased Premises, has no restrooms of their own, and has requested to use the Restrooms in order to comply with requirements set forth by the Calaveras County Environmental Health Department. Since Yummy Ha Ha’s business hours are different than Lessee’s business hours, Yummy Ha Ha’s requested use would include times before Lessee opens and after Lessee closes;

D. Section 7 of the Agreement addresses Lessee’s use of the Restrooms but does not contemplate Yummy Ha Ha’s use of the Restrooms or use of the Restrooms outside of Lessee’s normal business hours;

E. Lessee desires to allow Yummy Ha Ha to use the Restrooms as requested, and Lessee requests authorization to open the Restrooms outside of Lessee’s business hours to allow Yummy Ha Ha access to the Restrooms during Yummy Ha Ha’s business hours;

F. Lessee agrees to indemnify the City for any claims that may arise from Yummy Ha Ha’s use of the Restrooms;

G. Section 5, Lease Amendments, of the Agreement states that any modification of the Agreement must be agreed upon, in writing, by both Parties;

H. Section 35, Amendment/Waiver, of the Agreement states that no amendments to this Agreement will be effective unless the amendment is made in writing, signed by both Parties.

I. The Parties desire to amend the Agreement on the terms set forth in this Amendment.

THEREFORE, in consideration of the mutual promises herein contained, and other good

and valuable consideration, the Parties stipulate and mutually agree as follows:

AGREEMENT

Section 1. Recitals. The recitals set forth above (“Recitals”) are true and correct and are hereby incorporated into and made part of this Amendment and the Agreement by this reference. In the event of any inconsistency between the Recitals and the Sections contained in this Amendment or the Agreement, the Sections shall prevail.

Section 2. Effect of Agreement. Except as provided herein, the defined terms used in this Amendment shall have the same meaning as the terms have in the Agreement. Unless expressly amended by this Amendment, all other terms and provisions of the Agreement shall remain in full force and effect. If any terms or provisions of this Amendment conflict with the terms and provisions of the Agreement, the terms and provisions of this Amendment shall control.

Section 3. Effective Date. This Amendment, and all of its provisions, shall become effective upon the date of execution of this Amendment by all Parties.

Section 4. Amendment to Section 7, Rent. Section 7, Rent, of the Agreement is amended to read as follows:

Rent. Lessee shall pay Lessor rent in the amount of one dollar and twenty-five cents (\$1.25) per square foot (the “Rent”) per month, based on the square footage of solely the Leased Premises. The Rent shall not include the square footage of the Unleased Premises. The Rent shall be adjusted annually according to the U.S. Consumer Price Index of the Bureau and Labor Statistics of the Department of Labor for all Urban Consumers (CPI) for Oakland-San Francisco Area.

a. Rent shall be due on or before the 5th of each month and shall be paid to City of Angels and delivered to or mailed to the City of Angels Camp, 584 S. Main Street, Angels Camp, CA 95222, Attention: City Administrator.

b. In exchange for use of the Deck, Lessee agrees to clean and maintain the Restrooms, lock and unlock the Restrooms, during days and business hours Lessee’s business at the Leased Premises is in operation. Lessee may lock Restrooms at all times if vandalism occurs and requires repair above the normal wear and tear. Lessor agrees that Lessee may open the restrooms during Yummy Ha Ha’s business hours. Lessor shall pay for the paper products, cleaning supplies, and lightbulbs for the public restrooms. Lessor may access, clean and maintain the Premises at any time Lessee’s business is not in operation and the Restrooms would not otherwise be open to the public.

