

**THIS LEASE AGREEMENT** ("Lease") made and entered into this the 16 day of May 2023 ("Effective Date"), by and between the CAROLINA BEACH LAND HOLDINGS LLC whose address is 1202 N Lake Park Blvd (hereinafter collectively called "Tenant") and The Town of Carolina Beach, a municipality, whose address is: 1121 N. Lake Park Boulevard, Carolina Beach, North Carolina, 28428 (hereinafter called "Owner")

**WITNESSETH**

In consideration of the rentals to be paid to the Owner by the Tenant, as hereinafter provided, and of the covenants and agreements upon the part of the Owner and the Tenant to be kept and performed, the Owner hereby leases to the Tenant, and the Tenant leases from the Owner, that real property known as 3 CAROLINA BEACH AVE S and as described on Exhibit A ("Leased Premises").

1. **Term of Lease.** The term of the Lease shall begin on May 16, 2023 and shall terminate on January 1, 2024 ("Term"), unless the term is sooner terminated in accordance with the provisions herein. Notwithstanding the foregoing, either party may terminate this Lease by providing fifteen (15) days' notice of its intent to terminate to the other party. Notice shall be given in accordance with Paragraph 16 of this Lease.
2. **Rental.** Except as otherwise expressly provided herein, during the term of this Lease, Tenant shall pay to Owner Four hundred dollars per month (\$400.00) ("Rent") for Rental which shall be due without demand on the first day of each month. In addition to the Rent, Tenant agrees to accommodate placement of a minimum of two (2) photo props and a minimum of six (6) tables designed to accommodate four or more persons each and that are available for public use.
3. **Utilities.** During the terms of this Lease, Tenant shall pay for all utilities used in or about the Leased Premises.
4. **Events of Default.** The happening of any one or more of the following events (hereinafter any one of which may be referred to as an "Event of Default") during the term of this Lease, or any renewal or extension thereof, shall constitute a breach of this Lease on the part of the Tenant: (a) Tenant fails to pay the Lease Rental as provided for herein; (b) Tenant abandons or vacates the Leased Premises; (c) Tenant fails to comply with or abide by and perform any other obligation imposed upon Tenant under this Lease.
5. **Remedies Upon Default.** Upon the occurrence of Event of Default, Owner may pursue any one or more of the following remedies separately or concurrently, without prejudice to any other remedy herein provided or provided by law; (a) if the Event of Default involves nonpayment of Lease rental and Tenant fails to cure such default within five (5) days after receipt of written notice thereof from Owner, or if the Event of Default involves a default in performing any of the terms or provisions of the Lease other than the payment of the Lease rental and Tenant fails to cure such default within fifteen (15) days after receipt of written notice of default from Owner, Owner may terminate this Lease by giving written notice to Tenant and upon such termination shall be entitled to recover from Tenant damages as may be permitted under applicable law; or (b) if the Event of Default involves any matter other than those set forth in item (a) of this paragraph, Owner may terminate this Lease by giving written notice to Tenant and, upon such termination, shall be

may terminate this Lease by giving written notice to Tenant and, upon such termination, shall be entitled to recover from the Tenant damages in an amount equal to all rental which is due and all rental which would otherwise have become due throughout the remaining term of this Lease, or any renewal or extension thereof (as if this Lease had not been terminated); or (c) upon any Event of Default, Owner, as Tenant's agent, without terminating this Lease, may enter upon and rent the Leased Premises, in whole or in part, at the best price obtainable by reasonable effort, without advertisement and by private negotiations and for any term Owner deems proper, with Tenant being liable to Owner for the deficiency, if any, between Tenant's rent hereunder and the price obtained by Owner on reletting, provided however, that Owner shall not be considered to be under any duty by reason of this provision to take any action to mitigate damages by reason of Tenant's default. In the event Owner hires an attorney to enforce its rights upon default, Tenant shall in addition be liable for reasonable attorney's fees and all costs of collection.

6. **Insurance.** Tenant agrees to and hereby does indemnify and save Owner harmless against all claims for damages to persons or property by reason of Tenant's use or occupancy of the Leased Premises, and all expenses incurred by Owner because thereof, including attorney's fees and court costs. Supplementing the foregoing and in addition thereto, Tenant shall during the term of this Lease and any extension or renewal thereof, and at Tenant's expense, maintain in full force and effect comprehensive general liability insurance with limits of \$1,000,000 per person and \$1,000,000.00 per incident, and property damage limits of \$1,000,000.00, which insurance shall contain a special endorsement recognizing and insuring any liability accruing to Tenant under the first sentence of the paragraph, and naming Owner as additional insured. Tenant shall provide evidence of such insurance to Owner prior to the commencement of the term of this Lease and from time to time as reasonably requested.

