

**Lease Agreement
between the City of Bay City, Texas
and Sayrah Craft
for the Old Bay City Fire Station**

This Lease Agreement (hereinafter called the "Lease") is made by and between the City of Bay City, Texas, a Texas municipal corporation located in Matagorda County, Texas (hereinafter called "City"), acting by through its City Manager and Sarah Craft (hereinafter called "Tenant").

**Article 1
Demise of Premises**

1.1 Real Estate Lease. The City, for and in consideration of the rents, covenants, and promises herein contained to be performed, observed, and kept by Tenant, does hereby lease and, demise to Tenant and Tenant does hereby rent and accept from City a portion of the real property and improvements owned by City described as and located at the Old Bay City Fire Station and land outside the existing cyclone security fence immediately surrounding the Old Bay City Fire Station, an approximately sixty feet by one hundred ten feet (60'x110') plot of land, located at the corner of Sixth Street and Avenue I, Lot One (1) in Block One Hundred Thirty Four (134), of the Original Townsite of Bay City, Matagorda County, Texas, According to the Plat filed for record in Volume 5, Pages 36-39 of the Deed Records of Matagorda County, Texas (hereinafter called "Leased Premises"). The property identification number is 25481 according to the Matagorda County Appraisal District. **The retail rental space is approximately 1,000 square feet.**

1.2 Use of Leased Premises. The Leased Premises shall be used for the sole purpose of business activities related to Tenant's business, "Tangles," and for such other recreational and civic purposes as the City shall authorize by prior written consent for the benefit of the citizens of Bay City and the surrounding area. The Leased Premises shall be used for no other purpose. The City represents that the Leased Premises may lawfully be used for such purposes.

1.3 Condition to Use. The City reserves the right to enter the Leased Premises at reasonable hours and, if, in the opinion of the City, an emergency exists requiring immediate action, at any time, to inspect, to make replacements, repairs or restorations, and to carry out any work or activities in connection with the protection of the public health, safety and welfare, or the preservation of the Leased Premises. Tenant acknowledges the above reservation by City and agrees to respect and be subordinate to same. Reasonable notice shall be construed as giving notice the day before the City proposes to enter the Leased Premises, except for an emergency, which will not require notice.

1.4 City's Reservations. City reserves the right from time to time, to install, maintain, repair and replace utility lines, and wires passing through the Leased Premises. Any such maintenance, repair, or replacement shall be placed in locations which shall not unreasonably interfere with Tenant's use of the Leased Premise and shall be carried out to the extent possible so as to minimize inconvenience or disruption of Tenant's business.

1.5 Acceptance of Lease Premises. Tenant has had full opportunity to examine the Leased Premises and acknowledges that there is in and about them nothing dangerous to life, limb or health. Tenant's taking possession of the Leased Premises shall be conclusive evidence of Tenant's acceptance thereof and Tenant hereby accepts said Leased Premises as being in good and satisfactory order in its present condition **as is, where is and with all faults** as suitable for the purpose for which leased. City specifically disclaims any warranty of suitability for Tenant's intended commercial purposes of Tenant.

- a) Tenant agrees that no representations respecting the condition of the Leased Premises and no promises to construct, alter, repair, or improve same, either before or after the execution

hereof, have been made by City or its agents, to Tenant unless the same are contained herein or made a part hereof by specific reference herein.

- b) Tenant understands and agrees that all personal property placed by Tenant upon the Leased Premises is at the sole risk and expense of Tenant and that City shall not be liable to Tenant or to any other person or party for loss, theft, vandalism, or damage or injury to person or property.

Article 2 Rent

2.1 **Rent paid by Tenant.** In consideration of this Lease, the Tenant agrees to pay a rent of \$.60 per square foot or \$600.00 rent per month commencing April 1, 2023 for the remainder of Calendar Year (“CY”) 2023, \$.75 per square foot or \$750.00 rent per month for CY 2024, and \$.90 per square foot or \$900.00 rent per month for CY 2025. For each renewal term after December 31, 2025, Tenant agrees to pay rent of \$1.00 per square foot or \$1,000 rent per month plus an increase determined by Municipal Cost Index for each year thereafter. Tenant agrees to pay to City six hundred dollars (\$600.00) per month for the initial term of this Lease, to be paid monthly, beginning April 1st, 2023 payable to LESSOR at 1901 Fifth Street, Bay City, Texas. Tenant agrees to pay the City an amount equal to the above mentioned amounts based on calendar year (CY). All of the future year leases are subject to the Renewal Term provisions outlined 3.2 below.

