

LEASE

BETWEEN

HUFSMITH – KOHRVILLE BUSINESS PARK, LLC,  
a Texas limited liability company

and

DellaCasa, LLC  
d/b/a Della Casa Pasta

for property located in:

Hufsmith – Kohrville Business Park

at 22525 Hufsmith-Kohrville Road, Tomball, Texas 77375

**SUMMARY OF BASIC LEASE PROVISIONS**

In addition to the terms which are defined elsewhere in this Lease, the following terms are used in this Lease:

**DATE OF LEASE:** December 6th, 2023

**LANDLORD:** **HUFSMITH – KOHRVILLE BUSINESS PARK LLC**, a Texas limited liability company

**TENANT:** DellaCasa, LLC, a Texas limited liability company

**TENANT’S TRADE NAME** **Della Casa Pasta**

**BUILDING:** The approximately **11,098** square foot building with an address of 22525 Hufsmith-Kohrville Road, Tomball, Texas 77375 (“**Building 1**”)

**LEASED PREMISES:** Approximately 6,356 square feet in Building 1 depicted on Exhibit A.

**TERM:** 60 months.

**RENEWAL OPTION:** One (1) renewal option of 60 months.

<b>BASE RENT DURING TERM:</b>	<u>Period</u>	<u>Monthly Base Rent</u>
	Lease Months 1-12	\$11,050.00
	Lease Months 13-24	\$11,271.00
	Lease Months 25-36	\$11,496.00
	Lease Months 37-48	\$11,726.00
	Lease Months 49-60	\$11,961.00
<b>BASE RENT DURING RENEWAL TERM:</b>	Lease Months 61- 72	\$12,200.00
	Lease Months 73-84	\$12,444.00
	Lease Months 85-96	\$12,693.00
	Lease Months 97-108	\$12,947.00
	Lease Months 109-120	\$13,206.00

**GUARANTOR:**

Luisa Obando and any other party who guarantees Tenant's build-out financing with Frost Bank. Such party to be added as a guarantor.

**BROKERS:**

Landlord's Broker: N/A  
Tenant's Broker: N/A

**INTERPRETATION:**

In the event of any conflict between this Summary of the Basic Lease Provisions ("**Summary**") and the balance of this Lease (including exhibits), the latter shall control. Each of the terms defined and set forth in this Summary shall be construed in conjunction with the remainder of this Lease, particularly the referenced portions thereof.

**LEASE**

This Lease (“**Lease**”) is entered into by **HUFSMITH-KOHRVILLE BUSINESS PARK LLC**, a Texas limited liability company, as “**Landlord**” or its assigns, and DellaCasa, LLC, a Texas limited liability company, doing business as Della Casa Pasta as “**Tenant**.”

**SECTION 1. BUSINESS TERMS AND AGREED DEFINITIONS**

The following terms shall have the indicated meanings when used in this Lease, unless the context otherwise clearly requires.

**A. Buildings.** Collectively, the four (4) buildings to be located on the Land, and the parking, drives and outside storage area (if any) which service the Buildings, as shown on the site plan attached hereto and made a part hereof as **Exhibit “B”**. The Buildings are located in the location shown on **Exhibit “B”** with minor variances, which commonly occur in connection with layouts of buildings and/or the pouring of foundations. The estimated aggregate square footage of the Building(s) is **11,098** square feet.

**B. Land.** The Land described on **Exhibit “A”**, which is attached hereto and made a part hereof.

**C. Leased Premises.** That portion of Building 1 comprising approximately 6,356 square feet, including office space and warehouse space (as described on **Exhibit “B”**, attached hereto and made a part hereof) located on the Land and known as Suite **1-D**.

**D. Commencement Date.** The earlier to occur of (a) 120 days after the Leased Premises are delivered to Tenant in accordance with the terms of this Lease and (b) the date upon which Tenant obtains Tenant’s Permits.

**E. Term.** The period that begins on the Commencement Date and ends if the Commencement Date is not the first day of the calendar month, on the last day of the sixtieth (60<sup>th</sup>) full calendar month following the Commencement Date, unless sooner terminated in accordance with the provisions of this Lease.

**F. Base Rent.** Base Rent shall be paid according to the following schedule, subject to the provisions of Section 4 hereof. As used herein, “**Lease Month**” shall refer to each full calendar month of the Term, commencing as of the Commencement Date. Notwithstanding the foregoing, in the event that the Commencement Date occurs on a day other than the first day of a calendar month, the first Lease Month shall commence the first day of the calendar month following the month in which the Commencement Date occurs.

<b>PERIOD</b>	<b>ANNUAL BASE RENT</b>	<b>MONTHLY INSTALLMENTS OF BASE RENT</b>
<b>Lease Months 1-12</b>	\$132,600.00	\$11,050.00
<b>Lease Months 13-24</b>	\$135,252.00	\$11,271.00
<b>Lease Months 25-36</b>	\$137,952.00	\$11,496.00
<b>Lease Months 37-48</b>	\$140,712.00	\$11,726.00

PERIOD	ANNUAL BASE RENT	MONTHLY INSTALLMENTS OF BASE RENT
Lease Months 49-60	\$143,532.00	\$11,961.00

Notwithstanding anything to the contrary contained herein, provided that no uncured Event of Default then exists beyond any applicable notice and cure period defined within this Lease, Base Rent will be abated for Lease Months 1, 2, and 18. If an Event of Default continues to exist beyond the applicable notice and cure period defined herein, then Landlord, in addition to all other remedies available to Landlord, may elect to terminate such abatement of Base Rent.

**G. Additional Rent: (Monthly).** In addition to Base Rent, Tenant shall be responsible for Tenant’s Proportionate Share of Operating Costs as set forth in Section 5 below. The **initial estimate** of Tenant’s Proportionate Share of Operating Costs is \$2,224.00 per month. Notwithstanding the abatement of Base Rent for Lease Months 1, 9, and 18 provided for in Section 1.F. above, there will be no abatement of Additional Rent.

**H. Pre-Payment of Security Deposit.** Attached to this Lease is a check in the amount of \$27,440.00 (the “**Security Deposit**”).

**I. Permitted Use.** Office, distribution and warehouse use; kitchen operations; food preparation and distribution; food storage; pasta and food manufacturing; education and pasta school; wine tasting and demonstrations; preparation and cooking of pasta products; sales including retail sales of food products including but not limited to pasta products, food items, dinners, family meals, wine, spirits, beer, gifts, tabletop items, catered meals, bread, desserts, cheeses, grab and go items, imported food items, and various items associated with food and gift markets; and a fast-casual café including serving wine, food and gift market. Notwithstanding the foregoing, any classes, schools, demonstrations, networking events and vendor-related activities shall only occur after 5:00 p.m. and on weekends. Further, Landlord reserves the right to prohibit such events to the extent such events cause parking issues, traffic flow issues or is deemed by Landlord, in Landlord’s sole discretion, a nuisance to the Commercial Park. Tenant may not use the Leased Premises or any portion thereof for any of the uses described on **Exhibit “G”** (“**Prohibited Uses**”). Not more than once per year and subject to Landlord’s approval of the time, date, location and signage, Tenant may host curbside events, food markets, and special sale days with outdoor and temporary signage outside the building.

**J. Tenant’s Address.** Tenant’s address for notice purposes per Section 18 is:

Tenant Name: DellaCasa, LLC  
Attention: Luisa Obando  
Address: 10 Waterfall Way  
City, State, and Zip: Tomball, Texas 77375  
Email: luisa@dellacasapasta.com

**K. Commissions.** N/A

**L. Landlord’s Address.** Landlord’s address for notice purposes per Section 18 is:

Hufsmith – Kohrville Business Park LLC  
Attn: William J. Lawrence

16023 Rudgewick Lane  
Spring, Texas 77379  
Email: admin@wjl.me

**M. Reserved**

**N. Commercial Park.** The Leased Premises is part of a commercial park known as Hufsmith – Kohrville Business Park (the “**Commercial Park**”). The Commercial Park consists of the Land, any existing or future buildings and common areas located thereon.

**O. Tenant’s Proportionate Share.** Shall initially mean 14.41%, or the percent derived by dividing the square footage of the Leased Premises by the total number of square feet of rentable space within the Buildings. If Landlord constructs additional buildings, or adds on to any of the buildings, on the Land, Tenant’s Proportionate Share set forth in this section shall be adjusted to reflect that Landlord has modified the square footage of the buildings on the Land.

**P. Guarantor.** Guarantor shall mean Luisa Obando and any other party that guarantees Tenant’s build-out financing with Frost Bank. Such party to be added as a guarantor of this Lease. Failure to add such party as a guarantor of this Lease shall be an immediate of Event of Default hereunder.

**SECTION 2. LEASED PREMISES; COMMON AREAS; PARKING; INSPECTION PERIOD.**

**A.** Landlord hereby leases the Leased Premises to Tenant and Tenant hereby leases the Leased Premises from Landlord.

**B.** The Leased Premises shall be leased by Landlord to Tenant in its existing condition and state of repair, on an “**AS-IS**,” “**WHERE-IS**” basis and Landlord makes no warranty of any kind, express or implied, with respect to the Leased Premises, the Buildings or the Common Areas (without limitation, Landlord makes no warranty as to the habitability or fitness for a particular purpose or use of the Leased Premises). Except for Landlord’s Work, Landlord shall have no obligation to perform any construction work at the Leased Premises. Landlord will, however, be responsible for Landlord’s repair obligations described in Section 10.

**C.** Tenant’s construction of its initial improvements or alterations for its initial occupancy within the Leased Premises (“**Tenant’s Work**”) shall comply with the terms of **Exhibit “C”** attached hereto. Landlord will reimburse Tenant up to \$158,900 (herein, the “**Allowance**”) for Tenant’s Work. The Allowance will be paid directly by Landlord to Tenant’s contractors and/or vendors in monthly draws. The payment of such draws shall be conditioned upon Landlord's receipt of partial and/or final lien waivers with respect thereto for the work completed to date, in form and substance reasonably satisfactory to Landlord.

**D. Common Areas.** Landlord hereby grants to Tenant during the term of this Lease, a license to use, in common with the others entitled to such use, the Common Areas as they from time to time exist, subject to the rights, powers and privileges herein reserved to Landlord. The term “**Common Areas**” as used herein will include all areas and facilities outside the Leased Premises that are provided and designated for general use and convenience of Tenant and other tenants within the Buildings and Land. Common Areas may include but are not limited to pedestrian sidewalks, landscaped areas, roadways, parking areas, and rights of way, if any. All Common Areas and other facilities in or about the Buildings provided by Landlord shall be subject to the exclusive control and management of Landlord.

**E. Parking.** Tenant shall be entitled to park in common with other Building tenants of Landlord and shall be entitled to utilize at least fifteen (15) assigned tenant parking spaces, which parking

spaces are shown on **Exhibit “B-1”** attached hereto (“**Tenant’s Exclusive Parking Spaces**”), but leaving a corridor for the passage of other vehicles. In addition, Tenant shall have the right to utilize five (5) unassigned parking spaces in the Common Areas. Tenant shall be responsible for all signage for Tenant’s Exclusive Parking Spaces. Further, Tenant shall be solely responsible for managing and monitoring Tenant’s Exclusive Parking Spaces and shall have the right to have cars parked in Tenant’s Exclusive Parking Spaces towed from such spaces. No Tenants may park within any common drives. Tenant agrees not to overburden the parking facilities and agrees to cooperate with Landlord and other tenants of the Building in the use of parking facilities. Landlord reserves the right in its absolute discretion to determine whether parking facilities are becoming crowded and, in such event, to allocate parking spaces among Tenant and other tenants of the Building. Landlord may designate parking spaces in the Common Areas for the handicapped visitors to the Building and other tenants. Spaces directly in front of Tenant business shall be designated for Tenant use. Tenant shall be allowed to park its branded vans in front of the building.

G. **Inspection Period.** Tenant shall have forty-five (45) days after the Date of Lease (the “**Inspection Period**”), in which to inspect and investigate the Leased Premises and to review and evaluate any other matter relating to Tenant’s anticipated use of the Leased Premises. Tenant may terminate the Lease by written notice given to Landlord on or before 5:00 p.m. of the last day of the Inspection Period for any reason, in which event the parties shall have no further rights or liabilities thereunder. Upon any such termination, Landlord will promptly reimburse Tenant’s Security Deposit.

### **SECTION 3. DELIVERY DATE AND CONDITIONS**

Landlord will tender possession of the Leased Premises upon Landlord’s receipt of a certificate of completion or compliance from the applicable governing body for Building 1 (the “**Delivery Date**”). Tenant shall execute a Commencement Date Agreement in the form attached hereto as **Exhibit “I”** acknowledging the Commencement Date of this Lease; provided, however, that failure by Tenant to execute the same shall in no manner affect or delay the actual Commencement Date of this Lease.

If the Delivery Date has not occurred on or before February 29, 2024, other than as a result of acts of God, force majeure (as defined in Section 24.N of this Lease) or delays caused by Tenant (the “**Outside Tender Date**”), Base Rent will be abated one (1) days for each day that the Delivery Date occurs after the Outside Tender Date. Notwithstanding the previous sentence, if the Delivery Date has not occurred within sixty (60) days after the Outside Tender Date, other than as a result of acts of God, force majeure (as defined in Section 24.N of this Lease) or delays caused by Tenant then Tenant may terminate this Lease upon thirty (30) days’ advance written notice to Landlord; provided, however, that if the Tender Date occurs during such 30-day period, such termination shall be deemed rescinded and this Lease will continue in full force and effect. The Term of this Lease shall be extended for each day that Base Rent is abated under this Section 3.

### **SECTION 4. RENT.**

All sums required to be paid by Tenant under this Lease constitute “rent.” The term “rent” or “rental”, when used in this Lease, includes Base Rent, Additional Rent and all other sums payable hereunder. Tenant must pay all rent by utilizing Landlord’s online payment portal. If Tenant fails to timely pay any amounts due under this Lease when due or if any payment of Tenant is returned to Landlord by the institution on which it was drawn, Landlord after providing written notice to Tenant may require Tenant to pay subsequent amounts that become due under this Lease in certified funds. This paragraph does not limit Landlord from seeking other remedies under this Lease, at law, or in equity for Tenant’s failure to make timely payments of rent with good funds. No payment made by Tenant or received by Landlord in an amount less than the amount herein stipulated shall be deemed to be other than a partial payment, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent or

any other sum payable hereunder be deemed an accord and satisfaction, and Landlord may accept any such check or payment without prejudice to Landlord's right to recover the balance of such amount from Tenant or to pursue any other remedy in this Lease or by law provided.

Beginning with the Commencement Date and continuing thereafter until the expiration of the Term (as the same may be extended), Tenant agrees to pay Landlord the rent provided above in advance, without notice or demand, on the first (1<sup>st</sup>) day of every month during the Term of this Lease. Time is of the essence in payment of all rent and other amounts due to Landlord hereunder. If any monthly rent payment is not received by Landlord by the fifth (5<sup>th</sup>) day of the month in which such rent payment was due, Tenant shall pay, as Additional Rent, five percent (5%) of such amount due, and such late charge shall be due upon receipt of Landlord's written demand. Tenant shall also pay to Landlord, upon demand, \$500.00 for each check tendered to Landlord in payment of rent or any other payment due Landlord hereunder, which is returned uncollected to Landlord. All rent shall be prorated for any partial month.

### **SECTION 5. ADDITIONAL RENT.**

A. **Tenant's Obligation.** This Lease is what is commonly called a "Net, Net, Net Lease", it being understood that Landlord shall receive the Base Rent provided for herein free and clear of any Operating Costs (defined below). Tenant shall pay to Landlord in addition to Base Rent, the following, which shall be collectively referred to herein as "**Additional Rent**":

1. **Operating Costs.**

(a) Prior to the commencement of the Term of this Lease, and prior to the commencement of each calendar year during the Term of this Lease, Landlord may, at its option, provide Tenant with a then current estimate of Operating Costs for the upcoming calendar year, and thereafter Tenant shall pay, as Additional Rent, in monthly installments in accordance with this Section 5, Tenant's Proportionate Share of the Landlord's estimate of the Operating Costs for the calendar year in question. Payments of Tenant's Proportionate Share of the Landlord's estimate of the Operating Costs shall be due and payable at the same time as Base Rent in accordance with Section 4 of this Lease. Landlord reserves the right to revise its estimate of Operating Costs from time to time during the calendar year by giving Tenant written notice to that effect. Thereafter, Tenant shall pay Additional Rent, in each of the remaining months of that year, in accordance with the revised estimate. The failure of Landlord to estimate Operating Costs and bill Tenant on a monthly basis shall in no event relieve Tenant of its obligation to pay the Tenant's Proportionate Share of Operating Costs. "**Operating Costs**" means the aggregate of all expenses paid or incurred by or on behalf of Landlord, whether structural, non-structural, foreseen or unforeseen, relating to the ownership, maintenance, repair, management and operation of the Buildings and Land and any sidewalks or any other areas related to the Buildings and Land which Landlord has a repair or maintenance obligation, determined on an accrual basis in accordance with generally accepted industry accounting standards, including, but not limited to, the following:

1) Wages and salaries of all employees engaged in the operation and maintenance of the Buildings and Land, including taxes, insurance and benefits relating thereto; provided, however, to the extent that such employees are engaged in the operation or maintenance of other projects, the wages and salaries of such employees shall be equitably allocated among all such projects such that only that portion of the wages and salaries of such employees allocable to the Buildings shall be included for purposes of calculating Operating Costs;



2) Costs of all supplies and materials used in the operation, maintenance, repair and management of the Buildings and Land; provided, however, to the extent that such supplies and materials are used in the operation or maintenance of other projects, the cost of such supplies and materials shall be equitably allocated among all such projects such that only that portion of the cost of the supplies and materials allocable to the Buildings shall be included for purposes of calculating Operating Costs;

3) Costs of water, sewage, power, heating, lighting, air conditioning, ventilating, and other utilities furnished in connection with the operation of the Buildings and Land (excluding any costs billed to specific tenants);

4) Costs of all maintenance and service agreements for the Buildings and Land, including, but not limited to, security service, alarm service, window cleaning service, janitorial service, landscape maintenance, pest control and elevator maintenance;

5) Costs to maintain and repair the Structural Members (as defined in Section 10.A.) of the Buildings as well as the common elements of the Building;

6) Costs of all insurance carried by Landlord relating to the Buildings and Land, including, but not limited to, fire and extended coverage insurance, rental interruption insurance and liability insurance applicable to the Buildings and Land and Landlord's personal property used in connection therewith, together with any deductibles thereon, if applicable, together with any costs incurred by Landlord to recover insurance proceeds or settle insurance claims. In the event that during any operating year all or any part of such coverage is written under a "blanket policy" or otherwise in such manner that Landlord was not charged a specific insurance premium applicable solely to the Buildings and Land, then in such event, the amount considered to be the insurance premiums with respect to such coverage for such operating year shall be determined in good faith by Landlord. If the insurance policies maintained by Landlord with respect to the Property contain a deductible, then Tenant, in the event of a loss, shall pay to Landlord Tenant's Proportionate Share thereof, based upon the amount of such deductible. Tenant's Share of such deductible amount shall be payable to Landlord within ten (10) days following receipt from Landlord of a statement therefor and payment thereof by Tenant shall be a condition precedent to Landlord's obligations to repair or restore the Leased Premises.

