

STATE OF NORTH CAROLINA

LEASE AGREEMENT

COUNTY OF WAKE

THIS REVISED AND RESTATED LEASE AGREEMENT (hereinafter "**Agreement**") is made and entered into as of this _____ day of _____ 2025, by and between THE TOWN OF APEX (hereinafter "**Landlord**") and APEX CHAMBER OF COMMERCE (hereinafter "**Tenant**").

W I T N E S S E T H:

WHEREAS, Landlord is the owner of that certain Building located at 220 North Salem Street and Center Street, known as the Apex Union Depot (the "**Building**") and is the lessee of that certain real estate upon which the Building is situated being the real estate described in Exhibit A attached hereto (the "**Land**"). Together, the Building and Land shall hereinafter be called the "**Property**." The areas of the Building that the Tenant is entitled to use shall hereinafter be called the "**Leased Premises**" and shall include the exclusive use, shared use, and common areas as shown on the attached Exhibit B. The Leased Premises do not include any areas reserved to the Landlord's exclusive use, the railroad, caboose or its location leased to the Apex Historical Society by CSX Transportation. The Leased Premises do not include the parking lot in front of the Building, provided that during the term of this Agreement the Landlord will continue to maintain the same as a public parking area.

WHEREAS, Tenant is currently leasing the Leased Premises from Landlord under a Lease Agreement dated August 5, 2020 (the "**Existing Lease**") and which terminates on August 4, 2025 if not extended by the parties; and

WHEREAS, Tenant and Landlord wish to enter this Agreement to extend the term of their lease until June 30, 2028 and revise the terms of the relationship between Landlord and Tenant according to the terms established by this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, including, without limitation, the covenant to pay rent and other good and valuable consideration, Landlord and Tenant hereby agree as follows:

1. **Defined Terms.** Capitalized terms used in the recitals shall have the meanings set forth therein.
2. **Leased Premises.** Landlord leases to Tenant and Tenant leases from Landlord the Leased Premises for the Tenants use as described herein.
3. **Termination of Existing Lease.** The Existing Lease, and Tenant's option to renew the Existing Lease, are hereby terminated by the parties, effective on July 1, 2025.
4. **Term; Termination for Convenience.** The term of this Agreement shall be for a period that shall commence on July 1, 2025, and continue until June 30, 2028, the expiration date. Either Landlord or Tenant may terminate this Agreement at the expiration of the

initial term by giving written notice to the other at least six (6) months to the expiration date. The Tenant shall have the option to renew this Agreement under the same terms for an additional three (3) years by providing written notice at least six (6) months prior to the expiration date. In the event that neither party acts to terminate this Agreement as of the end of the initial term, then this Agreement shall continue on a year-to-year basis until terminated by either party giving a six (6) months written notice prior to the last day of the then current year term. Either party may terminate the Agreement at any time by giving the other party at least a six (6) months written notice.

5. **Responsibilities.** Responsibilities of the Landlord and the Tenant are as follows:

a. Tenant's Responsibilities.

- i. Tenant shall pay to Landlord as rent the sum of One Dollar and 00/100 (\$1.00) per year, payable in advance on the date of commencement of the Agreement and thereafter on or before the first day of each year during the term of the Agreement. All rent payable by Tenant shall be without previous demand, set off, or deduction. All money rent shall be paid to Landlord at the address to which notices to Landlord are given as set forth in the paragraph entitled "Notices" hereunder.
- ii. Tenant shall reimburse Landlord for property damage caused by Tenant on the Property.
- iii. Tenant shall provide Landlord with one annual membership in the Chamber of Commerce each year and recognize the Landlord as a Platinum Peak Performer. Tenant shall provide Landlord with the rights and benefits of a Platinum sponsor as outlined in the Tenant's Peak Performer program as described on Exhibit C attached hereto.
- iv. Tenant may sub-lease offices and conference rooms to Apex Chamber of Commerce members with or without consideration and without consent of the Landlord so long as there is no violation of Town of Apex ordinances, sale or consumption of alcohol, or conflict with prior scheduled Town of Apex meetings or events. Tenant shall not sub-lease to non-members.
- v. Tenant may not place marketing materials or displays in the Common Areas or any other part of the Building without the written consent of the Landlord.
- vi. Tenant is responsible for office supplies, kitchen supplies, and consumables located in the Leased Premises used by Tenant or Tenant's guests. Such supplies should be designated clearly as for use by the Tenant.
- vii. Tenant shall not sell alcohol at the Building or Property. Tenant may allow for the consumption of alcohol at events with Alcoholic Beverage Commission approval through Apex Police Department and Wake County.

b. Landlord's Responsibilities.

- i. Landlord shall designate two (2) parking spaces in the parking lot in front of the Building for use by Tenant employees so long as the parking lot exists.