2.2 **Taxes and Permits.** Tenant shall pay, on or before their respective due dates, to the appropriate collecting authority, all Federal, State and local taxes and fees, which are now or may hereafter be levied upon Tenant, or upon the business conducted on the Leased Premises, or upon any of Tenant's property used in connection therewith; and Tenant shall maintain in current status all Federal, State and local licenses and permits required for the operation of the business conducted by Tenant, subject to agreements entered into by Tenant and Federal, State or local government authorities.

Article 3 Term and Termination

3.1 **Initial Term.** The initial term of this Lease shall commence on January 1, 2023 and shall end on the 31st day of December, 2023.

3.2 **Renewal Term.** This lease is subject to renewal annually for four (4) additional one-year terms, beginning on January 1, 2024, and collectively concluding on December 31, 2027 (each a “Renewal Term”) by the mutual consent of the parties to such renewal and pursuant to any revised terms as agreed by the parties. To exercise the Renewal Term, Tenant shall give City 90 days advance written notice of Tenant’s intent to renew. Landlord shall respond to said written notice within 30 days if intends to terminate the lease.

3.3 **Termination for Cause.** Upon the occurrence of an event of default, City shall be entitled to immediately terminate this Lease, and City shall have no further obligation hereunder. Upon the occurrence of an event of default, City may, at its option, declare this Lease and all rights and interests created by it to be terminated. Upon City electing to terminate, this Lease shall cease and come to an end as if that were the day originally fixed herein for the expiration of the term hereof. The City, its agents or attorney, may resume possession of the Leased Premises and relet the same for the remainder of the original term at the best rent City, its agents, or attorney, may obtain for the account of Tenant, who shall make good any deficiency. The following events shall be deemed to be events of default by Tenant under this Lease:

- a) Tenant shall fail to pay any installment of rent as provided for in this Lease and such failure shall continue for a period of ten (10) days following written notice of failure to pay any installment of rent when due and owing.
- b) Tenant shall fail to comply with any term, provision or covenant of this Lease, other than the payment of rent, and shall not cure such failure within thirty (30) days after written notice thereof to Tenant.
- c) Tenant deserts or vacates all or any part of the Leased Premises; Tenant will be deemed to have deserted or vacated the Leased Premises if, by any method or manner whatever or if Tenant assigns, transfers, sells or sublets its interest or right to the Leased Premises without the prior written consent of the City.
- d) The taking by a court of competent jurisdiction of Tenant and its assets pursuant to proceedings under the provisions of any Federal or State reorganization code or act, insofar as the following enumerated remedies for default are provided for or permitted in such code or act

3.4 **Termination for Convenience.** Notwithstanding any other provision herein to the contrary, the City shall have the right to terminate this lease for convenience and without cause by providing ninety (90) day's written notice to the Tenant at the address provided below.

3.5 **Surrender.** Upon any such expiration or termination of this Lease, Tenant shall quit and peacefully surrender the Leased Premises to City, and City, upon, or at any time after, such termination or expiration may, without further notice, enter upon and re-enter the Leased Premises and possess and repossess itself thereof, by force, summary proceedings, ejectment or otherwise, and may dispossess Tenant and remove Tenant and all other persons and property from the Leased Premises. Any property left on the Leased Premises shall be deemed abandoned and the City may dispose of same without further legal action by the City or liability to Tenant therefor.

3.6 **Obligations survive Termination.** Any expiration or termination of this Lease as herein provided shall not relieve Tenant from the payment of any sum or sums that shall then be due and payable or become due and payable to City hereunder, or from any claim or claims for damages then or theretofore accruing against Tenant hereunder, or any such sum or sums or claim for damages pursuant to any remedy provided for by law or in equity, or from recovering damages from Tenant for any default there under. All rights, options and remedies of City contained in this Lease shall be cumulative of the other, and City shall have the right to pursue any one or all of such remedies or any other remedy or relief available at law or in equity, whether or not stated in this Lease. No waiver by City of a breach of any of the covenants, conditions, or restrictions of this Lease shall be construed or held to be a waiver of any succeeding or preceding breach of the same or of any other covenant, condition, or restriction herein contained

Article 4 Maintenance by Tenant

4.1 **Tenant Responsible for Condition.** Other than as provided herein, Tenant shall be responsible for the condition of the Leased Premises. Tenant shall repair any damage to the Leased Premises caused by Tenant, and shall maintain, or caused to be maintained, the Leased Premises in a clean, neat, attractive, and sanitary condition. Tenant shall be responsible to repair, replace, and maintain any part of the Leased Premises that City is not obligated to repair, replace, or maintain, as expressly stated in this Lease, normal wear excepted.