7) Costs of repairs and maintenance of the parking facilities and landscaping of the Buildings and Land;

8) Management fees not to exceed six percent (6%) of the gross rent generated by the Buildings ("**Management Fees**");

9) All net expenses properly allocable to any operating year for any capital improvement or structural repair incurred to reduce or limit increases in Operating Cost, or by any change in the laws, rules, regulations or orders of any governmental or quasi-governmental authority having jurisdiction or expenses resulting from normal repair or maintenance, which expenses shall be repaid in equal monthly installments together with interest at applicable rates over the lesser of the useful capital life of the capital improvement or structural repair or the operational savings payback period;

10) All Taxes relating to the Buildings and Land. For purposes hereof, the term “**Taxes**” means all taxes, impositions, assessments and all other governmental charges, if any, which are levied, assessed or imposed upon or become due and payable in connection with, or a lien upon, the Buildings or Land, or the operation thereof, (excepting federal and state taxes on income) including taxes levied by present or future taxing authorities and all taxes of whatsoever nature that are imposed in substitution for, or in lieu of, any of the taxes, impositions, assessments or other charges included in this definition of Taxes and including without limitation, any tax on rents, or other tax levied against Landlord or the Leased Premises in lieu of supplementing all or any portion of the foregoing taxes. Notwithstanding the foregoing, however, if in lieu of the whole or any part of any taxes or assessments levied, assessed or imposed on real estate and the improvements thereon, there shall be levied, assessed or imposed on Landlord or the Leased Premises a capital levy or other tax directly on the rents received therefrom and/or a franchise tax, assessment, levy or charge measured by or based, in whole or in part, upon such rents, then all such taxes, assessments, levies or charges, or the part thereof so measured or based, shall be deemed to be included within the term “Taxes” for the purpose hereof. However, Taxes excludes the portion, if any, of ad valorem taxes against the Leased Premises that is paid by tenants as a separate charge pursuant to Section 5.A.2 of this Lease.

11) Any charges incurred by Landlord as Owner of the Land under any declaration of covenants, conditions and restrictions covering the Commercial Park (“**POA Charges**”). Notwithstanding anything to the contrary contained herein, Landlord shall have the right to cause Tenant’s Proportionate Share of the POA Charges to be collected directly from the Tenant by the POA on an annual basis; and

12) Legal and accounting expenses incurred with respect to the Buildings and Land, but excluding legal expenses related to the collection of rent or the sale, leasing or financing of the Buildings and Land.

(b) Expressly excluded from the definition of the term Operating Costs are:

1) Any and all collection costs, including legal fees and bad debt losses or reserves;

2) Replacement of capital investment items (other than those set forth in Section 5.A.1(a)(8) above);

3) Costs actually reimbursed by insurance proceeds;

4) Rent and similar commissions, excluding Management Fees set forth in 5.A.1(a)(7) above, advertising, and legal expenses related to negotiating and enforcing leases;

5) The cost of any repair made by Landlord because of the total or partial destruction of the Leased Premises or Buildings or the condemnation of a portion of the Leased Premises or Buildings;

6) Specific costs billed to and paid by specific tenants;

- 7) Depreciation;
- 8) Principal, interest, and other costs directly related to financing; and
- 9) Landlord's general corporate overhead and general administrative expenses.

(c) Within five (5) months after the end of each calendar year during the Term of this Lease, Landlord shall send a statement to Tenant setting forth the Operating Costs in reasonable detail for that year. If Tenant's Proportionate Share of Operating Costs exceeds the installments paid by Tenant under this Section 5.A.1, Tenant shall pay to Landlord the difference between Tenant's Proportionate Share of Operating Costs for that year and the aggregate amount paid by Tenant on account of Tenant's Proportionate Share for that year. The payment shall be made within thirty (30) days after Landlord renders the statement. If the installments paid by Tenant under this section exceed Tenant's Proportionate Share of Operating Costs, Landlord shall credit any excess to Tenant's next calendar year estimated payments.

(d) Notwithstanding the foregoing, commencing with the first full calendar year after the first anniversary of the Commencement Date, Tenant's Proportionate Share of Controllable Expenses (defined below) shall not increase by more than eight percent (8%) over Tenant's Proportionate Share of Controllable Expenses in the previous calendar year, on a cumulative and compounded basis. The term "Controllable Expenses" means all Operating Costs but excludes all expenses relating to the cost of utilities, security expenses, insurance, real estate taxes and assessments, and other expenses that are deemed by industry standards to be uncontrollable to the extent same constitute Operating Costs.

2. Other Taxes. Additionally, Tenant shall pay the full amount of all taxes, assessments, impositions, levies, charges, excises, fees, licenses and other sums levied, assessed, charged or imposed by any governmental authority or other taxing authority upon Tenant's leasehold interest under this Lease and all alterations, additions, fixtures, including Removable Trade Fixtures (hereafter defined), inventory and other property installed or placed or permitted at the Leased Premises by Tenant. Within thirty (30) days after notice from Landlord, Tenant shall furnish Landlord a true copy of receipts received by Tenant from the governmental authority or other taxing authority assessing such charge evidencing such payment.

3. Audit. Within 30 days after Landlord furnishes its statement of actual Operating Costs for any calendar year, Tenant may, at its expense, elect to audit Landlord's Operating Costs, subject to the following conditions: (1) there is no uncured Event of Default under this Lease; (2) the audit shall be prepared by an independent certified public accounting of recognized national or regional standing; (3) in no event shall any audit be performed by a firm retained on a "contingency fee" basis; (4) the audit shall commence within 10 days after Landlord makes Landlord's books and records available to Tenant's auditor and shall conclude within 10 days after commencement; (5) the audit shall be conducted during Landlord's normal business hours at the location where Landlord maintains its books and records and shall not unreasonably interfere with the conduct of Landlord's business; (6) Tenant and its audit firm shall treat any audit in a confidential manner and shall each execute Landlord's confidentiality agreement for Landlord's benefit prior to commencing the audit; and (7) the audit firm's audit report shall, at no charge to Landlord, be submitted in draft form for Landlord's review and comment before the final approved audit report is delivered to Landlord, and any reasonable comments by Landlord shall be incorporated into the final audit report. This paragraph shall not be construed to limit, suspend, or abate Tenant's obligation to pay Rent when due, including Additional Rent. Landlord shall credit any overpayment determined by the final approved audit report against the next rent due and owing by Tenant or, if no further rent is due, refund such overpayment directly to Tenant within 30 days of determination. Likewise, Tenant shall pay Landlord

any underpayment determined by the final approved audit report within 30 days of determination. The foregoing obligations shall survive the expiration or termination of this Lease. The right to audit granted hereunder is personal to the initial Tenant named in this Lease and shall not be available to any subtenant under a sublease of the Leased Premises. If the audit proves that Landlord's calculation of Operating Costs for the calendar year under inspection was overstated by more than 10%, then, after verification, Landlord shall pay Tenant's actual reasonable out-of-pocket audit and inspection fees not to exceed \$2,500.00 (but specifically excluding any travel and lodging expenses) applicable to the review of said calendar year statement within 30 days after receipt of Tenant's invoice therefor.

## **SECTION 6. SECURITY DEPOSIT**

Tenant shall deposit the Security Deposit with Landlord to secure Tenant's faithful performance of all of Tenant's obligations under this Lease, in the amount shown in Section 1.H. The Security Deposit shall be retained by Landlord throughout the Term of this Lease. Tenant agrees that if it should fail to pay rent when it is due, the Security Deposit may be applied by Landlord to the unpaid rent. Also, if Tenant fails to comply with any of the other obligations of Tenant under the Lease, Landlord may apply the Security Deposit to damages suffered by Landlord resulting from Tenant's noncompliance. Landlord shall not be obligated to apply the Security Deposit in the manner stated above, but may do so in addition to pursuing any of the other remedies available to Landlord under the Lease and the law on account of Tenant's noncompliance with Tenant's obligations. If Landlord should apply some or all of the Security Deposit to damages suffered by Landlord resulting from Tenant's noncompliance with its obligations, Tenant agrees to restore the Security Deposit upon receipt of Landlord's written demand. No interest shall accrue on the Security Deposit. Landlord may commingle the Security Deposit with other funds. If Tenant complies with all of Tenant's obligations, the Security Deposit shall be returned to Tenant within thirty (30) days after the end of the Term or any Renewal Term, less any amounts that may then be due from Tenant to Landlord as set forth in an itemized list to be provided by Landlord describing the reasons for withholding any portion of the Security Deposit.

## **SECTION 7. SERVICES AND UTILITIES.**

**A. Services.** Landlord shall at Landlord's expense (except as otherwise provided herein) maintain the Common Areas so that they are clean and free from accumulations of debris, filth, rubbish and garbage. The manner in which such Common Areas shall be so maintained, and the expenditures for such maintenance, shall be at the sole discretion of Landlord.

Landlord reserves the right from time to time to (a) make changes in the shape, size, location, number and extent of the land and improvements which constitute the Common Areas, provided that Landlord shall not impair the Tenant's ability to operate its business, except temporary impairments required by said changes; (b) make such improvements, alterations and repairs to the Common Areas as may be required by governmental authorities or by utility companies servicing the Buildings; and (c) construct, maintain and operate lighting and other facilities on all said areas and improvements and to police the same.

The use of the Common Areas shall be subject to such reasonable regulations and changes therein as Landlord shall make from time to time, including (but not by way of limitation) the right to close from time to time, if necessary, all or any portion of the Common Areas to such extent as may be legally sufficient, in the opinion of Landlord's counsel, to prevent a dedication thereof or the accrual of rights of any person or of the public therein; provided, however, Landlord shall do so at such times and in such manner as shall minimize any disruption to Tenant. **Landlord shall have no liability to Tenant, its employees, agents, contractors, invitees, or licensees for losses due to theft or burglary, or for damages done by unauthorized persons in the Leased Premises or in or at the Building EVEN IF THE SAME RESULTS FROM THE NEGLIGENCE (BUT NOT THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT) OF LANDLORD.**

**B. Utilities.** Tenant shall pay all costs incidental to rubbish removal, water, sewer, heat, air conditioning and electric service for the Leased Premises directly to the service provider; provided, however, in the event such utilities are not separately metered by the service provider, Landlord reserves the right to install sub-meters and bill Tenant directly for the utilities utilized by Tenant in an equitable manner, either on a monthly basis, or in such other manner as Landlord may reasonably determine. Tenant shall maintain all lighting fixtures in the Leased Premises and shall replace all bulbs and ballasts.

**C. Access to Premises.** Landlord reserves and shall at all times have the right to enter the Leased Premises at all reasonable times after reasonable prior notice to inspect same, to supply any service to be provided by Landlord to Tenant hereunder, to show the Leased Premises to prospective purchasers, mortgagees or tenants, and to alter, improve or repair the Leased Premises and any portion of the Buildings, without abatement of Base Rent or Additional Rent, and may for that purpose erect, use and maintain, scaffolding, pipes, conduits and other necessary structures in and through the Leased Premises where reasonably required by the character of the work to be performed, provided that the entrance to the Leased Premises shall not be blocked thereby, and further provided that the business of Tenant shall not be interfered with unreasonably. Tenant hereby waives any claim for damages for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Leased Premises or any other loss occasioned thereby. For each of the aforesaid purposes, Landlord shall at all times have and retain a key with which to unlock all of the doors in, upon and about the Leased Premises, excluding Tenant's vaults and safes, or special security areas (designated in advance), and Landlord shall have the right to use any and all means that Landlord may deem necessary or proper to open said doors in an emergency, in order to obtain entry to any portion of the Leased Premises.

**D. Interruption of Services.** Landlord shall not be liable for any interruption in or failure to furnish any services or utilities, and Tenant shall not be entitled to any damages resulting from such failure nor shall such failure relieve Tenant of the obligation to pay the Base Rent and Additional Rent reserved hereunder or constitute or be construed as a constructive or other eviction of Tenant. Notwithstanding the foregoing, or anything to the contrary contained in this Lease, in the event of any interruption in or failure to furnish any services or utilities, the restoration of which is within Landlord's reasonable control, and provided such interruption is through no fault of Tenant, Tenant's agents, representatives, successors, assigns, shareholders, employees, contractors, directors or officers, and such failure (i) renders the Leased Premises untenable (i.e., Tenant cannot reasonably conduct its business in its ordinary course therein), and (ii) continues for more than ten (10) consecutive business days after written notice from Tenant, then Base Rent hereunder shall be abated until such services or utilities are restored or the Leased Premises are otherwise rendered tenable again. In the event any governmental entity promulgates or revises any statute, ordinance or building, fire or other code or imposes mandatory or voluntary controls or guidelines on Landlord or the Building or any part thereof, relating to the use or conservation of energy, water, gas, light or electricity or the reduction of automobile or other emissions or the provision of any other utility or service provided with respect to this Lease or in the event Landlord is required or elects to make alterations to any part of the Building in order to comply with such mandatory or voluntary controls or guidelines, Landlord

may, in its sole discretion, comply with such mandatory or voluntary controls or guidelines or make such alterations to the Building. Such compliance and the making of such alterations shall in no event entitle Tenant to any damages, relieve Tenant of the obligation to pay the full Base Rent and Additional Rent reserved hereunder or constitute or be construed as a constructive or other eviction of Tenant.

**E. No Eviction.** Landlord and its agents and representatives shall have the right to enter upon the Leased Premises for any and all of the purposes set forth in this Section and may exercise any and all of the foregoing rights without being deemed guilty of a forcible or unlawful entry into, or a detainer of, the Leased Premises, or an eviction, actual or constructive of Tenant from the Leased Premises, or any portion thereof, and without incurring, any liability to Tenant therefor.

#### **SECTION 8. USE.**

Tenant shall use the Leased Premises solely for the Permitted Use, as defined herein. Tenant shall not use the Leased Premises, or permit their use, for any other purpose, or for any Prohibited Use described in **Exhibit "G"**, without Landlord's express written consent. Tenant shall obtain, at its own cost and expense, any and all licenses and permits necessary for such use, including a Certificate of Occupancy for the Leased Premises ("**Tenant's Permits**"). Tenant shall comply with all restrictions and easements applicable to the Leased Premises, and with all federal, state, municipal, and other laws, ordinances, rules and regulations of any governmental authority that apply to the use, construction, renovation, repair, operation, or occupancy of the Leased Premises, or to Tenant's business, or which pertain to health or the environment. Outside storage, other than within slatted fenced areas, is prohibited without Landlord's prior written consent. Tenant shall not install, remove or alter the fixtures, equipment and facilities located in the Leased Premises and shall pay the cost of alterations to the Leased Premises that may be required to comply with all such restrictions, easements, laws, ordinances, rules and regulations. Without limiting the generality of the foregoing, Tenant shall fully comply with the provisions relating to "Hazardous Substances" set forth in **Exhibit "F"** and Prohibited Uses set forth in **Exhibit "G"**. Tenant shall not engage in any activity or permit any nature of construction by Tenant or any other condition at the Leased Premises which would cause Landlord's fire and extended coverage insurance to be canceled, or the rate therefor increased or cause the disallowance of any sprinkler credits, if the Buildings are sprinkled. Tenant shall comply with such safety recommendations and reasonable loss prevention and loss reduction recommendations as Landlord or Landlord's insurance carriers (or both) may, from time to time, request; and Tenant shall not make any unlawful use of the Leased Premises or permit any unlawful use thereof; and Tenant shall not commit any act which is a significant public nuisance or unreasonable annoyance to Landlord or to other tenants or occupants of the Buildings or Commercial Park, or which might in the good faith judgment of Landlord, injure or depreciate the Leased Premises.

#### **SECTION 9. SIGNS.**

Tenant shall be responsible for the purchase, installation, and maintenance (in accordance with standards determined by Landlord from time to time) of any sign in the Leased Premises or on the exterior of the Leased Premises; provided, Tenant shall not install or maintain any sign on the exterior of the Leased Premises, or which may be viewed from the outside of the Leased Premises, without first obtaining Landlord's written consent, which shall not be unreasonably withheld. Subject to Landlord's prior written consent, including the style, size, graphics and messages to be shown thereon, Tenant may use decals to cover the Leased Premises' front and side windows. Any sign (or decal) erected or affixed upon the Leased Premises must advertise and relate to occupants of the Leased Premises and not any other parties. Tenant shall be responsible for the removal of all signs upon termination of Tenant's rights to possession hereunder, all installations and removal of signs shall be made in such a manner as to avoid injury or defacement of any building or other improvement, and Tenant shall be responsible for repair of any injury or defacement (including without limitation, discoloration caused by such installation and/or removal).

