

SECOND AMENDMENT TO AGREEMENT

This SECOND AMENDMENT TO AGREEMENT is dated for identification this 5th day of March 2024 and amends that certain Lease Agreement for Property Management Services dated October 29, 2020, made by and between the Town of Los Gatos ("Landlord" or the "Town"), and Forbes Mill, LLC, a California Limited Liability Company ("Master Tenant").

RECITALS

- A. Town and Master Tenant entered into a Lease Agreement for Property Management Services for the management and leasing of the Forbes Mill Property, located at 75 Church Street, dated October 29, 2020 ("Agreement"), a copy of which is attached hereto and incorporated by reference as Attachment 1 to this Amendment.
- B. Whereas a First Amendment was authorized by the Town Council on February 7, 2023, it was not fully executed.

Whereas, now the Town and Master Tenant mutually agree to amend the terms of the Agreement as follows:

SECOND AMENDMENT

1. The parties agree that the "Effective Date" referenced on Page 1 of the Master Lease ("Lease") shall be October 29th 2020.
2. **Section 1.4, "Lease Term," is amended to read as follows:** "As provided in Section 3 below, the Term of the Lease commences on the Effective Date and terminates, unless earlier terminated 34 years and 11 months from the Effective Date as provided in Section 3.1 below."
3. **Section 1.5, "Lease Contingency," is amended to read as follows:** "This Lease is contingent on the Master Tenant submitting the necessary applications and documents to the Town for approval of the improvements and use of the property, such as, but not limited to, general plan amendment, a proposed site plan, concept drawings for the site plan, massing diagrams, and renderings identifying the location, general configuration, and proposed design characteristics of the buildings, parking spaces, landscaping, property subdivision, and other aspects of the improvement and uses. The Master Tenant acknowledges that the Project Proposal requires approvals and entitlements from the Town and shall submit a formal application for the Planning Approvals. Costs and fees associated with the Planning Approvals review shall be borne by the Master tenant. Nothing in this Agreement shall be construed to compel the Town to approve or make any findings with respect to Planning Approvals. If Master Tenant is unable to obtain Planning Approvals,

either Landlord or Master Tenant may terminate this Lease by giving written notice of termination to the other party. Upon the giving of such notice of termination, this Lease shall terminate without liability of either party to the other.

This Lease is also contingent on Master Tenant and a Subtenant having executed a binding initial Sublease for any portion of the Premises and occupancy by Subtenants (the "Contingency"). If the Contingency has not been satisfied or waived by Landlord on or before September 5, 2024, either Landlord or Master Tenant may terminate this Lease by giving written notice of termination to the other party."

4. **Section 3.1, "Term," is amended to read as follows:** The "Term" of this Lease shall commence as of the Effective Date ("Effective Date") and shall end, unless earlier terminated or extended pursuant to the terms and conditions of this Lease, on the date 34 years and 11 months after the Effective Date ("Termination Date").
5. **Section 7.3, "Continuous Operations," is amended to read as follows:** "Master Tenant shall use its commercially reasonable efforts, subject to the provisions of Section 7.2 above, to continuously sublet the Premises to approved Subtenants for commercial purposes during the term of this lease. If, for any reason, a Subtenant quits its business operations on the Premises, Master Tenant shall use its commercially reasonable efforts, in accordance with the provisions of Section 7.2 above, to promptly secure another Subtenant reasonably acceptable to Master Tenant and Landlord.

If for any reason after September 5, 2024, the Premises in their entirety are left unleased to a sublessee for a continuous period of eighteen (18) months or more, then either the Landlord or Master Tenant may terminate this Lease by giving written notice of termination to the other, in which case, upon the giving of such notice of termination, each party shall be released of any future liability to the other, except as provided herein."

6. In **Section 9.1, "General,"** related to insurance requirements, the second paragraph is removed.
7. Exhibit C, "Insurance Requirements for Master Tenant and Subtenants," is replaced with a new Exhibit C, attached to this Amendment.

8. All other terms and conditions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the Landlord and Master Tenant have executed this Second Amendment.

LANDLORD:
THE TOWN OF LOS GATOS

MASTER TENANT:
Tait Firehouse, LLC, a California Limited Liability Co.

By: Imwalle Asset Management, LLC
a California Limited Liability Co.

By: _____
Laurel Prevetti, Town Manager

By: _____
Don Imwalle, Jr., Managing Member

Approved as to Form:

Attest:

Gabrielle Whelan, Town Attorney

Wendy Wood, CMC, Town Clerk