4.2 **Litter and Trash.** Tenant shall, at all times, keep or cause to kept, the Leased Premises free of litter, trash, paper, and other waste and shall place same in standard trash containers in the immediate

vicinity or in other appropriate locations and shall conform with all applicable garbage, sanitary, and health regulations of the City.

4.3 **City Maintenance Items.** City shall maintain at its sole costs and expense, the roof, exterior wall structures, and other items necessary to preserve the structural integrity of the building.

4.4 **Return of Premises.** Tenant will, at the termination of this Lease, return the Leased Premises to City in as good condition as at the commencement of the term hereof, usual wear and tear, acts of God, or unavoidable accident only excepted.

Article 5 Covenants of Tenant and City

5.1 **Tenant's Covenants.** In addition to the covenants expressed within other articles of this Lease, Tenant covenants and agrees as follows:

- a) To obey (a) all applicable laws relating to the use, condition, and occupancy of the Leased Premises, and (b) any requirements imposed by utility companies serving or insurance companies covering the Leased Premises.
- b) To assume any expense connected with the property which is not expressly assumed by City.
- c) To submit in writing to City any request for repairs, replacement, and maintenance that are or will become the obligations of City.
- d) To vacate the Leased Premises on the last day of the Term.
- e) Not to use the Leased Premises for any purpose other than the permitted use.
- f) Not to permit any waste to accumulate upon the Leased Premises.
- g) Not to use the Leased Premises in any way that would void insurance insuring City and/or the Leased Premises.
- h) Not to change City's lock system.
- i) Not to alter the Leased Premises without City's express written permission.
- j) Not to allow a lien to be placed on the Leased Premises nor bind or attempt to bind City for the payment of any money in connection with the construction, repair, alteration, addition, or reconstruction in, on or about the Leased Premises.
- k) Not to make repairs without permission from City.
- l) **City's Covenants.** In addition to the Covenants expressed within other articles of this Lease, City covenants and agrees as follows:
 - m) To lease to Tenant the Leased Premises for the entire Term beginning on the commencement date and ending on the termination date.
 - n) To deliver the Leased Premises to Tenant in its present condition 'AS IS,' and represent to Tenant that the Leased Premises is currently suitable for the permitted use.
 - o) Not to interfere with Tenant's possession of the Leased Premises as long as Tenant is not in default.
 - p) Not to unreasonably withhold consent to a proposed assignment or sublease.

- q) Not to unreasonably withhold authorization for installation of additions and/or improvements to the Leased Premises.

5.2 **Mutual Covenants.** In addition to the covenants expressed within other articles of this Lease, City and Tenant agree to the following:

- a) City's police, code enforcement officers and other safety personnel shall have the right of entry on and into the Leased Premises as needed to investigate any circumstances, conditions, or person that may appear to be suspicious. Tenant expressly understands and agrees that City has not agreed to act and does not act as an insurer of Tenant's property and does not guarantee security against theft, vandalism, or injury of whatever nature and kind to persons or property.
- b) Any physical additions or improvements to the Leased Premises made by Tenant will become the property of City. City may require that Tenant, at the end of the term and at Tenant's expense, remove any physical additions and improvements, repair any alterations, and restore the Leased Premises to the condition existing at the commencement date, normal wear excepted. Prior to any additions and/or improvements to the Leased Premises, Tenant will seek written authorization for such changes from City.
- c) Tenant's covenant to pay rent and City's covenants are independent. Except as otherwise provided, Tenant will not be entitled to abate rent for any reason.

Article 6 Insurance

6.1 **Tenant to Provide Insurance.** Without limiting City's right to indemnification, it is agreed that Tenant shall secure, prior to commencing any activities under this Lease, and maintain during the term of the Lease, insurance coverage as follows.