## SECTION 10. REPAIRS

**A. Landlord's Obligations.** Landlord will maintain all structural components ("Structural Members") of the Buildings, including, without limitation, the roof (but specifically excluding the roof membrane), foundation, exterior load-bearing walls, if any (excluding exterior windows and doors), the structural floor slabs, plumbing and sewer systems outside the Building and not serving the Leased Premises exclusively, and all other structural elements of the Leased Premises, as well as the common elements of the Buildings, in good repair, reasonable wear and use excepted. Maintenance and repair expenses caused by acts or omissions of Tenant or Tenant's agents, employees, invitees, or contractors, shall be paid directly to Landlord by Tenant upon demand plus an administrative charge in an amount equal to ten percent (10%) of such costs, and shall not constitute an Operating Cost. Landlord shall not be liable for and, except as expressly otherwise provided Section 11 and Section 12 hereof, there shall be no abatement of Base Rent or Additional Rent with respect to any injury to or interference with Tenant's business arising from any repairs, maintenance, alteration or improvement in or to any portion of the Buildings, including the Leased Premises, or in or to the fixtures, appurtenances and equipment therein.

**B. Tenant's Obligations.** Tenant shall repair and maintain in good repair and order (other than those items which are Landlord's responsibility as set forth in Section 10.A above) and keep clean and orderly all portions of the Leased Premises, including, without limitation: window and door glass in the Leased Premises; loading docks; interior partition walls; doors; windows; floor coverings; interior side of structural walls; lights; overhead doors, including the painting thereof; internal cranes and equipment, electrical system and equipment; plumbing systems and equipment; heating ventilating and air conditioning systems and equipment ("HVAC"); fire protection systems and equipment; sprinkler systems and other systems and equipment used in connection with the Leased Premises. Without limiting the generality of the foregoing, Tenant shall keep the Leased Premises, service ways, and loading areas on the Leased Premises neat, clean, and free from dirt or rubbish at all times, and shall carefully store in an orderly manner all trash and refuse within the areas to be specified by Landlord and in addition to any other remedies available to Landlord, Landlord shall have the right to perform any obligations of Tenant under this Section 10.B if Tenant fails to perform any such obligation for a period of five (5) business days after Landlord has given Tenant written notice thereof (unless Tenant commences to cure and diligently pursues the curing of the same) and Tenant shall pay to Landlord the reasonable cost thereof plus an administrative fee equal to ten percent (10%) of Landlord's cost to perform such obligation. Landlord shall not be required to give notice if an emergency exists. An emergency shall exist if a condition or circumstance exists which if not remedied could result in possible damage to the Buildings or Leased Premises or property of others in excess of \$10,000.00 or impair the operations of the mechanical, electrical or plumbing systems of the Leased Premises, or if the life, health or safety of any person could be endangered thereby. Notwithstanding anything to the contrary contained herein, any contractor or subcontractor performing repair and maintenance services on behalf of Tenant hereunder shall be approved in writing by Landlord.

Tenant shall, at its own cost and expense enter into a regularly scheduled preventative maintenance/service contract with a maintenance contractor for serving heating and air conditioning systems within the Leased Premises. The service contract must include all services suggested by the equipment manufacturer within the operation/maintenance manual and must become effective (and a copy thereof delivered to Landlord) within thirty (30) days of the date Tenant takes possession of the Leased Premises. In the event Tenant fails to enter into or maintain such a contract during the Term, Landlord shall, in addition to any other remedies available to Landlord, have the option to enter into a regularly scheduled preventative maintenance/service contract on items for and on behalf of Tenant. In the event Landlord elects such option, Tenant shall reimburse to Landlord, as Additional Rent, all of Landlord's costs in connection with said contract, as well as Landlord's actual costs of repair and maintenance of the HVAC system. Tenant shall arrange for the regular pick-up of trash and refuse at Tenant's expense (unless notified

that Landlord has elected to take over such responsibility, in which event such charges shall become a part of the Operating Costs) and regular extermination services. Tenant shall repair, maintain, and replace such construction (other than the Structural Members) and the devices and equipment installed therein and, if necessary, install additional devices and equipment (including, without limitation, any grease and oil traps and/or grease and oil receptors which the city or any other governmental entity having jurisdiction over the Leased Premises deems necessary to handle any liquid waste, grease, and oil produced at the Leased Premises), in a good and workmanlike manner and in accordance with all applicable laws and regulations governing such construction, devices, and equipment.

Upon the termination of this Lease or upon the termination of Tenant's right to possession of the Leased Premises, Tenant shall surrender and deliver up to Landlord the Leased Premises broom-clean and in the same condition in which they existed on the Commencement Date, ordinary wear and tear excepted; however, such exception for ordinary wear and tear shall in no way relieve Tenant of its above-described obligations for repair, replacement and maintenance during the term of this Lease. Prior to the end of the Term or upon the termination of Tenant's right to possession of the Leased Premises or termination of this Lease, but subject to the lien and security interest and other rights of Landlord referred to in Section 15, Tenant shall remove Removable Trade Fixtures (hereinafter defined) (excluding, however, ducts, conduits, wiring, pipes, paneling or other wall coverings or floor coverings), and, in addition to other applicable provisions of this Lease regarding such removal, the following shall apply: Tenant must not be in default of any obligation or covenant under this Lease at the time of such removal; and such removal must be effected without material damage to the Leased Premises and Tenant must promptly repair all damage caused by such removal. For the purposes hereof, the phrase "Removable Trade Fixtures" means the following: all of Tenant's signs, counters, tables, chairs, desks, racks, merchandisers and displayers, standards, wall brackets, hang rods, shelves, mirrors, cash registers and other business machines, wall brackets, pasta production machines, unattached kitchen equipment, fire suppressant systems, shelving, unattached cooking equipment, refrigeration equipment and other equipment used by Tenant in its business operations that can be removed without materially damaging the Leased Premises. Removable Trade Fixtures shall not include, for purposes of Tenant's right to remove, items originally furnished by Landlord or replacements of such items. Unless Tenant shall have, at the time of the alteration, requested in writing and obtained Landlord's approval in writing of any item Tenant desires to remain on the Leased Premises after the termination of the Lease, Tenant shall at the expiration or termination of the Lease, if requested by Landlord in writing prior to the termination or expiration of the Term of this Lease, remove any or all alterations, additions, fixtures, equipment (including refrigeration equipment) and other property installed or placed by Tenant or any sublessee or assignee (as herein permitted) (regardless of whether Landlord's consent was obtained with respect to same) in the Leased Premises, and shall repair any damage caused by such removal and restore the Leased Premises to the condition thereof at the time of the commencement of the Term of this Lease, excepting only ordinary wear and tear, and damage hereunder not otherwise required to be repaired by Tenant.

If Tenant fails to remove any Removable Trade Fixtures or if Landlord requests in writing that Tenant remove any or all alterations, additions, fixtures, equipment and property installed or placed by it or any such sublessee or assignee in the Leased Premises and Tenant fails to comply with such request prior to the expiration or termination of the Term of this Lease, or if Tenant fails to repair any damage to the Leased Premises and/or the Buildings caused by its removal of any of the aforesaid, then Landlord shall have the right (but shall not be obligated) to remove such Removable Trade Fixtures and/or such other alterations, additions, fixtures, equipment or property installed or placed by Tenant in the Leased Premises (Tenant hereby waiving any damage caused thereby) or repair any such damage to the Leased Premises and/or Buildings as a part, and thereupon Tenant shall, at Landlord's election, on demand pay (or reimburse Landlord for) the reasonable cost of such removal and the reasonable cost of transportation and storage on any Removable Trade Fixtures (or other alterations, additions, fixtures, equipment and property installed or placed by Tenant in the Leased Premises) which Landlord elects to store pending disposition



thereof, and the reasonable cost of repairing any such damage to the Leased Premises and/or Buildings, and, in addition, Tenant shall pay Landlord upon demand interest on all such sums at twelve percent (12%) per annum.

All plumbing or electrical wiring connections exposed as a result of the removal of Tenant's Removable Trade Fixtures, or other alterations, additions, fixtures, equipment and property installed or placed by it in the Leased Premises (if such removal is so requested by Landlord) shall be capped by Tenant in a safe and workmanlike manner. Use by Tenant in advertising, letterheads, or otherwise of any trade name or trademark used by Landlord shall be subject to such restrictions and regulations as Landlord may reasonably prescribe from time to time.

## **SECTION 11. CASUALTY DAMAGE.**

**A. Repairs.** In the event of a fire or other casualty in the Leased Premises, Tenant shall immediately give notice thereof to Landlord. Except as otherwise provided below, Landlord shall use its reasonable efforts after receipt of insurance proceeds to cause the necessary repairs to the Leased Premises to be made with due diligence and reasonable dispatch; provided, however, that Landlord shall not be required to repair or replace furnishings, furniture, or other personal property which Tenant may be entitled to remove from the Leased Premises or any property improvement constructed and installed by or for Tenant other than what was originally built by Landlord as part of Landlord's Work or Additional Work. Subject to Landlord receiving insurance proceeds, Landlord shall make reasonable efforts to commence making the required repairs to the Leased Premises within thirty (30) days following the date of the casualty or other damage and thereafter prosecute the repairs with due diligence and reasonable dispatch. If the Leased Premises, or any portion thereof, shall be partially destroyed by fire or other casualty so as to render the Leased Premises, or any portion thereof, untenable and such portion is not actually used by Tenant, the rent shall proportionately abate thereafter until such time as the Leased Premises, or any portion thereof, are made tenantable; provided, however, there shall be no abatement of rent and/or any abatement of rental shall cease as to any portion of the Leased Premises actually used by Tenant. If Landlord has elected to repair and reconstruct the Leased Premises, which election and notice of such election to Tenant must occur within thirty (30) days after the date of the casualty (or within sixty (60) days after such casualty if the event causes 50% or more of the Leased Premises to be untenable) this Lease shall continue in full force and effect and such repairs, except in the event of a major casualty as set forth in Section 11.B below, will be made as soon as reasonably practicable thereafter, but not later than 180 days after the date of the casualty or other damage, subject to Excusable Delays; provided, however, that Landlord shall use reasonable efforts to not unreasonably interfere with Tenant's use and occupancy of any portion of the Leased Premises not destroyed or damaged. Except as otherwise expressly provided above, in no event shall Landlord be required to commence the restoration or repair of the Buildings until Landlord receives the insurance proceeds therefore. No damages, compensation, or claims shall be payable by Landlord for any inconvenience, loss of business, or annoyance arising from such repair and reconstruction. Tenant and Landlord agree that the Term of this Lease shall be extended by a period of time equal to the period of such repair and reconstruction. Notwithstanding the foregoing, if such repairs are not completed within 180 days after the date of the casualty (subject to force majeure) Tenant shall have the right to terminate this Lease by providing written notice of such termination to Landlord. No damages, compensation, or claims shall be payable by Landlord for any inconvenience, loss of business, or annoyance arising from such repair and reconstruction.

**B. Termination in the Event of Major Casualty.** In the event (i) such destruction results in thirty percent (30%) or more of the Leased Premises being untenable for a period, reasonably estimated by a responsible contractor selected by Landlord, to be 180 days or longer after the date of the destructive event, or (ii) more than twenty percent (20%) of the insurance proceeds are retained by the holder of any mortgage on the Buildings or Land or are otherwise unavailable to Landlord to rebuild or repair the

Buildings or Leased Premises and Landlord elects not to repair or rebuild, the Landlord shall so notify Tenant promptly in writing within the time periods described in this Section 11.B. Landlord shall select a responsible contractor and deliver to Tenant the results of the responsible contractor's analysis ("Damage Analysis") within thirty (30) days of the destructive event. If Landlord is entitled to terminate this Lease, Landlord shall give to Tenant within thirty (30) days following Landlord's delivery to Tenant of the Damage Analysis written notice of whether or not Landlord is electing to terminate this Lease pursuant to the foregoing provisions of this Section 11. If Landlord does not so terminate this Lease, then such written notice shall also advise Tenant of Tenant's right to elect to terminate this Lease pursuant to the foregoing provisions of this Section 11, and Tenant must exercise such right of termination, if at all, by giving written notice thereof to Landlord within not more than ten (10) business days after receipt of said written notice from Landlord to Tenant.

C. **Rent.** Upon termination, in the event that Landlord shall elect not to restore the Leased Premises or Tenant elects to exercise its right to terminate this Lease, then all rent owed up to the time of such destruction or termination, as set forth in Section 11, shall be paid by Tenant and thenceforth this Lease shall cease and come to an end. In the event that this Lease is terminated as herein permitted, Landlord shall refund to Tenant any prepaid rent, and the Security Deposit, if applicable, less any sum then owing or which would thereafter become owing to Landlord by Tenant, including any amounts payable to Landlord under the provisions of Section 5 of this Lease.

#### **SECTION 12. CONDEMNATION.**

If ten percent (10%) or more of the Leased Premises is condemned (or conveyed to a governmental authority in lieu of condemnation), then Landlord or Tenant may elect to terminate this Lease, by written notice to the other party within sixty (60) days following receipt of notice of such condemnation, in which event the Term shall terminate on the date that possession of such portion of the Leased Premises is taken by the governmental authority. All condemnation awards for a taking of either the Leased Premises or the Buildings shall belong to Landlord; provided, however that Tenant may seek and retain such compensation as may be separately awarded to Tenant in Tenant's own name and right on account of all damage to Tenant's business by reason of such condemnation. If neither Landlord nor Tenant timely elect to exercise their above right to terminate this Lease, the Lease shall remain in full force and effect and the Base Rent, will be reduced in proportion to the square footage of the Leased Premises that has been taken.

#### **SECTION 13. INSURANCE AND INDEMNITY**

A. **Tenant's Insurance.** Tenant agrees to maintain the insurance set forth on **Exhibit "K"** attached hereto and incorporated herein by reference.

In addition to the insurance set forth on Exhibit "K", Tenant agrees to maintain Liquor Legal Liability or "Dram Shop" Insurance with policy limits of \$1,000,000 per each common cause and \$2,000,000 aggregate, either as an endorsement to its Commercial General Liability Insurance or as a separate policy. SUCH INSURANCE SHALL NAME LANDLORD AS AN ADDITIONAL INSURED UNDER ENDORSEMENT CG3401 12 19 OR SIMILAR ENDORSEMENT. THE POLICY SHALL BE ENDORSED TO WAIVE SUBROGATION AGAINST LANDLORD. Tenant shall provide Landlord with evidence of same prior to selling or serving alcoholic beverages at or from the Leased Premises, and shall maintain current evidence of insurance on file with Landlord at all times during the Term. In the event Tenant fails to obtain or to continue such coverage, Tenant shall immediately discontinue selling and serving alcoholic beverages from the Leased Premises.

**TENANT AGREES TO USE AND OCCUPY THE LEASED PREMISES AND PLACE ITS FIXTURES, EQUIPMENT, MERCHANDISE, AND OTHER PROPERTY AT TENANT'S OWN RISK AND HEREBY WAIVES AND RELEASES ALL RIGHTS OF RECOVERY AGAINST**

**LANDLORD AND THE LANDLORD INDEMNITEES (HEREAFTER DEFINED) FOR ANY RISK COVERED BY ANY POLICY OF PROPERTY INSURANCE COVERING THE LEASED PREMISES AND MAINTAINED OR REQUIRED TO BE MAINTAINED (WHETHER OR NOT ACTUALLY MAINTAINED) BY EITHER LANDLORD OR TENANT IN ACCORDANCE WITH SECTION 13 HEREOF, TO THE FULLEST EXTENT PERMITTED BY LAW, WHETHER THE SAME IS CAUSED BY FIRE OR OTHER CASUALTY OR THE CONDITION OF THE LEASED PREMISES, REGARDLESS OF THE CAUSE OF THE LOSS, EXCEPT TO THE EXTENT THE CAUSE OF THE LOSS IS DUE TO THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LANDLORD OR LANDLORD INDEMNITEES. THIS WAIVER AND RELEASE APPLIES EVEN IF THE LOSS IS CAUSED BY THE ACTS OR OMISSIONS OF LANDLORD OR THE LANDLORD INDEMNITEES, WHETHER OR NOT NEGLIGENT (BUT EXPRESSLY EXCLUDES THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LANDLORD OR THE LANDLORD INDEMNITEES), AND SHALL BAR RECOVERY AGAINST LANDLORD OR THE INDEMNITEES BY ANY THIRD PARTY (INCLUDING, WITHOUT LIMITATION, ANY INSURER) BY WAY OF SUBROGATION OR ASSIGNMENT. TENANT'S WAIVER AND RELEASE OF LANDLORD AND THE INDEMNITEES SHALL BIND TENANT'S PERMITTED ASSIGNEES AND SUBTENANTS. TENANT SHALL ALSO PROVIDE EVIDENCE OF TENANT'S INSURER'S WAIVER OF SUBROGATION IN FAVOR OF LANDLORD FOR LOSS OR DAMAGE CAUSED BY LANDLORD TO TENANT PROPERTY.**

For the purposes of this Lease, the "Landlord Indemnitees" shall mean and refer to Landlord and Landlord's directors, officers, managers, shareholders, partners, joint venturers, members, employees, agents, customers or invitees, contractors, affiliates, attorneys, and their respective heirs, legal representatives, successors and assigns.