7. **Environmental.** Lessee shall keep and maintain the Premises in compliance with and shall not cause or permit the premises to be in violation of any federal, state, or local laws, ordinances or regulations relating to environmental conditions on, under or about the Premises, including but not limited to, soil and groundwater conditions.

8. **Effect of Termination of Lease.** No termination of this Lease prior to the normal ending thereof, by lapse of time or otherwise, shall affect the Owner's right to collect rent for the period prior to termination thereof.

9. **Quiet Enjoyment.** So long as Tenant observes and performs the covenants and agreements contained herein, it shall at all times during the Lease term peacefully and quietly have and enjoy possession of the Leased Premises, but always subject to the terms hereof. Provided, however, that in the event Owner shall sell or otherwise transfer its interest in the Leased Premises, Tenant agrees to attorn to any new owner or interest holder and shall, if requested by Owner, execute a separate agreement reflecting such attornment, provided that said agreement requires the new owner or interest holder to recognize its obligations and Tenant's rights hereunder.

10. **Holding Over.** If Tenant remains in possession of the Leased Premises after expiration of the term hereof, with Owner's acquiescence and without any express agreement of the parties, the Tenancy shall be a week-to-week tenancy.

11. **Attorney's Fees.** In the event that any action or proceeding is brought to enforce any term, covenant, or condition of the Lease on the part of Owner or Tenant, the prevailing party in such litigation shall be entitled to recover reasonable attorney's fees and costs.

12. **Rights Cumulative.** All rights, powers and privileges conferred hereunder upon parties hereto shall be cumulative and not restrictive of those given by law.

13. **Waiver of Rights.** No failure of Owner to exercise any power given Owner hereunder or to insist upon strict compliance by Tenant of its obligations hereunder and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Owner's right to demand exact compliance with the terms hereof.

14. **Time of Essence.** Time is of the essence in this Lease.

15. **Definitions.**

(a) "Owner" as used in this Lease shall include the undersigned, its heirs, representatives, assigns, and successors in title to the Leased Premises.

(b) "Agent" as used in this Lease shall mean the party designated as same by Owner, its heirs, representatives, and successors.

(c) "Tenant" shall include the undersigned and its heirs, representatives, assigns, and successors; and if this Lease shall be validly assigned or sublet, shall also include Tenant's assignees or sublessees as to the Leased Premises covered by such assignment or sublease.

(d) "Owner", "Tenant", and "Agent" include male or female, singular and plural, corporation, partnership or individual, as may fit the particular parties.

16. **Notices.** All notices required or permitted under this Lease shall be in writing and shall be personally delivered or sent U.S. certified mail, return receipt requested, postage prepaid. Notices to Tenant shall be delivered or sent to the address shown at the beginning of this Lease, Notices to Owner shall be delivered or sent to the address shown at the beginning of this Lease and notices to Agent, if any, shall be delivered or sent to the address where rental payments are made.

All notices shall be effective upon delivery. Any party may change its notice address upon written notice to the other parties, given as provided herein.

17. **Entire Agreement.** This Lease contains the entire agreement of the parties hereto, and no representatives, inducements, promises or agreements, oral or otherwise, between the parties, not embodied herein shall be of any force or effect. This Lease may not be modified except by a writing signed by all parties hereto.

18. **Authorized Lease Execution.** Each individual executing this Lease as director, officer, partner, member, or agent of a corporation, limited liability company, or partnership represents

and warrants that he is duly authorized to execute and deliver this Lease on behalf of such corporation, limited liability company, or partnership.

**TENANT: CAROLINA BEACH LAND HOLDINGS LLC**

By:  \_\_\_\_\_

Print Name: MATTHEW MURPHY

**OWNER: TOWN OF CAROLINA BEACH**

By:  \_\_\_\_\_

Print Name: BRUCE OAKLEY

EXHIBIT A

IN THE TOWN OF CAROLINA BEACH: BEING ALL OF LOT NO. TWO (2) ACCORDING TO THE PLAN OR MAP OF EFIRD DIVISION, WHICH SAID PLAN OR MAP IS RECORDED IN MAP BOOK 2 AT PAGE 104 AND BEING THE SAME PROPERTY CONVEYED TO J. E. WEBB BY DEED RECORDED FEBRUARY 11, 1935, IN BOOK 233 AT PAGE 445; BOTH OF THE RECORDS OF THE OFFICE OF THE REGISTER OF DEEDS OF NEW HANOVER COUNTY.