- a) Commercial General Liability Insurance, including coverage for Leased Premises and Operations, Contractual Liability, Personal Injury Liability, Products Operations Liability in an amount of not less than Five Hundred Thousand Dollars (\$500,000) per occurrence.

6.2 **No Cancellation without Notice.** Each insurance policy required by this Lease, excepting the policy for Worker's Compensation (if applicable) and Employer's Liability, shall contain the following clauses: "The insurance shall not be cancelled, limited in scope or coverage, or non-renewed until after thirty (30) days prior written notice has been given to:

Scotty Crow Jones, C.P.M.
Finance Director
City of Bay City
1901 Fifth Street N.
Bay City, Texas 77414"

6.3 **No Contribution.** It is agreed that any insurance of self-insurance maintained by City shall apply in excess of and not contribute with insurance provided by this policy (if applicable).

6.4 **City as Additional Insured.** The commercial general liability (or business owner's property policy) must be endorsed to name City and Lienholder as "additional insureds" and must not be endorsed to exclude the sole negligence of City or Lienholder from the definition of "insured contract." Additional insured endorsements must not exclude coverage for the sole or contributory ordinary negligence of City or Lienholder. Property insurance policies must contain waivers of subrogation of claims against City and Lienholder. Certificates of insurance and copies of any additional insured and

waiver of subrogation endorsements must be delivered by Tenant to City before entering the Leased Premises and thereafter at least ten (10) days before the expiration of the policies.

Article 7 Miscellaneous

7.1 **Indemnity.** Tenant covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, the City and the elected officials, employees, officers, directors, volunteers and representatives of the City, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the City directly or indirectly arising out of, resulting from or related to Tenant's activities under this Lease, including any acts or omissions of Tenant, any agent, officer, director, representative, employee, consultant or subcontractor of Tenant, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this Lease. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of City, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. The provisions of this indemnification are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Tenant shall promptly advise the City in writing of any claim or demand against the City or Tenant known to Tenant related to or arising out of Tenant's activities under this Lease.

7.2 **Assignment.** Tenant shall not assign the Lease and business conducted on the Leased Premises or any interest therein without first obtaining the written consent of City, which consent shall not be unreasonably withheld, and which consent will be evidenced by passage of a City resolution, approving same.

7.3 **Subletting.** Tenant shall not sublet the Leased Premises or any interest therein. Any subletting shall be null and void and City shall be cause to terminate this Lease.

7.4 **Severability.** If any clause or provision of this Lease is illegal, invalid or unenforceable under present or future laws effective during the term of this Lease, then and in that event it is the intention of the parties hereto that the remainder of this Lease shall not be affected thereby, and it is also the intention of the parties to this Tenant Agreement that in lieu of each clause or provision of this Lease that is illegal, invalid or unenforceable, there be added as a part of this Lease a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

7.5 **Amendment.** This Lease, together with the authorizing Resolution, constitutes the entire agreement between the parties. No amendment, modification, or alteration of the terms of this Lease shall be binding unless the same, be in writing, dated subsequent to the date hereof and duly executed by the parties hereto.

7.6 **Notices.** Notices to City required or appropriate under this Lease shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, addressed to:

City of Bay City City Manager
 1901 Fifth Street N.
 Bay City, Texas 77414

Tenant: Sayrah Craft
 3207 Ave. J
 Bay City, Texas 77414
 (979) 665-5642

7.7 **Relationship of Parties.** Nothing contained herein shall be deemed or construed by the parties hereto or by any third party as creating the relationship of principal and agent, partners, joint venturers, or any other similar such relationships between the parties hereto other than that of City and Tenant.

7.8 **Texas Law to Apply.** This lease shall be construed under and in accordance with the laws of the state of Texas and all obligations of the parties created here under are performable in Matagorda County, Texas.

7.9 **Captions.** The captions contained in this Lease are for convenience of reference only and in no way limit or enlarge the terms and conditions of this Lease.

7.10 **Authority.** If the signer of this Lease is an entity or other than an individual who is the Tenant, then the signer hereof for Tenant hereby represents and warrants that he or she has full authority to execute this Lease on behalf of Tenant.

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IN WITNESS WHEREOF, we have affixed our signatures this ____ day of _____, 202__.

The City of Bay City, Texas

Tenant

Shawna Burkhart, City Manager

Sayrah Craft

(seal)

Attest:

Attest:

Jeanna Thompson, City Secretary

By:

(Print Name)