TENANT SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS LANDLORD AND THE LANDLORD INDEMNITEES FROM ALL LOSSES, CLAIMS, SUITS, ACTIONS, DAMAGES AND LIABILITY, INCLUDING DEFENSE COSTS, INVESTIGATIVE COSTS AND FEES OF EXPERTS (COLLECTIVELY, "CLAIMS") THAT ARISE OR ALLEGEDLY ARISE FROM ANY OF THE FOLLOWING CIRCUMSTANCES: (I) ANY ACTS OR OMISSIONS OF TENANT OR TENANT'S AGENTS, EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, CUSTOMERS OR INVITEES (OR ANY OF THEIR EMPLOYEES); (II) ANY FAILURE OF TENANT OR TENANT'S AGENTS AND/OR EMPLOYEES TO COMPLY WITH LAWS, ORDINANCES OR REGULATIONS OF ANY GOVERNMENTAL AUTHORITY PERTAINING TO THE USE OR OCCUPANCY OF THE LEASED PREMISES OR PERTAINING TO TENANT'S BUSINESS; AND (III) ANY BODILY INJURY, DEATH OR PROPERTY DAMAGE SUFFERED BY ANY PERSON THAT OCCURS WITHIN THE LEASED PREMISES WHICH IS CAUSED BY TENANT OR TENANT'S AGENTS, EMPLOYEES, CUSTOMERS OR INVITEES. Tenant's obligations include: (i) **THE OBLIGATION TO DEFEND LANDLORD AND THE LANDLORD INDEMNITEES AGAINST ALL SUCH CLAIMS, INCLUDING CLAIMS FOR LANDLORD'S ACTS, OMISSIONS OR NEGLIGENCE (BUT EXPRESSLY EXCLUDING THE SOLE NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LANDLORD OR THE LANDLORD INDEMNITEES)**; (ii) the obligation to pay Tenant's proportionate share of any settlement reached by Tenant with respect to the Claim; and (iii) the obligation to pay the full amount of any damages that are awarded against Tenant with respect to the Claim.

**B. Landlord's Insurance.**

**1. Landlord's Property Insurance and Waivers of Subrogation.** Landlord agrees to take out and maintain a policy of Special Causes of Loss (formerly called "All Risk of Physical Loss") Property Insurance on the Buildings and other Landlord property at the Leased Premises. Such policy must be in effect as of the Commencement Date and must be maintained at all times during Tenant's occupancy of the

Leased Premises and during the Term. Such policy shall satisfy any co-insurance requirements and must contain a replacement cost endorsement.

**LANDLORD AGREES TO LEASE TO TENANT THE LEASED PREMISES AND OTHER LANDLORD PROPERTY AT LANDLORD'S OWN RISK AND HEREBY WAIVES AND RELEASES ALL RIGHTS OF RECOVERY AGAINST TENANT AND THE TENANT INDEMNITEES (HEREAFTER DEFINED) FOR ANY RISK COVERED BY ANY POLICY OF PROPERTY INSURANCE COVERING THE LEASED PREMISES AND MAINTAINED OR REQUIRED TO BE MAINTAINED (WHETHER OR NOT ACTUALLY MAINTAINED) BY EITHER LANDLORD OR TENANT IN ACCORDANCE WITH SECTION 13 HEREOF, TO THE FULLEST EXTENT PERMITTED BY LAW, WHETHER THE SAME IS CAUSED BY FIRE OR OTHER CASUALTY, REGARDLESS OF THE CAUSE OF THE LOSS, EXCEPT TO THE EXTENT THE CAUSE OF THE LOSS IS DUE TO THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF TENANT OR TENANT INDEMNITEES. THIS WAIVER AND RELEASE APPLIES EVEN IF THE LOSS IS CAUSED BY ACTS OR OMISSIONS OF TENANT OR THE TENANT INDEMNITEES, WHETHER OR NOT NEGLIGENT (BUT EXPRESSLY EXCLUDES THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF TENANT OR THE TENANT INDEMNITEES), AND SHALL BAR RECOVERY AGAINST TENANT OR THE TENANT INDEMNITEES BY ANY THIRD PARTY (INCLUDING, WITHOUT LIMITATION, ANY INSURER) BY WAY OF SUBROGATION OR ASSIGNMENT. LANDLORD'S WAIVER AND RELEASE OF TENANT AND THE TENANT INDEMNITEES SHALL BIND LANDLORD'S PERMITTED ASSIGNEES AND SUBTENANTS. LANDLORD SHALL ALSO PROVIDE EVIDENCE OF LANDLORD'S INSURER'S WAIVER OF SUBROGATION IN FAVOR OF TENANT FOR LOSS OR DAMAGE CAUSED BY TENANT TO LANDLORD PROPERTY.**

For purposes of this Lease, the "Tenant Indemnitees" shall mean Tenant and Tenant's directors, officers, managers, shareholders, partners, joint venturers, members, employees, agents, customers or invitees, contractors, affiliates, attorneys and their respective heirs, legal representatives, successors, and assigns.

**2. Landlord's General Liability Insurance and Other Insurance.** Landlord shall maintain Standard Commercial General Liability Insurance coverage, which shall be in a minimum amount of \$1,000,000 per occurrence, \$2,000,000 policy aggregate, including coverage for bodily injury and property damage and products liability coverage; and contractual liability coverage insuring the indemnity obligations of Landlord under this Lease. Landlord may also maintain business interruption insurance in favor of Landlord in an amount sufficient to pay for at least twelve (12) months of all Rent payable under the terms of this Lease. Such policies must be in effect as of the Commencement Date and must be maintained at all times during Tenant's occupancy of the Leased Premises and during the Term. At the request of Tenant, a certificate evidencing all insurance policies required to be maintained by Landlord shall be deposited with Tenant following the Commencement Date and current certificates shall be deposited with Tenant at all times during Tenant's occupancy of the Lease Premises and during the renewal term of each policy.

#### **SECTION 14. ASSIGNMENT AND SUBLETTING.**

**A. Transfers.** Tenant shall not, without the prior written consent of Landlord, (1) assign, transfer or encumber this Lease or any estate or interest herein, whether directly or by operation of law, (2) sublet any portion of the Leased Premises, (3) grant any license, concession or other right of occupancy of any portion of the Leased Premises, or (4) permit the occupation of the Leased Premises by any parties other than Tenant (any of the foregoing events being a "Transfer").

**B. Consent Standards.** Landlord shall not unreasonably withhold, condition, or delay its consent to any assignment or subletting of the Leased Premises, provided that the proposed transferee: (1) is, in the Landlord's reasonable determination and opinion, an acceptable credit risk, and (2) will use the Leased Premises for the Permitted Use. It shall not be unreasonable for Landlord to withhold its consent to any assignment or subletting while an Event of Default exists and is continuing. Notwithstanding the foregoing, Landlord's consent will not be required with respect to any assignment or subletting to any Affiliate, of Tenant, provided Tenant provides Landlord with prior written notice of such assignment or subletting. As used herein, "Affiliate" shall mean an entity that controls, is controlled by, or under common control with Tenant.

**C. Request for Consent.** If Tenant requests Landlord's consent to a Transfer, then, at least thirty (30) days prior to the effective date of the proposed Transfer, Tenant shall provide Landlord with a written description of all material terms and conditions of the proposed Transfer, copies of the proposed transfer documentation, and the following information about the proposed transferee: (1) name and address of the proposed transferee; (2) its proposed use of the Leased Premises; and (3) such financial information as Landlord may reasonably request to enable Landlord to determine the proposed transferee's creditworthiness.

**D. Conditions to Consent.** If Landlord consents to a proposed Transfer, then the proposed transferee shall deliver to Landlord a written agreement whereby it expressly assumes Tenant's obligations hereunder arising on or after the transfer date. Any attempt by Tenant or a proposed transferee, in any Transfer, to release Tenant from its obligations under this Lease without Landlord's consent shall be void. Landlord's consent to any Transfer shall not waive Landlord's rights as to any subsequent Transfers. Tenant and Guarantor shall remain liable for the performance of all of the obligations of Tenant hereunder notwithstanding any Transfer. If an Event of Default occurs while the Leased Premises or any part thereof are subject to a Transfer, then Landlord, in addition to its other remedies, may collect directly from such transferee all rents and other amounts becoming due to Tenant and apply such amounts against Base Rent. As part of the Tenant's Transfer, Tenant shall direct and authorize its transferees to make payments of rents and other amounts due under such Transfer directly to Landlord upon receipt of notice from Landlord to do so following the occurrence of an Event of Default hereunder. Tenant shall pay for the cost of any demising walls or other improvements necessitated by a proposed subletting or assignment.

**E. Additional Compensation.** So long as no Event of Default exists and is continuing, Tenant shall pay to Landlord, immediately upon receipt thereof, fifty percent (50%) of the excess of (1) all compensation received by Tenant for a Transfer (other than a Permitted Transfer) over (2) the Base Rent allocable to the portion of the Leased Premises covered thereby. While any Event of Default exists and is continuing, Tenant shall pay to Landlord, immediately upon receipt thereof, one hundred percent (100%) of the excess of (a) all compensation received by Tenant for a Transfer over (b) the Base Rent allocable to the portion of the Leased Premises covered thereby.

**F. Landlord Assignment.** Landlord may assign, convey or otherwise transfer its rights, title and interest hereunder and/or in the Leased Premises, or any portion thereof, without the consent of Tenant. The term "Landlord" so far as covenants or obligations on the part of Landlord are concerned shall be limited to mean only the owner of the Leased Premises at the time in question. Upon any transfer of the title thereto, former Landlord automatically shall be relieved from all liability with respect to any obligation on the part of Landlord thereafter to be performed, provided former Landlord shall render to the transferee any funds it then holds in which Tenant has an interest. Any right, title or interest of Landlord assigned hereunder may be assigned and reassigned in like manner by any assignee thereof.

**G. Short-Term Licenses.** Tenant shall be allowed to license by the hour its kitchen and/or preparation area. Landlord may revoke Tenant's right to license to extent such licenses do not comply with

Rules and Regulations attached hereto as **Exhibit “E”** or otherwise deemed a nuisance to the Commercial Park, as determined by Landlord in Landlord’s sole and absolute discretion. TENANT SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS LANDLORD AND THE LANDLORD INDEMNITEES FROM ALL LOSSES, CLAIMS, SUITS, ACTIONS, DAMAGES AND LIABILITY, INCLUDING DEFENSE COSTS, INVESTIGATIVE COSTS AND FEES OF EXPERTS (COLLECTIVELY, “CLAIMS”) THAT ARISE OR ALLEGEDLY ARISE FROM OR OTHERWISE RELATE TO SUCH LICENSES. Tenant’s obligations include: (i) **THE OBLIGATION TO DEFEND LANDLORD AND THE LANDLORD INDEMNITEES AGAINST ALL SUCH CLAIMS, INCLUDING CLAIMS FOR LANDLORD’S ACTS, OMISSIONS OR NEGLIGENCE (BUT EXPRESSLY EXCLUDING GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LANDLORD OR THE LANDLORD INDEMNITEES).**

**SECTION 15. LANDLORD’S LIEN.**

If Landlord shall have taken possession of the Leased Premises pursuant to the authority hereinafter granted in connection with an Event of Default or for any other lawful reason, Landlord shall have the right to keep in place and use all of the furniture, fixtures and equipment at the Leased Premises, including that which is owned or leased to Tenant, at the times prior to any foreclosure thereon by Landlord or repossession thereof by any lessor thereof or third party having a lien thereon. Landlord shall have the right to remove from the Leased Premises (without the necessity of obtaining a distress warrant, writ of sequestration or other legal process) all or any portion of Tenant’s furniture, fixtures, equipment and other property located thereon and place same in storage at any premises within Harris County, Texas; or dispose of same in any manner acceptable to Landlord; and in such event, Tenant shall be liable to Landlord for reasonable costs incurred by Landlord in connection with such removal, storage and/or disposal and shall indemnify, defend, and hold Landlord and the Landlord Indemnitees harmless from all loss, damage, cost, expense and liability in connection with such removal, storage and/or disposal. Tenant stipulates and agrees that the rights herein granted Landlord are commercially reasonable. Tenant shall not mortgage, pledge or otherwise encumber its interest in this Lease or in the Leased Premises, nor may such interest be transferred by operation of law. Any attempt to do any of the foregoing shall be void and of no effect.

**SECTION 16. DEFAULT; REMEDIES.**

**A. Events of Default.** Each of the following acts of Tenant constitutes an event of default (“**Event of Default**”) under this Lease: (i) Tenant’s failure to pay the required amount of rent when due or the required amount of any other monetary sum when due under this Lease, which failure continues for five (5) days after written notice, provided that notice shall not be required more than two (2) times in any twelve (12) month period; (ii) Tenant’s failure to comply with any covenant, duty or obligation of Tenant under this Lease (other than those referred to in clause (i) above) that is not cured within thirty (30) days after Tenant receives a written notice of such failure from Landlord, provided that if such default is not capable of being cured within such thirty (30) day period and Tenant commences curing within such thirty (30) day period and diligently pursues curing of the same thereafter, the same shall not be a default so long as Tenant is diligently pursuing the curing of such default; (iii) any voluntary petition or similar pleading under any bankruptcy act or under any law seeking reorganization or an arrangement with creditors or adjustment of debts, is filed by or against Tenant, or if any such petition or pleading is involuntary, and it is not adjudicated favorably to Tenant within sixty (60) days; (iv) the leasehold of Tenant is levied upon or attached by process of law and Tenant does not vigorously contest same by appropriate proceedings and remove or vacate the same within sixty (60) days from the date of its creation, service or filing; (v) Tenant admits in writing its inability to pay its debts, or if a receiver, trustee or other court appointee is appointed for all or a substantial part of Tenant’s property; (vi) Tenant makes an assignment for the benefit of creditors, or if any proceedings are filed by or against tenant to declare Tenant insolvent or unable to meet its debts; and (vii) a receiver or

similar type of appointment or court appointee or nominee of any name or character is made for Tenant or its property and Tenant does not vigorously contest the same by appropriate proceedings and remove or vacate same within sixty (60) days from the date of appointment.

**B. Landlord's Remedies.** If an Event of Default should occur under this Lease, then Landlord may do any of the following (in conjunction with or in addition to pursuing any or all of the other rights and remedies provided to Landlord under this Lease, by law or in equity):

- (i) terminate this Lease by sending a written termination notice to Tenant at the address stated above (in which event, Tenant will immediately surrender possession of the Leased Premises to Landlord);
- (ii) enter upon and take possession of the Leased Premises and expel or remove Tenant and any other occupant therefrom and terminate Tenant's right to possession of the Leased Premises with or without terminating this Lease (in which event, Tenant shall immediately surrender possession of the Leased Premises to Landlord);
- (iii) remedy the Event of Default on behalf of Tenant (in which event, Tenant must pay to Landlord all of Landlord's reasonable costs and expenses so incurred immediately upon receipt of Landlord's invoice); and/or
- (iv) recover all amounts then owing (and, after the passage of time, that become owing) under the Lease without terminating this Lease or Tenant's right to possession of the Leased Premises.

Landlord's exercise of any of the remedies available to Landlord under this Lease shall not constitute Landlord's acceptance of surrender of the Leased Premises by Tenant, whether by agreement or by operation of law, it being understood that such surrender can be effected only by the written agreement of Landlord and Tenant. Tenant hereby acknowledges that Landlord shall have the right, after an Event of Default which involves a failure to timely pay any rent, without any notice to Tenant (to the extent allowed by law), to alter locks and other security devices at the Leased Premises, remove Tenant's property and the property of others located within the Leased Premises, and post a "For Lease" and/or "For Sale" sign on the Property. Landlord may require full payment of the rent then due to Landlord under this Lease as a condition to Tenant's entitlement to a key to new or altered locks that Landlord may have placed on the Leased Premises after an Event of Default which involves a failure to pay rent. If Landlord exercises its rights to alter the locks at the Leased Premises, Landlord or its agents shall place a written notice on Tenant's front door of the Leased Premises stating the name, address and phone number of the individual or company from which the new key may be obtained. Landlord shall only be required to provide Tenant with a new key during Landlord's regular business hours which are agreed to be 8:00 a.m. to 5:00 p.m. Monday through Friday except for holidays; provided that in no event shall Landlord be required to provide Tenant a new key until such time as Tenant pays all rent due under this Lease. No such alteration of locks or other security devices and no removal or other exercise of dominion by Landlord over the property of Tenant or others at the Leased Premises shall be deemed unauthorized or to constitute a conversion, Tenant hereby consenting, after any Event of Default, to the aforesaid exercise of dominion over Tenant's property within the Leased Premises. **All claims for damages (INCLUDING CLAIMS FOR DAMAGES BASED UPON NEGLIGENT OR WILLFUL MISCONDUCT ACTIONS OF LANDLORD OR LANDLORD'S AGENTS OR CONTRACTORS) by reason of such lawful reentry and/or repossession are hereby waived.** Further, all claims for damages by reason of such lawful alteration of locks or other security devices are hereby waived, as are all claims for damages by reason of any distress warrant, forcible detainer proceedings, sequestration proceedings or other legal process. Tenant agrees that any reentry by Landlord may be pursuant to a judgment obtained in forcible detainer proceedings or other legal proceedings or without any legal proceedings, as Landlord may elect; and Landlord shall not be liable in

trespass or otherwise. To the extent of any inconsistency between this Lease and the provisions of Section 93.002 of the Texas Property Code (as it may be hereafter amended or recodified), it is the agreement of the parties that this Lease shall prevail.

Notwithstanding the foregoing, if Landlord has theretofore formally and permanently repossessed the Leased Premises or terminated this Lease pursuant to Sections 16.B.(i) or (ii), above, or if Tenant's defaults are not reasonably subject to cure (such as early abandonment or vacating of the Leased Premises), then Landlord shall not be obligated to provide the new key(s) to Tenant under any circumstances, regardless of Tenant's payment of past-due rent or other past-due amounts, damages or other payments or amounts of any nature or kind whatsoever. The provisions of this paragraph are intended to override and supersede any conflicting provisions of the Texas Property Code (including, without limitation, Section 93.002 thereof, and any amendments or successor statutes thereto), and of any other law, to the maximum extent permitted by applicable law.