- ii. Landlord shall make all arrangements for and pay for all utilities and services used by Tenant, including, without limitation, gas, electricity, water, and for all charges for initiation and maintenance of said services.
 - iii. Tenant use of the Landlord's copier and printer shall be permitted so long as the use remains limited, as determined by the Landlord in its sole discretion. Copier and printer services shall be maintained by Landlord.
 - iv. Exhibit B displays the space as Chamber Exclusive Area, Town of Apex Exclusive Area, and Common Area.
- 6. **Tenant's Acceptance; Maintenance and Repair.** Upon occupancy of the Leased Premises, Tenant represents to the Landlord that it has examined and inspected the same, finds the leased premises to be as represented by the Landlord and satisfactory for Tenant's intended use and Tenant accepts the Leased Premises "as is." Tenant shall not make any material alterations or repairs to the Leased Premises without Landlord's prior written consent, which shall not be unreasonably withheld. Landlord agrees to keep the Leased Premises in good order and repair and shall make any repairs to the Leased Premises necessary to keep it in such good order and repair, whether the repair is ordinary or extraordinary, structural or non-structural. Landlord will maintain services for interior housekeeping and the grounds and landscaping around the Building.
- 7. **Use.** Tenant shall use the Leased Premises for office space and meeting facility. Tenant shall not use the Leased Premises in any manner that will constitute waste, nuisance, unreasonable annoyance to owners or occupants of adjacent properties or in any manner in violation of any law, regulation, or ordinance of any public authority.
- 8. **Destruction.** If during the term of this Agreement the Leased Premises are totally or partially destroyed from any cause, rendering the Leased Premises totally or substantially inaccessible or unusable, this Agreement shall terminate upon written notice to the other party.
- 9. **Insurance; Waiver of Subrogation.** Landlord shall maintain property damage insurance covering the Building through the N.C. League of Municipalities. Throughout the term of the lease, Tenant at its sole cost and expense shall keep for the mutual benefit of Landlord and Tenant (with appropriate cross-liability endorsements so showing) public liability and contents property damage insurance with combined single limited coverage of at least \$1.0 million, which policies insure against all liability of Tenant, Tenant's authorized representatives, and anyone for whom Tenant is responsible arising out of or in connection with Tenant's use of the Leased Premises. All such policies shall be non-accessible and shall contain language, to the extent obtainable, without payment of a premium over that chargeable without such language, that (a) any loss shall be payable notwithstanding any act or negligence of Landlord or Tenant that might otherwise result in forfeiture of the insurance, (b) that the policies are primary and non-contributing with any insurance that Landlord may carry, and (c) that they cannot be cancelled or changed except after 10 days' notice to Landlord. Anything in this Agreement to the contrary notwithstanding, to the extent covered by insurance, Landlord releases and waives unto

Tenant, its successors and assigns, and Tenant releases and waives unto its Landlord, its successors and assigns, all rights to claim damages for any injury, loss, cost, or damage to persons or to the Leased Premises which is occasioned by fire, explosion, accident, occurrence or condition in, on or about the Leased Premises or any other casualty, if, and only if, the amount of which injury, loss, cost or damage has been paid either to Landlord, Tenant, or other damaged person, firm, or corporation, under the terms of any existing, prior, extended coverage, public liability, or other policy of insurance, to the extent such releases or waivers are permitted under applicable law. All policies of insurance carried or maintained pursuant to this Agreement shall contain or be endorsed to contain a provision whereby the insurer waives all rights of subrogation against either Tenant or Landlord provided that such a provision shall be obtainable. If insurance policies with such waiver of subrogation provisions shall not be obtainable or shall be obtainable only at a premium over that chargeable without such waiver, the party seeking such policy shall pay such additional premium. If any provision relating to a waiver of subrogation contained herein shall contravene any present or future law with respect to exculpatory agreements, the liability of the party affected shall be deemed not released but shall be secondary to the other's insurer.

10. **Condemnation.** If, during the term of this Agreement there is any taking of all or any part of the Property rendering the Leased Premises totally or substantially inaccessible or unusable, the Agreement shall terminate at the election of Landlord or Tenant.
11. **Indemnity.** Tenant shall hold Landlord harmless from all liability arising out of any damage or injury to any person or property occurring in, on, or about the Leased Premises, except that Landlord shall be liable to Tenant for damage resulting from the acts or omissions of Landlord or its authorized representatives. With respect to conditions or violations existing prior to the commencement of this Agreement, Landlord shall hold Tenant harmless in the event that Tenant incurs environmental liability related to the Leased Premises under an environmental law, rule, or regulation.
12. **Assignment and Subletting.** Tenant may not assign or encumber this Agreement and may not sublet any part or all of the Leased Premises without the prior written consent of Landlord, which shall be at Landlord's sole discretion, except to Chamber of Commerce members as provided in Section 4(a)(iv).
13. **Landlord's Remedies.** Landlord shall have the following remedies if Tenant commits a material default: (a) Landlord shall have the right to terminate this Agreement and Tenant's rights to possession of the Leased Premises and to reenter the Leased Premises upon giving 30 days' notice of default and such default is not remedied within 30 days of such notice, and (b) upon termination, Landlord shall have the right to pursue its remedies at law or in equity to recover of Tenant all amounts of rent then due or thereafter accruing and such other damages as are caused by Tenant's default.
14. **Quiet Enjoyment.** Provided Tenant performs all his covenants, agreements and obligations hereunder, Landlord will warrant and defend Tenant in the peaceful and quiet

