

## FIRST AMENDMENT TO AGREEMENT

This FIRST AMENDMENT TO AGREEMENT is dated for identification this 7th day of February 2023 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.

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

### FIRST AMENDMENT

1. The parties agree that the "Effective Date" referenced on Page 1 of the Master Lease ("Lease") shall be October 29<sup>th</sup> 2020.
2. **Section 1.4 Lease Term.** As provided in Section 3 below, the Term of the Lease commences on the ~~Commencement~~ **Effective** Date and terminates, unless earlier terminated 34 years and 11 months from the ~~Commencement~~ **Effective** Date as provided in Section 3.1 below.
3. **Section 1.5 Lease Contingency.** 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 the date ~~twelve (12) months following the Effective Date~~ **January 1, 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.** The "Term" of this Lease shall commence as of the Effective Date ("~~Commencement~~ 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 ~~Commencement~~ Effective Date ("Termination Date").
- 5. **Section 7.3 Continuous Operations.** 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 ~~during the first three (3) years following the Commencement Date~~ after **January 1, 2024**, the Premises in their entirety are left unleased 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. 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 Amendment.

**LANDLORD:**

**MASTER TENANT:**

**THE TOWN OF LOS GATOS**

**Tait Firehouse, LLC, a California Limited Liability Co.**

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

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

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

Laurel Prevetti, Town Manager

Don Imwalle, Jr., Managing Member

Approved as to Form:

Attest:

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\_\_\_\_\_

Gabrielle Whelan, Town Attorney

Wendy Wood, Town Clerk