If Landlord elects to terminate the Lease by reason of an Event of Default, or if Landlord elects to terminate Tenant's right to possession of the Leased Premises without terminating this Lease, or if Landlord exercises any other remedy, Landlord may hold Tenant liable for all Base Rent, Taxes, Insurance Premiums and other indebtedness accrued to the date of such termination (or other remedy exercised), plus such Base Rent, Taxes, Insurance Premiums and other indebtedness as would otherwise have been required to be paid by Tenant to Landlord during the period following termination of the Term (or Tenant's right to possession of the Leased Premises or other remedy exercised, as the case may be) measured from the date of such termination by Landlord until the date which would have been the date of expiration of the Term as stated in Section 1.E (had Landlord not elected to terminate the Lease or Tenant's right to possession on account of such Event of Default) diminished by any net sums (if any) thereafter received by Landlord through re-letting the Leased Premises during said period (after deducting expenses incurred by Landlord as provided in the succeeding paragraph). Following the date of notice of termination of this Lease or the termination of Tenant's right to possession, without the termination of this Lease, Landlord shall make reasonable commercial attempts to relet the Leased Premises or portions thereof. As used herein, "reasonable commercial attempts to relet" shall mean (a) listing the Leased Premises for lease with a licensed real estate broker, which may be an affiliate of Landlord, (b) entertaining but not necessarily accepting offers to lease, and (c) to the extent allowed by law or applicable deed restrictions, placing "For Lease" signs on the Leased Premises. In no event shall Landlord be obligated to accept an assignee or sublessee who desires to use the Leased Premises for one of the Prohibited Uses. Actions to collect amounts due by Tenant provided for in this paragraph of Section 16 may be brought from time to time by Landlord during the aforesaid period, on one or more occasions, without the necessity of Landlord's waiting until expiration of such period; and in no event shall Tenant be entitled to any excess of rent (or rent plus other sums) obtained by re-letting over and above the rent herein reserved.

In addition to all other amounts and other obligations for which Tenant is liable upon an Event of Default, in case of an Event of Default, Tenant shall also be liable for and shall pay to Landlord, in addition to any sums provided to be paid above: reasonable broker's fees and all other reasonable costs and fees incurred by Landlord in connection with re-letting, or attempting to re-let, the whole or any part of the Leased Premises; the reasonable costs of removing and storing Tenant's or other occupant's property; the reasonable costs of repairing, altering, remodeling or otherwise putting the Leased Premises into a condition acceptable to a new tenant or tenants; reasonable costs associated with the execution of any lease with a new tenant or tenants (including, without limitation, reasonable attorneys' fees); and all expenses incurred by Landlord in enforcing Landlord's remedies (including, without limitation, reasonable attorneys' fees). Past due rent and other past due payments shall bear interest from maturity until paid at the lesser of: (i) the highest non-usurious rate permitted by law or (ii) eighteen percent (18%) per annum.



C. **Landlord's Default.** If Landlord should fail to perform any of its obligations under this Lease, Tenant's exclusive remedy is the institution of a suit for damages (Tenant hereby waiving the benefit of any laws granting it a lien on the property of Landlord), which shall be subject to the provisions of Section 19 below. Prior to instituting such a suit, Tenant must supply Landlord with notice of such failure. Landlord shall then have a reasonable period of time, but not less than thirty (30) days following Landlord's receipt of Tenant's notice except in case of emergency, in which to commence curative action. Tenant may not institute such a suit during such thirty (30) day period or thereafter during the period in which Landlord is diligently attempting to cure such default. In no event shall Tenant have the right to offset any sum owing, or allegedly owing, by Landlord to Tenant against any sum otherwise owing by Tenant to Landlord.

D. **Waiver of Consequential Damages.** Notwithstanding anything contained herein to the contrary, Tenant hereby waives any right of recovery against Landlord for any special, indirect, punitive or consequential damages, which shall be caused by, arise out of, occasioned by, or in any way attributable to, this Lease and/or the transaction contemplated by this Lease.

### **SECTION 17. HOLDOVER.**

If Tenant should remain in possession of the Leased Premises after the end of the Term, then Tenant shall be occupying the Leased Premises as a tenant-at-sufferance, under all of the terms and conditions of this Lease, except that the Base Rent payable during the holdover period shall be equal to one hundred fifty percent (150%) of the Base Rent last applicable during the Term.

### **SECTION 18. NOTICE.**

Any notice given under this Lease must be in writing and delivered by U. S. certified mail, return receipt requested, by recognized national overnight delivery service, such as Federal Express or UPS, or by hand. Notices given to Landlord by U. S. certified mail or overnight delivery must be sent to Landlord at Landlord's address stated above; and notices given to Tenant by U. S. certified mail or overnight delivery must be sent to Tenant at Tenant's address stated above in Section 1.J. Either party may change its address by giving the other party notice of such change. A signed return receipt shall be conclusive evidence that the notice was delivered in the due course of mail. Notice that is properly addressed, with adequate postage prepaid and mailed by certified mail, return receipt requested, shall be deemed received upon the earlier of actual receipt, as indicated on the signed, returned receipt card; or three days after appropriate posting (whether or not actually received or accepted). Notice given by overnight delivery service will be deemed received on the business day when the delivery service's records indicate that delivery was affected. Notice given by hand shall be effectively given wherever the intended recipient is found and shall be deemed received upon the date of delivery or on the date of attempted delivery if delivery is refused. No change of address of either party shall be binding on the other party until notice of such change of address is given to the other party.

### **SECTION 19. LIMITATION OF LANDLORD'S LIABILITY.**

Tenant waives and relinquishes all rights to claim any nature of lien against rent. All liability of Landlord for damages for breach of any covenant, duty or obligation of Landlord hereunder may be satisfied only out of the interest of Landlord in the Buildings and Land existing at the time the events occurred which gave rise to Landlord's liability. The term "Landlord" shall mean only the owner for the time being of the Leased Premises, and in the event of the transfer by such owner of its interest in the Leased Premises, such owner shall thereupon be released and discharged from all covenants and obligations of Landlord thereafter accruing, but such covenants and obligations shall be binding during the lease term upon each new owner for the duration of such owner's ownership.

**SECTION 20. INSPECTION AND ACCESS TO LEASED PREMISES.**

Landlord and any mortgagee shall have the right to enter upon the Leased Premises at any reasonable time after notice for the purpose of evaluating Tenant’s performance under this Lease, inspecting the same, making repairs or additions to the Leased Premises or showing the Leased Premises to prospective purchasers, lessees, or lenders. Landlord shall be required to give no notice in connection with making repairs or additions to the Leased Premises if an emergency exists. An emergency shall be deemed to exist if a condition or circumstance exists which, if left unchanged, could damage the Leased Premises, or the property of any person or entity in an amount in excess of \$10,000.00, impair any mechanical, electrical and plumbing systems of the Buildings, or endanger the life, health or safety of any person at the Leased Premises. Landlord may place “for lease” notices upon the Leased Premises during the last six (6) months of the Term. In any circumstances where Landlord is permitted to enter upon the Leased Premises during the Term, no such entry shall constitute an eviction or disturbance of Tenant’s use and possession of the Leased Premises or a breach by Landlord of any of its obligations hereunder or render Landlord liable for damages for loss of business or otherwise or entitle Tenant to be relieved from any of its obligations hereunder or grant Tenant any right of set-off or recoupment or other remedy, and in connection with any such entry incident to performance of repairs, replacements, maintenance or construction, all of the aforesaid provisions shall be applicable notwithstanding that Landlord may elect to take building materials in, to or upon the Leased Premises that may be required or utilized in connection with such entry by Landlord.

**SECTION 21. MORTGAGE.**

Tenant agrees that its interest under this Lease shall be subordinate to any present or future mortgage, deed of trust or similar encumbrance placed upon the Leased Premises; and that Tenant will subordinate its rights under this Lease to the lien thereof and to all advances made or hereafter to be made upon the security thereof, and, that within ten (10) business days of a request by Landlord from time to time, Tenant shall execute and deliver to Landlord a subordination, non-disturbance and attornment agreement (“SNDA”) in the form reasonably required by Landlord or Landlord’s mortgagee; provided, however, if requested by Tenant, as a condition of any subordination requested by the holder of a mortgage executed after the date hereof, the holder of any such mortgage, Tenant, and Landlord shall enter into an SNDA recognizing Tenant’s rights under this Lease. All instruments and agreements to be executed under this Section shall be in form reasonably acceptable to the parties thereto. Notwithstanding the foregoing, a lender holding a mortgage encumbering the property of which the Leased Premises is a part or the purchaser at a foreclosure sale shall have the right and option to make this Lease superior. If in connection with Landlord obtaining financing for the property of which the Leased Premises is a part, from time to time, such lender shall request reasonable modifications in this Lease as a condition of providing Landlord such financing, then Tenant shall not unreasonably withhold, delay, or defer its consent thereto; provided, that such modifications do not increase the obligations of Tenant hereunder or materially affect the leasehold interest created hereby or increase the Base Rent or Additional Rent due hereunder. No amendment or modification of this Lease occurring after the date of any mortgage shall be binding on any Landlord’s mortgagee unless such amendment or modification is expressly approved in writing by such mortgagee.

**SECTION 22. NON-LIABILITY.**

Without limiting the generality of the waiver contained in Section 13, Landlord and the Landlord Indemnitees shall not be liable to Tenant for any injury or death to person or damage or destruction to property sustained by Tenant or any person claiming through Tenant resulting from the Leased Premises becoming out of repair or by defect in or failure of equipment, pipes or wiring, or by broken glass, or by the backing up of drains, or by gas, water, steam, electricity, or oil leaking, escaping or flowing into the Leased Premises; provided, however, that Landlord shall remain liable for the performance of its repair

obligations pursuant to Section 10; nor shall Landlord or the Landlord Indemnitees be liable to Tenant for any loss or damage that may be occasioned by or through the acts or omissions of any persons whomsoever.

### **SECTION 23. MISCELLANEOUS.**

**A. Independent Covenants.** The obligation of Tenant to pay rent and perform Tenant's other covenants and duties under this Lease are independent, unconditional obligations that are to be performed at all times provided for in this Lease.

**B. Waiver.** Tenant waives and relinquishes any right to assert that Landlord is bound to perform (or is liable for nonperformance of) any implied covenants or duties of Landlord that are not stated in this Lease. Tenant agrees that Landlord shall incur no liability to Tenant due to any apparent or latent defect in the Leased Premises, but Landlord shall remain liable for its warranty obligations pursuant to Section 2.C(8) and its repair obligations pursuant to Section 10. Except as expressly provided herein, Landlord makes no express or implied warranty regarding the condition or any other feature of the Leased Premises, including the Buildings, or this Lease, and Tenant hereby waives all such warranties.

**C. Entire Agreement.** It is expressly agreed by Tenant, as a material consideration for the execution of this Lease, that this Lease, with the specific references to written extrinsic documents, is the entire agreement of the parties, that there are, and were, no verbal representations, warranties, understandings, stipulations, agreements or promises pertaining to this Lease or to the expressly mentioned written extrinsic documents not incorporated in writing in this Lease.

#### **D. Estoppel Certificate and Financial Statements.**

(1) Tenant shall execute and return to Landlord estoppel certificates in the form attached hereto as **Exhibit "D"** and made part hereof or such other form that may be reasonably requested by Landlord or by any current or prospective purchaser of the Leased Premises or any part thereof or lienholder within ten (10) business days following such request. Tenant's failure to deliver such statement within such time shall be conclusive upon Tenant (i) that this Lease is in full force and effect, without modification except as may be represented by Landlord, (ii) that there are no uncured defaults in Landlord's performance, and (iii) that not more than one (1) month's rent has been paid in advance.

(2) If Landlord advises Tenant in writing of the existence of a lien on the Leased Premises, Tenant shall allow such lienholder to exercise all of Landlord's entry and curative rights under this Lease, but the lienholder shall have thirty (30) days following written notice from Tenant in which to attempt to cure Landlord's default, but shall be under no obligation to do so or such longer period as agreed to by Tenant in any nondisturbance, subordination and attornment agreement entered into with the lienholder.

(3) Within thirty (30) days after Landlord's request, not more than once per year, Tenant will furnish Tenant's most recent audited financial statements (and notes to them, if any) as may have been prepared by an independent certified public accountant or, failing those, internally prepared financial statements. Landlord will not disclose any aspect of such financial statements except (1) to Landlord's mortgagee or prospective mortgagees or purchasers of the Buildings to the extent such parties are bound by a confidentiality agreement similar in all material respects to the one created by this Section 22.D., (2) in the event of litigation between Landlord and Tenant, or (3) if required by court order. Tenant shall not be required to deliver the financial statements required under this Section more than once in any twelve (12) month period unless requested by Landlord's mortgagee, or a prospective buyer, or lender of the Buildings or an Event of Default occurs.

**E. Time is of the Essence.** Time is of the essence of this Lease. If any date for performance of any term, condition or provision hereof shall fall on a Saturday, Sunday or legal holiday, then the time of such performance shall be extended to the next business day.

**F. Binding Effect.** This document shall bind and inure to the benefit of the respective heirs, executors, administrators, successors and permitted assigns of the parties (without altering the provisions of this Lease regarding assignment and subletting).

**G. Non-Waiver.** Neither acceptance of any rent nor any other amount by Landlord nor failure by Landlord or Tenant to complain of any action, non-action or default of Tenant or Landlord, as applicable, shall constitute a waiver as to any breach of any covenant or condition of Tenant or Landlord, as applicable, contained herein nor a waiver of any of Landlord's or Tenant's rights hereunder, as applicable. Waiver by Landlord of any right for any default of Tenant shall not constitute a waiver of any right for either a prior or subsequent default of the same obligation or for any prior or subsequent default of any other obligation. Waiver by Tenant of any right for any default of Landlord shall not constitute a waiver of any right for either a prior or subsequent default of the same obligation or for any prior or subsequent default of any other obligation. No right or remedy of Landlord or Tenant hereunder or covenant, duty or obligation of Tenant or Landlord hereunder shall be deemed waived by Landlord or Tenant unless such waiver is in writing and signed by Landlord or Tenant, as applicable.

**H. Relationship.** The relation created by this Lease is that of Landlord and Tenant. No provision of this Lease shall be construed in such a way as to constitute Landlord and Tenant joint venturers or co-partners or to make Tenant the agent of Landlord or to make Landlord liable for the debts of Tenant.

**I. Captions.** The captions used in this Lease are for convenience only and do not in any way limit or amplify the terms and provisions hereof.

**J. Venue and Choice of Law.** All obligations of Landlord and Tenant under the terms of this Lease shall be payable and performable in Tomball, Harris County, Texas. The laws of the State of Texas (not any Texas choice of law rule making applicable the law of some other jurisdiction) shall govern the construction, interpretation, validity, performance, and enforcement of this Lease.

**K. Severability.** If any provision of this Lease should be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Lease shall not be affected thereby.

**L. Gender.** With respect to terminology in this Lease, each number (singular or plural) shall include all numbers, and each gender (male, female or neuter) shall include all genders.

**M. Broker.** Except as stated in Section 1.K each of the parties represents to the other that no brokerage commission will be due as a result of such party's acts in connection with this transaction, and each party agrees to indemnify, defend and hold harmless the other party from and against any and all liabilities or expenses arising out of claims for commissions or fees from such party's acts.

**N. Acts of God and Force Majeure.** Landlord and Tenant, as applicable, shall not be required to perform any non-financial covenant or obligation in this Lease, or be liable in damages to the other party, so long as the performance or non-performance of the covenant or obligation is delayed, caused by or prevented by an act of God or force majeure. For purposes of this Lease, an "act of God" or "force majeure" is defined as strikes, material or labor shortages, or restrictions on material or labor by any governmental authority, riots, floods, explosions, earthquakes, fire, storms, weather (including wet grounds or inclement weather which prevents construction), acts of the public enemy, wars, insurrections, delays

caused by third parties and any other cause not reasonably within the control of Landlord or Tenant, as applicable.

**O. No Recordation.** Tenant shall not record this Lease without the prior written consent of Landlord.

**P. DTPA Waiver.** TENANT WAIVES ITS RIGHTS UNDER THE DECEPTIVE TRADE PRACTICES – CONSUMER PROTECTION ACT, SECTION 17.41 ET SEQ., BUSINESS & COMMERCE CODE, A LAW THAT GIVES CONSUMERS SPECIAL RIGHTS AND PROTECTIONS. AFTER CONSULTATION WITH AN ATTORNEY OF TENANT’S OWN SELECTION, TENANT VOLUNTARILY CONSENTS TO THIS WAIVER WITH RESPECT TO THIS LEASE AND THE PROPERTY LEASED UNDER THIS LEASE. TENANT IS VOLUNTARILY AGREEING TO THE WAIVER OF CONSUMER RIGHTS PROVISION AND CONSIDERS IT BINDING AND ENFORCEABLE; NO STATEMENT OR REPRESENTATION BY LANDLORD, OR ANY ATTORNEY OR OTHER REPRESENTATIVE ACTING ON ITS BEHALF, HAS INFLUENCED OR INDUCED TENANT TO AGREE TO THE WAIVER OF CONSUMER RIGHTS PROVISION.

**Q. Construction of Lease.** Tenant declares that Tenant has read and understands all parts of this Lease, including all printed parts hereof. It is agreed that, in the construction and interpretation of the terms of this Lease, the rule of construction that a document is to be construed most strictly against the party who prepared the same will not be applied, it being agreed that both parties hereto have participated in the preparation of the final form of this Lease. Wherever in this Lease provision is made for liquidated damages, it is because the parties hereto acknowledge and agree that the determination of actual damages (of which such liquidated damages are in lieu) is speculative and difficult to determine; the parties agree that liquidated damages herein are not a penalty.

**R. Limitation of Warranties.** LANDLORD AND TENANT EXPRESSLY AGREE THAT THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY, HABITABILITY, AND FITNESS FOR A PARTICULAR PURPOSE OR OF ANY OTHER KIND ARISING OUT OF THIS LEASE, AND THERE ARE NO WARRANTIES, WHICH EXTEND BEYOND THOSE EXPRESSLY SET FORTH IN THIS LEASE.

**S. Waiver of Jury Trial.** LANDLORD AND TENANT HEREBY AGREE NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT NOW OR HEREAFTER EXISTS WITH REGARD TO THIS LEASE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY LANDLORD AND TENANT, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. LANDLORD OR TENANT IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER.