Section 5. Amendment to Section 21, Insurance. Section 21, Insurance, of the Agreement is amended to read as follows:

a. *General Liability.* Lessee shall, at its own cost and expense, cause said premises, including the Deck and Bathrooms, to be insured by an insurance company authorized to do business in the State of California and obtain a policy of general liability and property damage insurance, except as hereinafter provided, in the limits to at least two million dollars (\$2,000,000.00) for the injury or death, happening, or event and at least two hundred thousand dollars (\$200,000.00) for damage to property, and shall thereafter at all times during the term of this Agreement at its own expense, cause the same to be kept in full force

and effect. The policy or policies are attached as part of this Agreement and will be updated on an annual basis (date of signature) and shall name Lessor as an additional insured.

b. *Workers Compensation Insurance.* Lessee shall, at its own cost and expense, maintain workers compensation insurance, as required by the Labor Code, on its employees for the term of this Agreement.

c. *Fire Insurance.* Each Party to this Agreement shall keep its interest in the Leased Premises, the structures thereon and the personal property therein, and the Deck and Bathrooms insured at its own expense against fire, extended coverage, and such other risks as it may choose.

d. *Policy Obligations.* Lessee's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

e. *Material Breach.* If either Party for any reason fails to maintain insurance coverage that is required pursuant to this Agreement, such failure shall be deemed a material breach of this Agreement. In such instance, the non-breaching Party at its sole option, may terminate this Agreement and obtain damages from the breaching Party resulting from said breach.

Section 6. Amendment to Section 24, Indemnification. Section 24, Indemnification, of the Agreement is amended to read as follows:

Indemnification. Lessee shall defend, indemnify, protect, hold harmless, and release Lessor and Lessor's elected and appointed officials, directors, officers, employees, agents, and representatives ("Lessor's Agents") from and against any and all actions, claims, damage, injury, liability, or expenses, including attorneys' fees, in connection with the loss of life, personal injury, or damage to property arising from Lessee's use of the Leased or Unleased Premises, Yummy Ha Ha's use of the Leased or Unleased Premises, or arising from or out of Lessee's or Yummy Ha Ha's willful acts or negligence, wholly or in part, by any act or omission of Lessee or Yummy Ha Ha, its agents, representatives, employees, invitees, or contractors. These obligations to defend, indemnify, protect, hold harmless, and release Lessor, and Lessor's Agents, shall not apply to the extent that the liabilities are caused in whole or in part by the gross negligence or willful misconduct of Lessor, and Lessor's Agents. This Section shall survive the termination or expiration of this Agreement.

Section 7. Amendment to Section 25, Assignment and Subletting. Section 25, Assignment and Subletting, of the Agreement is amended to read as follows:

Assignment and Subletting. Lessee shall not encumber, assign, or otherwise transfer this Agreement, any right or interest in this Agreement, or any right of interest in the Leased Premises or any of the improvements that may now or hereafter be constructed or installed on the Leased Premises without the express written consent of Lessor. Neither shall Lessee sublet the Leased Premises or any part thereof or allow any other person, other than Lessee's agents, servants, and employees, to occupy said Leased Premises or any part thereof without the prior written consent of Lessor. Lessor agrees that Lessee may allow Yummy Ha Ha to use the Restrooms during Yummy Ha Ha's business hours, which may be outside of Lessee's normal business hours. Lessor's written consent under this Section shall not be unreasonably withheld. A consent by Lessor to one assignment, one subletting,

or one occupation of said premises by another person shall not be deemed a consent to any subsequent assignment, subletting, or occupation of said premises by any person. Any encumbrance, assignment, transfer, or subletting without the prior written consent of Lessor, whether it is voluntary or involuntary, by operation of law or otherwise, is void and shall, at the option of Lessor, terminate this Agreement.

Section 8. Entire Agreement. This Amendment contains the entire understanding between the Parties with respect to the terms set forth in this Amendment. All previous proposals, offers, and other communications relative to this Amendment, whether oral or written, are hereby superseded except to the extent that they have been incorporated into this Amendment.

Section 9. Counterparts. This Amendment may be executed in duplicate counterparts, each of which shall be deemed to be an original and together shall constitute one and the same agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, this Agreement has been entered into by and between Lessor and Lessee as of the dates set forth below.

LESSOR:

CITY OF ANGELS CAMP,
a California municipal corporation

By: _____
Steve Williams,
Interim City Administrator

LESSEE:

CYA Team, LLC (AKA Pickled Porch Café),
a California limited liability company.

By: _____
Gretel Tiscornia

ATTEST:

By: _____

Print: _____
City Clerk

APPROVED AS TO FORM:

By: _____
Douglas L. White, City Attorney