enjoyment of the Leased Premises, but only against the lawful claims of all persons claiming by, through, or under Landlord.

15. **Right of Entry.** Landlord and his authorized representatives shall have the right to enter the exclusive use areas of the Leased Premises at all reasonable times and with reasonable notice to inspect the Leased Premises.
16. **Property of Tenant.** All property placed on the Leased Premises by, at the direction of or with the consent of the Tenant, his/her agents, licensees or invitees, shall be at the risk of the Tenant or the owner thereof and Landlord shall not be liable for any loss of or damage to said property resulting from any cause whatsoever. Notwithstanding the foregoing, Landlord acknowledges that it is using furniture and other personal property owned by Tenant, and Landlord shall be liable for any loss of or damage to such property while in possession of Landlord.
17. **Surrender of Leased Premises; Holdover.** Tenant will deliver up the Leased Premises at the end of the term or upon termination hereof, in good order and condition, reasonable wear and tear excepted, and Landlord shall deliver to Tenant all Tenant property being used by Landlord in good order and condition, reasonable wear and tear excepted. If, for any reason whatsoever, Tenant does not vacate the Leased Premises and holds over after the termination of this Agreement, such holding over shall not be deemed to be a renewal of this Agreement but shall be deemed to create a tenancy-at-sufferance and by such holding over Tenant shall be deemed to have agreed to be bound by all of the terms and conditions of this Agreement except those as to the term hereof.
18. **Waiver.** The waiver by a Landlord of any breach of any covenant or agreement herein contained shall not be a waiver of any other default concerning the same or any other covenant or agreement herein contained. The receipt and acceptance by Landlord of delinquent rent shall not constitute a waiver of any other default; but shall constitute only a waiver of timely payment for the particular rent payment involved.
19. **Notices.** All notices provided for in this Agreement shall be in writing and shall be deemed to be given when sent by certified mail, return receipt requested, addressed: a) to Landlord at P.O. Box 250, Apex North Carolina 27502 and b) to Tenant at 220 N. Salem Street Apex, North Carolina 27502. Either party hereto may from time to time, by notice as herein provided, designate a different address to which notices to it shall be sent.
20. **Railroad.** Landlord leases from CSX Transportation [the "Railroad"] the Land upon which the Building is located under a lease that is terminable upon 30 days written notice by either party. In the event that the Railroad terminates its lease with the Landlord, then the Agreement is likewise terminated as of the date of termination of the lease with the Railroad. The enforceability of this Agreement shall be contingent upon Railroad granting Landlord consent to sublease to Tenant that portion of the Leased Premises which Landlord leases from Railroad.

21. **Applicable Law.** This Agreement shall be governed by the laws of the State of North Carolina.

22. **Miscellaneous.** Headings of paragraphs are for convenience only and shall not be considered in construing the meanings of the contents of such paragraph. The invalidity of any portion of this Agreement shall not have any effect on the balance hereof. Should Landlord institute any legal proceedings against Tenant for breach of any provision herein contained, and prevail in such action, Tenant shall in addition be liable for the costs and expenses of Landlord, including his reasonable attorneys' fees. This Agreement supersedes and cancels all prior negotiations between the parties, and changes shall be in writing signed by the party affected by such change. This Agreement shall be binding upon the respective parties hereto, and upon their heirs, executors, successors and assigns. Landlord reserves the right to make (and change from time to time) reasonable regulations concerning the premises or real estate. Landlord may sell the Leased Premises without affecting the obligations of Tenant hereunder. This Agreement may not be recorded without Landlord's prior written consent, but either party agrees on request of the other to execute a memorandum hereof for recording purposes. The singular shall include the plural, and the masculine, feminine or neuter includes the other. Unless expressly provided in this Agreement that consent or approval may be made in a party's sole discretion, any consent or approval of a party required under this Agreement shall not be unreasonably withheld or delayed.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

(SEAL)

LANDLORD: TOWN OF APEX

by: _____
Jacques K. Gilbert, Mayor

ATTEST:

Allen Coleman, Town Clerk

TENANT: APEX CHAMBER OF COMMERCE

by: _____
David Bohm, Executive Director