**T. Renewal Option.** Tenant shall have the right to extend the term of this Lease for the respective Renewal Term (hereafter defined) upon and subject to the following terms and conditions: so long as there are no current Events of Default, Tenant may extend this Lease for one (1) additional term (“**Renewal Term**”) of sixty (60) months by Tenant giving written notice thereof (“**Renewal Notice**”) to Landlord, no later than nine (9) months prior to the expiration of the initial Term. The Base Rent during the Renewal Term shall be as stated on the Summary of Basic Lease Provisions.

U. **Method of Calculation.** Tenant is knowledgeable and experienced in commercial transactions and does hereby acknowledge and agree that the provisions of this Lease for determining charges and amounts payable by Tenant are commercially reasonable and valid and constitute satisfactory methods for determining such charges and amounts as required by Section 93.012 of the Texas Property Code. **TENANT FURTHER VOLUNTARILY AND KNOWINGLY WAIVES (TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW) ALL RIGHTS AND BENEFITS OF TENANT UNDER SUCH SECTION, AS IT NOW EXISTS OR AS IT MAY BE HEREAFTER AMENDED OR SUCCEDED.**

V. **Prohibited Persons and Transactions.** Tenant represents to Landlord: (i) that neither Tenant nor any person or entity that directly owns a 10% or greater equity interest in it, nor any of its officers, directors or managing members, is a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control (“OFAC”) of the Department of the Treasury (including those named on OFAC’s Specially Designated and Blocked Persons List) or under Executive Order 13224 (the “Executive Order”) signed on September 24, 2001, and entitled “Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism”, or other Laws (each such person, a “Prohibited Person”), (ii) that Tenant’s activities do not violate the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001, or the regulations or orders promulgated thereunder, as they may be amended from time to time, or other anti-money laundering Laws (the “Anti-Money Laundering Laws”), and (iii) that throughout the Term of this Lease Tenant shall comply with the Executive Order and with the Anti-Money Laundering Laws.

W. **Tax Waiver.** Tenant waives all rights pursuant to all laws to contest any taxes or other levies or protest appraised values or receive notice of reappraisal regarding the Property (including Landlord’s personalty), irrespective of whether Landlord contests same.

X. **Guaranty.** Concurrent with the execution and delivery of this Lease by Tenant, Tenant shall cause Luisa Obando and any co-guarantor required under the Summary of Basic Lease Provisions to execute and deliver to Landlord a guaranty in the same form as **Exhibit “J”**.

Z. **Exclusive Use.** Provided that there is no Event of Default on the part of Tenant hereunder, and Tenant is actually and continuously using and occupying the Leased Premises for the Permitted Use, Landlord agrees that Landlord shall not hereafter lease any space in Building 1 to a retailer whose principal and primary business is selling Italian grocery items (the “**Exclusive Use**”). For purposes of this Section 23.Z., “principal and primary business” shall mean that more than twenty percent (20%) of such tenant’s gross revenues are derived from selling Italian grocery items. Notwithstanding any provision to the contrary contained herein, in the event another tenant in Building 1 utilizes its premises for the Exclusive Use in violation of the terms hereof, and such use is in violation of such tenant’s own lease agreement (a “**Rogue Tenant**”), then such use by such Rogue Tenant shall not constitute a default by Landlord hereunder so long as Landlord is diligently attempting to enforce the prohibitions against the Exclusive Use contained in such Rogue Tenant’s lease. Moreover, in the event that a court of competent jurisdiction determines that the granting by Landlord of the Exclusive Use to Tenant is not enforceable against such Rogue Tenant, then Landlord’s failure to enforce such covenant against the Rogue Tenant shall not be a default by Landlord hereunder. Tenant shall indemnify and hold Landlord harmless from and against any and all claims, demands or causes of action asserted by third parties with respect to the Exclusive Use granted by the provisions of this Section 23.Z.

AA. **Right of First Refusal.** If, during the Term of this Lease, Landlord desires to lease any space within a Building in the Commercial Park to a third party (a “**Third Party Tenant**”), Landlord shall obtain from the Third Party Tenant a bona fide written offer to lease such space in the applicable Building that Landlord is willing to accept, stating the terms and conditions upon which the lease is to be made and the consideration offered therefor (“**Third Party Offer**”). Provided that no Event of Default on the part of

Tenant has occurred under this Lease that is then continuing, Landlord shall give Tenant written notice (“**Notice of Lease**”) by certified mail or personal delivery, of Landlord’s intention to lease space in a Building within the Commercial Park to the Third Party Tenant, together with notice of the terms of the Third Party Offer. For the avoidance of doubt, Landlord shall not be subject to the right of first refusal described in this Section 23.AA if an Event of Default by Tenant is ongoing. Tenant shall have the option (the “**ROFR Lease Option**”) to lease such space in such Building upon the terms and conditions contained in the Third Party Offer. The ROFR Lease Option may be exercised by Tenant by delivering written notice (“**ROFR Lease Notice**”) to Landlord within two (2) days after receiving the Notice of Lease (“**ROFR Exercise Period**”). If Tenant fails to exercise its ROFR Lease Option during the ROFR Exercise Period, the ROFR Lease Option shall terminate, and Landlord may consummate the lease of such space in such Building to the Third Party Tenant (or an affiliate thereof) upon terms that are materially no less favorable to Landlord than those set forth in the Third Party Offer. If Landlord fails to Lease such space in such Building to the Third Party Tenant (or affiliate thereof), then the ROFR Lease Option shall be reinstated. If Tenant exercises the ROFR Lease Option as provided above, Tenant and Landlord will enter into a lease for such space in such Building pursuant to the terms set forth in the Notice of Lease. For the avoidance of doubt, the ROFR Lease Option shall terminate and be of no further force or effect and shall not transfer to any third party in the event of a Transfer by Tenant.

**BB. Purchase Option.**

(1) During the Purchase Option Period (as hereinafter defined) and provided no Event of Default has occurred under this Lease that is then continuing and Building 1 is at least 95% leased, in consideration of Ten and No/100 Dollars, the rents and other amounts payable hereunder by Tenant to Landlord, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Landlord, Landlord hereby does grant to Tenant the exclusive right and option to purchase and obtain (the “**Purchase Option**”) either directly, or through a new entity formed by Tenant (the “**New Entity**”), at Tenant’s option, a one hundred percent (100%) fee ownership interest in Building 1 for the Exercise Price (as defined below) upon the terms and conditions hereinafter set forth.

(2) The Purchase Option shall begin the first year of the Renewal Term and continue until the expiration of the Renewal Term of this Lease (such period, the “**Purchase Option Period**”). In the event the Lease is terminated by Landlord due to an Event of Default, the Purchase Option contained herein shall also terminate. For the avoidance of doubt, the Purchase Option shall terminate and be of no further force or effect and shall not transfer to any third party in the event of a Transfer by Tenant.

(3) In the event Tenant exercises the Purchase Option, the exercise price payable by the Tenant at the Closing for Building 1 shall be based on a 6.5% cap rate on the net operating income of Building 1 (the “**Exercise Price**”). The Exercise Price shall be paid by Tenant at Closing, as provided herein, in cash or by wired funds.

(4) The Purchase Option shall be subject to Landlord obtaining its lender’s consent to Tenant’s exercise of the Purchase Option. To the extent Landlord’s lender will not agree to a partial release of its lien covering Building 1, then Landlord shall notify Tenant thereof and Tenant’s exercise of the Purchase Option shall be deemed rescinded.

(5) Tenant and Landlord shall each be responsible for their respective attorney’s fees and other costs and expenses incurred by each such party in connection with Tenant’s exercise of the Purchase Option, the performance of their respective obligations under this Section 23.BB., and the Closing. Tenant shall be responsible for all costs and expenses related to any replat of Building 1 that

may be required by the applicable governing authorities in connection with Tenant's purchase of Building 1. At the Closing: (i) Landlord shall cause the Title Company to issue an owner's title insurance policy, with such modifications and endorsements thereto as are required by Tenant (the "**Title Policy**"), to Tenant (or Tenant's designee) in the amount of the Exercise Price; (ii) the cost of the Title Policy without any endorsements shall be paid by Landlord; (iii) the cost any endorsements to the Title Policy and the cost of any new or updated survey of Building 1 obtained by the Tenant in connection with the exercise of the Purchase Option and the acquisition of Building 1 (a "**Survey**"), shall be paid by Tenant; (iii) the Title Company's escrow fee and any other expenses of Closing shall be split equally between Landlord and Tenant, and (iv) rents paid by tenant of Building 1 (including rents paid by Tenant) for the month of Closing shall be prorated between Landlord and any new owner of Building 1 based on their respective periods of ownership.

(6) Closing of the purchase of Building 1 hereunder, as described in this Section 23.BB. (the "**Closing**") shall take place within forty-five (45) days following the exercise of the Purchase Option, at which time the Exercise Price shall be paid as herein provided and the closing of the purchase and sale of Building 1 shall be completed. Closing shall take place through an escrow closing with a title company selected by Landlord (the "**Title Company**"), on or prior to the expiration of such forty-five (45) day period or at such other time as mutually agreed to by Landlord and Tenant. If the Closing occurs after the expiration of the Renewal Term of this Lease, this Lease shall continue and Tenant shall pay Base Rent equal to the holdover rent set forth in Section 17 of this Lease.

(7) At Closing, Landlord shall make, execute, and deliver a special warranty deed in fee simple and in form reasonably acceptable to Tenant, conveying to Tenant (or Tenant's designee) good and indefeasible title to Building 1, free and clear of all liens and encumbrances on the direct and indirect interests in Building 1 being conveyed or assigned, respectively, but subject to any easements of record and in place, restrictions of record, taxes for the current year not yet due and payable, and any other non-monetary encumbrances existing as of the date of this Lease. Monetary liens and monetary encumbrances on Building 1 will be paid in full and released of record by Landlord or Landlord's owners, as applicable, at Closing, and will, at all times, be kept current by Landlord and Landlord's owners, as applicable, during the Term of this Lease.

(8) In the event Building 1 is damaged or destroyed by fire or other casualty or are taken by condemnation during such period, Tenant shall have the right either to rescind Tenant's exercise of the Purchase Option (in which case the Purchase Option shall be deemed terminated and of no further force or effect, or to proceed to Closing, and receive at Closing the entire insurance proceeds directly or indirectly associated with Building 1 (expressly including the proceeds of any casualty insurance policy being maintained by Tenant or Landlord in accordance with the terms of this Lease or otherwise), and any condemnation award directly or indirectly associated with Building 1 or any award for a conveyance in lieu thereof. Landlord is not required to repair any damages from any casualty and condemnation occurring after Tenant's exercise of the Purchase Option so long as Tenant does not elect to rescind the exercise of the Purchase Option as provided above, but Landlord agrees to execute and deliver all such instruments as may be reasonably necessary to assign and transfer Landlord's rights to any and all applicable insurance proceeds and condemnation award or award for a conveyance in lieu thereof at the Closing of the Purchase Option, and to permit Tenant full power and authority to negotiate and collect the same with and from the respective insurers and/or condemning authorities. In the event Tenant rescinds the exercise of the Purchase Option, Landlord's obligations regarding any condemnation or repairing any damages from any casualty shall be controlled by the provisions in this Lease dealing with casualty and/or condemnation events.

(9) The exercise of the Purchase Option shall be by written notice from Tenant to




Landlord pursuant to the notice provisions provided contained herein, which notice shall also specify the date of Closing within the 45-day period described in Section 23.BB(5). During the 45-day period described in Section 23.BB(5) above, Landlord, Landlord's owners and Tenant, as applicable, shall negotiate in good faith and execute and deliver a purchase and sale agreement, as applicable, and related closing documentation, incorporating and implementing all of the terms of this Section 23.BB. and otherwise containing standard and appropriate representations, warranties and covenants by such parties relating to the transactions described in this Section 23.BB.

(10) Notwithstanding any exercise of the Purchase Option by Tenant, this Lease shall remain in full force and effect in accordance with its existing terms and provisions. Further, nothing contained in this Section 23.BB. shall diminish, impair, or waive Tenant's other rights under this Lease.

EXECUTED in multiple counterparts, each having the force and effect of an original, on  
December 6, 2023.


LANDLORD:

**HUFSMITH – KOHRVILLE BUSINESS PARK LLC,**  
a Texas limited liability company

By:   
Name: William Lawrence  
Title: Partner

TENANT:

**DELLACASA, LLC,**  
a Texas limited liability company

By:   
Name: Luisa Obando  
Title: CEO

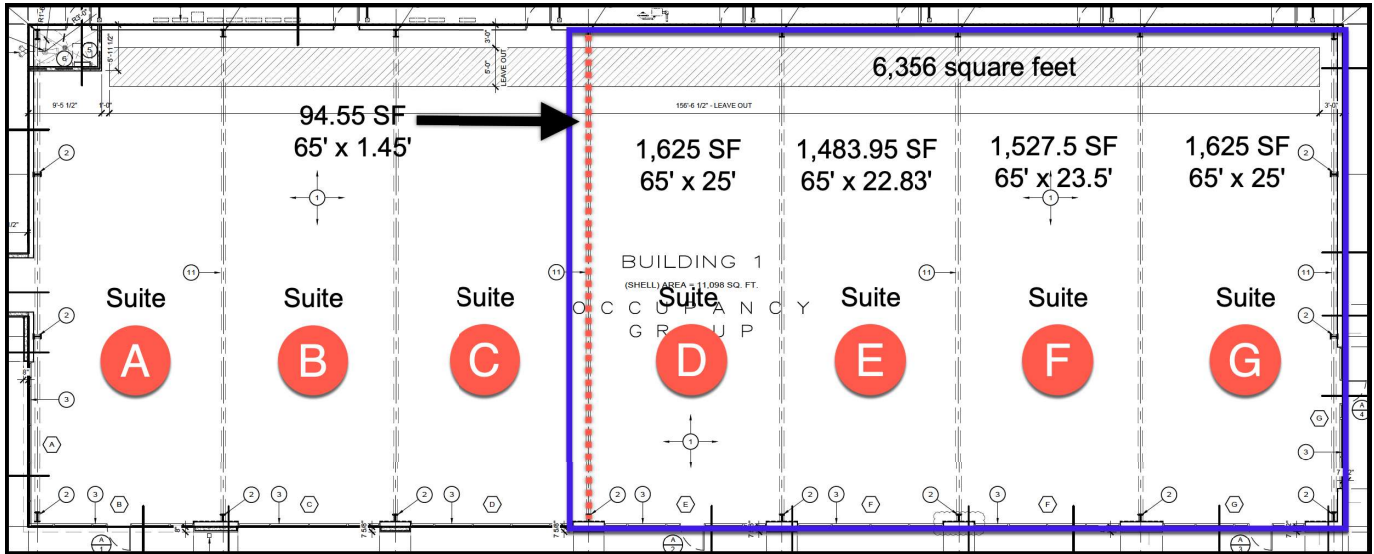
**EXHIBIT "A"**

**LEGAL DESCRIPTION OF LAND**

Lot 2, Block 1, HUFFSMITH-2978 REPLAT NO. 1, a subdivision in Harris County, Texas, according to the map or plat thereof recorded under Film Code Number 693798 of the Map Records of Harris County, Texas.

EXHIBIT "B"

SITE PLAN FOR LEASED PREMISES

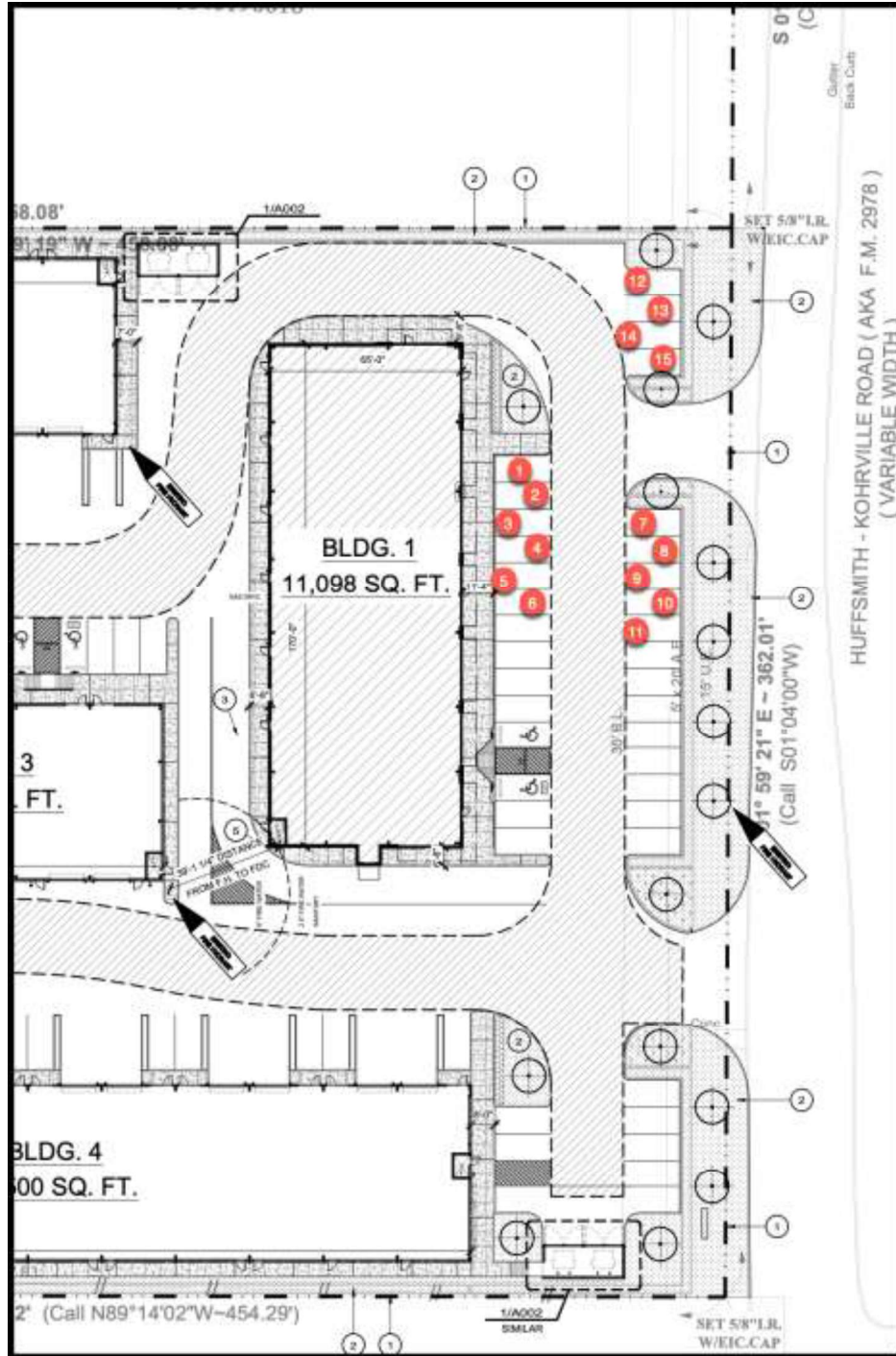


- 94.55 square feet of Suite C
- 1,625 square feet in Suite D
- 1,483.95 square feet in Suite E
- 1,527.5 square feet in Suite F
- 1,625 square feet in Suite G

Combined total of 6,356 square feet

EXHIBIT "B-1"

TENANT'S EXCLUSIVE PARKING SPACES



## EXHIBIT "C"

### CONSTRUCTION RIDER

This Construction Rider is attached as an Exhibit to that certain Lease (the "**Lease**"), dated December \_\_\_\_, 2023, by and between Hufsmith-Kohrville Business Park, LLC, as Landlord, and DellaCasa, LLC, as Tenant. Unless otherwise specified, all capitalized terms used in this Construction Rider shall have the same meanings as in the Lease. In the event of any conflict between the Lease and this Construction Rider, the latter shall control.

All work performed by or on behalf of Tenant for (i) initial leasehold improvements and (ii) any alterations to the Leased Premises (throughout the Term) which require Landlord's approval, shall be subject to the provisions of this **Exhibit "C"**.

1. **Plans.** All Tenant work governed by this **Exhibit "C"** (the "**Tenant Work**") shall be performed in a lien-free and good and workmanlike manner in and upon the Leased Premises, at Tenant's sole cost and expense, and in accordance with plans and specifications approved by Landlord. Tenant shall submit, within 15 days after the Delivery Date, to Landlord for Landlord's approval (such approval not to be unreasonably withheld, conditioned or delayed) complete plans and specifications, prepared by a licensed architect for the construction of the Tenant Work ("**Tenant's Plans**"). Within ten (10) business days after receipt of Tenant's Plans, Landlord shall review and respond to Tenant's Plans. If Landlord disapproves Tenant's Plans, or any portion thereof, Landlord shall notify Tenant thereof and of the revisions Landlord requires before Landlord will approve Tenant's Plans. If Landlord fails to respond within such time period, Tenant shall have the right to send a second request for approval to Landlord and if Landlord fails to respond within ten (10) days after receipt of such second request, Tenant's Plans shall be deemed approved. The final plans and specifications approved by Landlord are hereinafter referred to as the "**Approved Construction Documents**". Landlord's approval of the Approved Construction Documents shall not be deemed a representation or warranty regarding compliance with applicable Laws, nor of the accuracy, adequacy, appropriateness, functionality or quality of the improvements to be made according to the Approved Construction Documents. Tenant's contractor and all sub-contractors are required to comply with all shell building specifications, which are available upon request from Landlord.

2. **Commencement.** Prior to commencement of any Tenant Work, Tenant will provide to Landlord the following:

- a. A complete list of all proposed contractors, subcontractors, and suppliers.
- b. A copy of the building permit for the Tenant's work, as applicable
- c. A copy of the Tenant's construction schedule.
- d. The name and phone number, including emergency phone numbers, of persons authorized to represent the Tenant, Tenant's Contractor, subcontractors, and/or suppliers in regards to the Tenant Work.
- e. Insurance Certificates in amounts shown below for each of Tenant's contractors and subcontractors.

3. **Completion.**

- (a) Tenant acknowledges that Tenant is responsible to cause the design, construction and

installation of the Tenant Work to conform to the requirements of all applicable Laws, including building, plumbing and electrical codes and the requirements of any authority having jurisdiction over, or with respect to, such Tenant Work. Any Tenant Work that does not conform to industry standard codes or adversely affects the Building or the operation thereof will be remedied by the Tenant's contractor's expense. Landlord has the right to inspect construction of the Tenant Work from time to time. If any work is found that does not comply with the requirements of this **Exhibit "C"**, Tenant's Contractor will be responsible for making the necessary changes in order to comply. Any such changes that are made will be at Tenant's (or Tenant's Contractor's) expense.

(b) Within 10 days following substantial completion of the Tenant Work, Landlord and Tenant will inspect the Leased Premises and develop a "punch list" of any items which were not properly completed or are in need of repair. Tenant will complete (or repair, as the case may be) the items listed on the punch list promptly thereafter and notify Landlord in writing upon completion of such items.

(c) Within thirty (30) days following substantial completion of the Tenant Work, Tenant shall provide the following to Landlord:

(i) A sworn certificate from Tenant's architect, contractor or engineer, as applicable, stating that the Tenant Work has been completed in strict compliance with this **Exhibit "C"** and the Approved Construction Documents; and

(ii) Full and final lien waivers, in form and substance reasonably satisfactory to Landlord, from Tenant's general contractor and all other material contractors and suppliers that provided labor or materials as part of the Tenant Work.

4. **Contractors.** Tenant will employ only experienced, licensed contractors, architects, engineers and other consultants, as applicable, to perform the Tenant Work. The general contractor for the Tenant Work ("**Tenant's Contractor**") shall be subject to Landlord's prior written approval, not to be unreasonably withheld, conditioned or delayed. At all times during any construction at the Leased Premises (including, without limitation, the Tenant Work) all contractors or other parties shall keep in full force the following:

(a) Workers Compensation - Statutory Amount in the state where the Land is located;

(b) Employer's Liability - \$500,000 or such other higher limits imposed in accordance with the requirement, if any, of the Laws of the state where the Land is located;

(c) Commercial General Liability - Unless otherwise approved in writing by Owner, in the amount of \$1,000,000 per occurrence, \$2,000,000 general aggregate with Products/Completed Operations coverage (with evidence of Products/Completed Operations Coverage shown for a minimum of two years following completion of the work described in the contract);

(d) Business Auto Liability including hired and non-owned auto coverage - \$1,000,000 combined single limit;

(e) Umbrella/Excess - \$5,000,000 per occurrence; and

(f) "All-Risk" form of Builder's Risk Insurance on a completed value form, with

full replacement cost coverage, in an amount not less than the total improvement cost with a maximum deductible of \$1,000.00, and with appropriate coverage permitting occupancy prior to full completion and appropriate coverage for the cost of debris removal from the Land.

Landlord, its property manager and its mortgagee shall be named as additional insureds on each of said policies (excluding the worker's compensation policy). Prior to its entry upon the Land, or the commencement of any of the Tenant Work, Tenant shall provide true and correct certificates of insurance evidencing such policies, and neither Tenant (nor any of its contractors or agents) shall not be entitled to enter upon the Leased Premises until it has provided such certificates.

5. **Assumption of Risk and Waiver.**

(a) To the fullest extent permitted by law, Tenant's Contractor will indemnify and hold the Landlord and their agents and employees harmless from and against liability claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of, resulting from, and in any way related to the performance of work pursuant to Tenant Contractor's contract with Tenant or the presence of Tenant's Contractor, its subcontractors, or persons directly or indirectly employed by any of them on or about the project site, provided that such liability, claim, damage, loss or expense is attributable to bodily injury sickness, disease or death of any person (including Tenant Contractor's employees), or injury to or destruction of tangible property, including the loss of use resulting there from. Tenant's Contractor's aforesaid indemnity and hold harmless agreement shall apply to any acts or omission, willful misconduct, or negligent conduct, whether active or passive, including Tenant's Contractor's agents, subcontractors, or employees, except that said agreement shall not be applicable to injury, death, or damage to property arising from the sole negligence or willful misconduct of Landlord or their officers, agents, and servants. Tenant Contractor's aforesaid indemnity and hold harmless agreement shall not be construed to negate, abridge, or otherwise reduce and other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph (a).

(b) In any and all claims against Landlord, or any of their agents or employees by any employee of Tenant's Contractor, any of its subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation set forth in Paragraph (b) shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Tenant's Contractor or any of its subcontractors under workers' or workman's compensation acts, disability benefits acts, or other employees benefit acts.



**EXHIBIT "D"**

**ESTOPPEL CERTIFICATE FOR PROSPECTIVE PURCHASER OR LENDER**

Re: Lease between \_\_\_\_\_ ("Landlord") and \_\_\_\_\_ ("Tenant") dated \_\_\_\_\_, 20\_\_, with respect to the land and building located at \_\_\_\_\_ in \_\_\_\_\_, Texas (the "Premises")

Gentlemen:

We, the undersigned Tenant, under the Lease described above (the "Lease"), certify to \_\_\_\_\_ ("Purchaser") and its successors and assigns as the prospective purchaser of the Premises, the following:

1. Attached hereto as Exhibit "A" is a true, correct, and complete copy of the Lease, including all amendments, exhibits, and addenda thereto.

2. There has not been a cancellation, modification, assignment, renewal, extension, or amendment to the Lease, except the following (true and correct copies of all of which are attached hereto and initialed by Tenant): \_\_\_\_\_

\_\_\_\_\_

3. All of the current Base Rent (in the amount of \$ \_\_\_\_\_) and Initial Estimate of Monthly Taxes and Insurance Payment (in the amount of \$ \_\_\_\_\_) provided for in the Lease is paid through \_\_\_\_\_, 20\_\_. A Security Deposit in the amount of \$ \_\_\_\_\_ has been paid to Landlord.

4. Other than the Lease, there are no other agreements, written or oral, between Landlord and Tenant regarding the Premises or Tenant's obligation to pay rentals under the Lease, and Tenant does not claim a right to any concessions, free rent, or rental abatement other than as set forth in the Lease, except as follows:

\_\_\_\_\_

5. Tenant currently pays for all utilities used in the Premises.

6. The Lease commenced on \_\_\_\_\_, 20\_\_, and the rent commenced on \_\_\_\_\_, 20\_\_. The Lease terminates on \_\_\_\_\_, 20\_\_, and the Tenant is not entitled to any renewal options except \_\_\_\_\_ options to extend, of \_\_\_\_\_ (\_\_) months each.

7. The interest of Tenant in the Lease has not been assigned or encumbered, and not part of the Premises has been sublet. Landlord has satisfied all operating covenants of Landlord under the Lease.

8. The Lease is in full force and effect and Tenant is not aware of any presently existing claims against Landlord or any offsets against rent due under the Lease. There are no (i) defaults of Landlord or Tenant under the Lease, (ii) existing circumstances which with the passage of time, or notice or both, would give rise to a default by Landlord or Tenant under the Lease, (iii) existing rights to abate, reduce or offset sums against the rent or terminate this Lease because of any other condition, or (iv) existing



circumstances which with the passage of time, or notice, or both, would give rise to a right to abate, reduce or offset sums against rent or terminate the Lease.

9. The Premises have been completed and accepted and are in conformity with the terms of the Lease, subject to the (i) Landlord's warranty and repair obligation contained in the Lease solely with respect to the roof, foundation and load-bearing walls supporting the roof of the building, (ii) general contractor's warranty obligations to the Tenant (if any) and (iii) liability of the architect and any engineers to the Tenant (if any) for design defects. Tenant has been paid all sums (if any) owed by Landlord with respect to allowances for construction performed at the Premises by Tenant.

10. The Tenant has not filed a petition in bankruptcy that has not been dismissed as of the date hereof, has not been subject to an involuntary petition in bankruptcy which has not been dismissed, has not made an assignment for the benefit of any creditor(s), or has not been adjudged to be bankrupt or insolvent by a court of competent jurisdiction.

11. The Tenant has not received any option to purchase any portion of the Premises, except as follows: \_\_\_\_\_.

12. Any notices which may or shall be given to Tenant under the terms of the Lease are not to be sent to Tenant at the following address: \_\_\_\_\_.

13. The undersigned has all requisite authority to execute this Estoppel Certificate on behalf of Tenant. The undersigned acknowledges that Purchaser has requested the information contained herein for purposes of confirming and clarifying certain provisions of the Lease and is relying (and will rely) on the truth and accuracy of the representations made herein and upon the authority of the undersigned to execute this Estoppel Certificate on behalf of Tenant, in connection with Purchaser's decision to purchase (or not to purchase) the Premises. This Estoppel Certificate may only be relied upon by Purchaser and Purchaser's lender in connection with the acquisition and financing of the Premises, and no other person or entity shall be entitled to be a third-party beneficiary of this Estoppel Certificate.

14. Tenant acknowledges and consents to the fact that Landlord may assign and transfer or has assigned and transferred the Landlord's interest under the Lease to Purchaser and Tenant agrees to attorn to Purchaser and to perform all of Tenant's obligations as the tenant under the Lease (including, without limitation, the payment of rent) directly to Purchaser, its successors and assigns, as the new Landlord under the Lease from and after the effective date of such assignment and transfer of the Lease by Landlord to Purchaser. Purchaser shall not be liable for any act or omission of any prior Landlord under the Lease, which act or omission shall have occurred prior to the date Purchaser acquires Landlord's interest in the Lease.

15. So long as the Earnest Money Contract ("Contract") between Landlord and Purchaser is pending, Tenant understands and agrees that the Lease may not be modified or amended in any respect without the prior written consent of Purchaser.

Very truly yours,

---

(Tenant)

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_\_\_

## EXHIBIT "E"

### RULES & REGULATIONS

1. All floor areas and other improvements in or on the Leased Premises (including, without limitation, entrances and returns, doors, fixtures, windows, aisles, and displays) shall be maintained in a safe, neat, clean, and attractive condition.
2. No person shall use the parking areas except for ingress and egress and for the parking of motor vehicles during the period of time such persons or the occupants of such vehicles. No sidewalks, walkways, or halls shall be used other than for pedestrian travel. No roadways, walkways, sidewalks, halls, parking areas, or other open areas shall be used by skateboards, roller blades, roller skates, or other moveable contrivances, except for or by handicapped persons.
3. All motor vehicles shall be parked in an orderly manner within the painted lines defining the individual parking spaces, except that trucks may be parked elsewhere on the Leased Premises in an orderly manner.
4. No person shall do any of the following:
  - A. Throw, discard, or deposit any paper, glass, or extraneous matter of any kind, except in designated receptacles, or create litter or hazards of any kind on or in any part of the Leased Premises;
  - B. Deface, damage, or demolish any sign, light standard or fixture, landscaping material, or other improvement within the Leased Premises.
5. No sign or covering shall be inscribed, displayed, printed, affixed, or hung on or to, or placed in or used in connection with, any window or door located on or within the Leased Premises without the prior written consent of Landlord. Landlord shall have the right to remove any such sign or covering that violates this provision without notice to and at the expense of Tenant.
6. Landlord reserves the right to exclude or expel from the Leased Premises, any person who, in Landlord's judgment, is or appears to be intoxicated or under the influence of liquor or drugs, or is in violation of any of these Rules and Regulations.
7. Tenant shall comply with all commercially reasonable safety, fire protection, and evacuation procedures and regulations established by Landlord, its insurance carriers, or any governmental agency.
8. Landlord reserves the right to restrict the use of all electrical extension cords. At no time shall more than two electrical devices be connected to any single electrical outlet. Multiple adapters are prohibited. Any extension cord used must be a two-wire cord with a ground, and must be sized according to the power draw on the circuit.
9. The plumbing fixtures shall be used only for the purposes, for which they are designed, and no sweepings, rubbish, rags, or other unsuitable materials shall be disposed into them. Without the prior written consent of Landlord, Tenant shall not use the Leased Premises for washing clothes, lodging, or for any improper, objectionable, or immoral purposes.

10. Neither Tenant nor its employees, agents, contractors, subcontractors, or invitees shall go upon the roof of the Leased Premises without Landlord's prior written consent.
11. Landlord utilizes the **BEST/STANLEY** door lock/hardware system. All exterior and interior locks, padlocks or other means of securing the Leased Premises shall be supplied by Landlord's security provider (currently RAE Security) and in accordance with the numbering/organization scheme maintained by RAE. Landlord will provide Tenant with new cores for all exterior doors/padlocks and will provide tenant with four (4) keys to exterior doors. Additional keys must be ordered through Landlord or RAE Security. Landlord may make a reasonable charge for any additional keys. Tenant shall not alter any lock or install a new or additional lock or bolt on any door of its Leased Premises. Tenant, upon the termination of its tenancy, shall deliver to Landlord all keys to doors and other areas in the Leased Premises.
12. The Leased Premises shall be used only for the purposes set forth in the Lease.
13. Tenant shall store all its trash and garbage within its Leased Premises or in dumpsters or other contained areas in the Leased Premises. No material shall be placed in the trashcans or receptacles if such material is of such nature that it may not be disposed of in the ordinary and customary manner of removing and disposing of trash and garbage in the area, without being in violation of any law or ordinance governing such disposal. All garbage and refuse disposal shall be made only through entryways provided for such purpose and at such times as Landlord shall designate. Large containers and any non-compactable trash shall be kept in the Leased Premises until such time as Tenant has made suitable arrangements for its removal. In no event shall Tenant's trash be visible to the general public or constitute any health, fire hazard, or nuisance to the public. No burning of trash, refuse, or waste shall be permitted.
14. These Rules and Regulations are in addition to, and shall not be construed to in any way modify, alter, or amend, in whole or in part, the terms, covenants, agreements, and conditions of the Lease to which these Rules and Regulations are attached. Landlord reserves the right to rescind or waive any of the rules and regulations set forth herein (as to an individual tenant or as to all the tenants) and to make such other and further rules and regulations as in its reasonable judgment shall, from time to time, be required for the safety and protection, care, and cleanliness of the Leased Premises, the operation thereof, the preservation of good order therein, or the protection and comfort of the Tenant and their agents, employees, and invitees. Such rules and regulations, when made and written notice thereof is given to a tenant, shall be binding upon it in like manner as if originally herein prescribed.

## EXHIBIT "F"

### HAZARDOUS SUBSTANCES

1. Tenant shall not cause or permit any Hazardous Substance (as hereinafter defined) to be brought upon, generated, manufactured, refined, produced, processed, kept, stored, discharged, disposed of, leaked, emitted, or used (collectively herein called "Processed and Stored") in, or about the Leased Premises, except for such Hazardous Substances as are necessary or useful to Tenant's business and the use of which is expressly approved by Landlord in writing. Landlord shall have no obligation to grant any such approval.
2. If Landlord consents as provided in paragraph 1 above, any Hazardous Substance permitted on the Leased Premises, and all containers therefor, shall be Processed and Stored in a manner that complies with all Governmental Laws (as hereinafter defined) applicable to Hazardous Substances.
3. Tenant shall not cause or permit any material or substance to be Processed or Stored in, on or about the Leased Premises, or the atmosphere, ground, sewer system, or any body of water, if that material (as is reasonably determined by the Landlord, or any governmental authority) does or may pollute or contaminate the same, or may adversely affect (a) the health, welfare, or safety of persons, whether located on the Leased Premises, or elsewhere, or (b) the condition, use, or enjoyment of the Building or any other real or personal property.
4. Tenant shall not cause or permit to occur any violation of any governmental law on, in, under, or about the Leased Premises, arising from Tenant's use, occupancy, or possession of the Leased Premises, including, but not limited to, soil and ground water conditions.
5. As used herein, the term "Hazardous Substance" means (a) any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976, as amended from time to time, and regulations promulgated thereunder; (b) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, and regulations promulgated thereunder; (c) any oil, petroleum products, and their by-products (d) any substance that is or becomes regulated by a federal, state or local governmental authority; (e) any other ignitable, reactive, corrosive, hazardous, toxic, flammable, explosive, radioactive material, asbestos, asbestos containing material, polychlorinated biphenyl, chemical known or suspected to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, controlled drugs or substances (except prescription drugs pursuant to existing prescriptions), (f) any substance or material declared to be hazardous or toxic under any statute, law, regulation, code, ordination rule or governmental pronouncement now or hereafter enacted or promulgated by any governmental authority (herein called "Governmental Laws") or (g) dangerous substance or material.
6. Tenant shall, at Tenant's own expense, comply with Governmental Laws relating to or regulating the bringing upon, generating, manufacturing, refining, producing, processing, keeping, storing, discharging, disposing of, leaking, emitting, or using (collectively herein called "Processing and Storing") of Hazardous Substances that occur during the term of the Lease.
7. Tenant shall, at Tenant's own expense, make all submissions to, provide all information required by, and comply with all requirements of any governmental authority (the "Authority") under the Governmental Laws.

8. Should any Authority or any third party demand that a clean-up plan be prepared and that a clean-up be undertaken because of the Processing and Storing of Hazardous Substances by Tenant that occurs during the term of this Lease, at or from the Leased Premises, or which arises at any time from Tenant's use or occupancy of the Leased Premises, then Tenant shall, at Tenant's own expense, prepare and submit the required plans and all related bonds and other financial assurances; and Tenant shall carry out all such clean-up plans.
9. Tenant shall promptly provide all information regarding the Processing and Storing of Hazardous Substances that is requested by Landlord.
10. If Tenant fails to fulfill any duty imposed under this Exhibit "F" within a reasonable time, not less than thirty (30) days after receipt of written notice, Landlord may do so; and in such case, Tenant shall reasonably cooperate with Landlord in order to prepare all documents Landlord reasonably deems necessary or appropriate to determine the applicability of the Governmental Laws to the Premises and Tenant's use, occupancy or possession thereof, and for compliance therewith, the Tenant shall execute all such documents promptly upon Landlord's request. No such action by Landlord and no attempt made by Landlord to mitigate damages under any law shall constitute a waiver of any of Tenant's obligations under this Exhibit "F".
11. Tenant hereby agrees that it shall be fully liable for all costs and expenses related to any Processing and Storage of Hazardous Substances by Tenant in, on, under or about the Leased Premises and the Tenant shall give immediate notice to the Landlord of any violation or potential violation of the provisions of Exhibit "F" or any Governmental Laws. Tenant shall defend, indemnify, and hold harmless Landlord, its agents, employees and managers, and their respective partners, agents, employees, officers, directors, beneficiaries, shareholders, partners, consultants and advisers from and against all claims, demands, penalties, fines, suits, causes of action, liabilities, settlements, damages, costs, expenses (including, without limitation, attorneys and consultants fees, court costs, and litigation expenses), or losses (including, without limitation, a decrease in value of the Leased Premises or usable space) of whatever kind or nature, known or unknown, contingent or otherwise, arising out of or in any way related to, arising out of or in connection with or which is alleged to have arisen out of or in connection with any violation or alleged violation by Tenant of any covenant contained in this Exhibit "F".
12. In the event of a violation by Tenant of any covenant contained in this Exhibit "F" after this Lease has expired or otherwise terminated, and Landlord is not able to lease the Leased Premises as a result of such violation or alleged violation, then in addition to its obligations under Section 11 of this Exhibit "F", Tenant shall also reimburse Landlord for the Base Rent (at the applicable Market Rate) that Landlord would have received for the Leased Premises from the expiration of this Lease until such time that Tenant has complied with the terms of this Exhibit "F".
13. The provisions of this Exhibit "F" shall be in addition to any other obligations and liabilities Tenant may have to Landlord at law or equity and shall survive the transactions contemplated herein and shall survive the termination of this Lease.

## EXHIBIT "G"

### PROHIBITED USES

General Restrictions on Use. Unless otherwise approved by Landlord in writing, no portion of the Leased Premises shall be used, leased, subleased, or operated for:

- (1) automotive repair, car wash, gasoline sales, or tire or battery sales;
- (2) the renting, leasing, sale or display of any, truck, trailer, recreational vehicle or boats which are on premises; however, nothing shall prevent any such renting, leasing, or sale if the vehicles, trucks, trailers or boats are located at another site;
- (3) any use which emits an obnoxious odor, or excessive noise or sound which can be heard or smelled outside of any building located in on the Land or which creates unusual fire, explosive or other risks to any portion of the Land provided, however, that any odors from Tenant's food preparation which emanate outside the Building and then permeate space occupied by other tenants shall not be deemed to violate this rule.
- (4) any mobile home park, trailer park, labor camp, or junkyard (except this provision shall not prohibit the temporary use of construction trailers during periods of construction, reconstruction or maintenance);
- (5) any dumping, disposing, incinerating or reduction of garbage (exclusive of garbage compactors located near the rear of any building) except any recycle centers required by governmental regulations;
- (6) any living quarters, sleeping apartments or lodging rooms;
- (7) any veterinary hospital or animal raising facility;
- (8) any mortuary or funeral home;
- (9) any church, school or day-care;
- (10) any establishment whose primary business is the sale or rental or display of sexual materials or drug related paraphernalia or whose primary business is providing any adult only or sexually oriented service or product including, but not limited to, massage parlors, brothels, topless establishments, any "sex" shop, "peep show", any "adult" bookstore or "adult" movie theater;
- (11) any flea market, amusement park, video arcade, pool or billiard hall;
- (12) any gaming facility or operation including, but not limited to, off-track or sports betting parlor, table games such as blackjack, poker, slot machines, video poker, blackjack, keno machines or similar devices or bingo hall;
- (13) any central laundry, dry cleaning plant or Laundromat; provided, however, this prohibition shall not be applicable to a laundry which is an ultimate consumer pickup and delivery site, provided no cleaning actually takes place upon the Land;



- (14) the operation, establishment or maintenance of a movie theatre, children's playground, night club, bowling alley, skating or roller rink, health spa, a second hand or pawn shop type of business or other entertainment facilities, or any use in violation of applicable zoning and other governmental laws and regulations;
- (15) any use which is public or private nuisance;
- (16) distilling, refining, smelting, agricultural, animal raising or boarding or mining operation;  
or
- (17) any place for public assembly (such as a church or meeting hall).

**EXHIBIT “H”**

**[RESERVED]**

**EXHIBIT "I"**

**COMMENCEMENT DATE AGREEMENT**

- 1. Landlord: Hufsmith – Kohrville Business Park LLC,  
a Texas limited liability company
- 2. Tenant: {Name of Tenant} \_\_\_\_\_,  
a \_\_\_\_\_ (entity) \_\_\_\_\_  
(state of incorporation)
- 3. Leased Premises: Approximately 6,356 sq. ft. of space within the building commonly known as 22525 Hufsmith-Kohrville Road, Tomball, Harris County, Texas 77375.
- 4. Date of Lease: December \_\_\_\_\_ 6th \_\_\_\_\_, 2023
- 5. Commencement Date: The Commencement Date of the Lease is \_\_\_\_\_, 2023. The initial term of the Lease is for sixty (60) months as set forth in Section one (1) of the Lease. If the Commencement Date specified above is not the first date of a calendar month then a period of time equal to the partial month beginning with the Commencement Date shall be added to the term so that the term shall expire on the last day of a calendar month. Therefore, the Lease shall expire on \_\_\_\_\_, 20\_\_.

**LANDLORD:**

**HUFSMITH – KOHRVILLE BUSINESS PARK,**  
a Texas limited liability company

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Nam: \_\_\_\_\_  
Title: \_\_\_\_\_

**TENANT:**

\_\_\_\_\_  
(Name of Tenant)

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Nam: \_\_\_\_\_  
Title: \_\_\_\_\_

## EXHIBIT "J"

### GUARANTY OF LEASE

**THIS GUARANTY** is made among **LUISA OBANDO** (collectively, "**Guarantor**"), and **HUFSMITH – KOHRVILLE BUSINESS PARK LLC**, a Texas limited liability company ("**Landlord**"), and **DellaCasa, LLC** ("**Tenant**"), who represent and agree as follows:

1. Tenant has executed a lease (the "**Lease**"), dated the 6<sup>th</sup> day of December 2023, for approximately 6,356 square feet of space in the Hufsmith – Kohrville Road Business Park, Building 1 with an address of 22525 Hufsmith – Kohrville Road, Tomball, Texas 77375 , all as more particularly described in the Lease (collectively, the "Leased Premises").
2. This Guaranty is given by Guarantor to induce Landlord to enter into the Lease with Tenant, and the parties understand that Landlord would not enter into the Lease without this Guaranty. It is expressly understood that if this Guaranty is signed after the execution of the Lease, Landlord would not have entered into the Lease without the prior commitment by Guarantor to execute this Guaranty. Guarantor hereby acknowledges and confirms that this Guaranty is supported by adequate consideration.
3. Guarantor hereby, jointly and severally, unconditionally and irrevocably guarantees to Landlord the full, faithful, prompt and complete payment and performance by Tenant of each and every obligation, condition and provision to be paid or performed by Tenant, and any assignee of Tenant, under the Lease.
4. Provided no Event of Default has occurred under this Lease during the initial Term, this Guaranty shall not extend to any renewals or extensions of the Lease. This Guaranty, however, shall include any assignments and any and all modifications of the Lease or amendments thereto at any time made by Tenant and Landlord. Landlord and Tenant shall have no obligation to obtain Guarantor's approval prior to executing or making any renewals, extensions, modifications or other amendments to the Lease, and the failure by Landlord and Tenant to obtain such approval shall not in any way affect or diminish the validity and enforceability of this Guaranty.
5. Guarantor further agrees to indemnify, save and hold harmless Landlord from any and all loss, damage, liability, costs and expense in any way resulting from or arising out of the failure of Tenant to perform fully, faithfully and completely any one or more of the duties, liabilities and/or obligations under the Lease, as the same may be modified, amended, renewed and/or extended. In the event of a default by Tenant, Landlord may commence any action or proceeding against Guarantor, or may otherwise exercise any remedy available at law or in equity to enforce the provisions of this Guaranty. Landlord may maintain successive actions for successive defaults. Landlord's rights hereunder shall not be exhausted by Landlord's exercise of any of its rights or remedies or by any such action or by any number of successive actions, until and unless all obligations hereby guaranteed have been paid and fully performed.
6. No waiver or delay by Landlord of the enforcement of any of its rights and/or remedies under the Lease shall affect the obligations of Guarantor under this Guaranty.
7. The obligation of Guarantor hereunder is joint and several with Tenant. Landlord may proceed to enforce this obligation of Guarantor against Guarantor and Tenant, or either of them, without first proceeding against the other. The right of Landlord to enforce the obligations of Guarantor shall not be postponed, delayed or otherwise prejudiced by the commencement of proceedings (whether voluntary or involuntary) to have Tenant named as a debtor under the Federal Bankruptcy Code, or under any similar state or federal law. If Tenant becomes insolvent or is adjudicated a bankrupt or files a petition for reorganization, arrangement or similar relief under any present or future provisions of the Federal

Bankruptcy Code, or similar state or federal law, or if such a petition filed by creditors of Tenant shall be approved by a court, or if Tenant shall seek a judicial readjustment of the rights of its creditors under any present or future federal or state law, or if a receiver of all or any part of Tenant's property is appointed by any state or federal court:

7.1 If the Lease is terminated or rejected, or the obligations of Tenant thereunder are modified, Landlord shall have the right to recover from Guarantor that which Landlord would be entitled to recover from Tenant under the Lease in the event of a default under the Lease by Tenant; and

7.2 If any obligation under the Lease is performed by Tenant, and all or any part of such performance is avoided or recovered from Landlord as a preference, fraudulent transfer or otherwise, in any bankruptcy, insolvency, liquidation, reorganization or other proceeding involving Tenant, the liability of Guarantor under this Guaranty shall remain in full force and effect for any part of the performance which is so avoided or recovered.

8. Tenant agrees to notify Guarantor of any defaults, or declared defaults, under the Lease, and Landlord may, but shall have no obligation to provide notice of any such defaults to Guarantor. Any notice or notices given by Landlord to Guarantor shall be deemed to be for convenience only, and shall not release Tenant of its obligation to give notice of any defaults or declared defaults to Guarantor. The failure of Landlord to give notice of any such defaults shall in no way prejudice Landlord's right to enforce this Guaranty.

9. This Guaranty shall be binding upon the parties hereto, their heirs, successors, representatives and assigns.

10. If any portion of this Guaranty is deemed to be unenforceable by a court of competent jurisdiction, this Guaranty shall be deemed to be modified only to the extent necessary to comply with applicable law.

11. Guarantor specifically understands and agrees that if Landlord enforces any of its rights hereunder as a result of any default under the Lease, Guarantor shall be liable to pay all reasonable attorneys' fees and costs incurred by Landlord as a result of the default.

12. If there is more than one Guarantor or more than one Tenant or Landlord, the singular shall also be deemed to mean the plural. If there is more than one Guarantor, the obligations of the Guarantors shall be joint and several. The release of any one or more Tenant(s) and/or Guarantor(s) shall not reduce the obligation of the remaining Tenant(s) and Guarantor(s) for all amounts due or to become due under the Lease.

13. This Agreement shall be construed according to the laws of the State of Texas.

14. If Landlord has any interest in any collateral to secure all or any portion of Tenant's obligation under the Lease, or to secure any other obligations of Tenant to Landlord, such interest shall be deemed to be held for the benefit of Landlord only and shall not inure at any time to or for the benefit of Guarantor. Landlord shall have no obligation to record, maintain or otherwise enforce any such security interest, and Landlord's failure to do so shall neither diminish the enforceability of this Guaranty nor create any claim or right of Guarantor against Landlord.

15. Nothing in this Guaranty shall be deemed to grant or allow Guarantor any right of possession of the Leased Premises, whether before or after any payment by Guarantor under the Lease.

16. To the extent permitted by applicable laws, Guarantor waives and agrees not to assert or take

advantage of: (a) all rights, remedies, claims and defenses based upon or related to §§ 51.003, 51.004 and 51.005 of the Texas Property Code (as the same may be amended from time to time), to the extent that the same pertain or may pertain to any enforcement of this Guaranty Agreement, Rule 31 of Texas Rules of Civil Procedure (as the same may be amended from time to time), § 17.001 of the Texas Civil Practice and Remedies Code (as the same may be amended from time to time), Chapter 43 of the Texas Civil Practice and Remedies Code (as the same may be amended from time to time) and any similar or analogous statutory or common laws or procedural rules of any jurisdiction relevant to guarantors, indemnitors, sureties, co-makers or accommodation parties; (b) any right to require Landlord to proceed against Tenant or any other person or entity, or to pursue any other remedy in Landlord's power before proceeding against Guarantor; (c) any defense of any statute of limitations or laches which may be asserted by Tenant; (d) any defense that may arise by reason of incapacity, lack of authority, dissolution or termination of, involvement in any bankruptcy or reorganization proceeding (including any rejection or disaffirmance of the Lease in such proceeding) by, or other similar occurrence with respect to Tenant or any successor in interest to Tenant; or (e) any right to receive any demand or any notice, including any notice of any default under the Lease.

17. The liability of the Guarantor hereunder shall in no way be affected by, and Guarantor expressly waives any defenses that may arise by reason of: (a) the release or discharge of Tenant in any creditors' workout, receivership, bankruptcy or other proceedings; (b) the impairment, limitation or modification of the liability of Tenant or the estate of Tenant in bankruptcy, or of any remedy for the enforcement of Tenant's liability under the Lease which results from the operation of any present or future provision of the Federal Bankruptcy Code or other statute, or from the decision in any court; (c) the rejection or disaffirmance of the Lease in any such proceeding; (d) the modification, assignment or transfer of the Lease by Tenant; (e) any disability or other defense of Tenant; or (f) the cessation from any cause whatsoever of the liability of Tenant, other than full compliance therewith by Tenant.

18. No payment by Guarantor shall entitle Guarantor under any obligations owed by Tenant to Guarantor, by subrogation or otherwise, to any payment by Tenant under or out of the property of Tenant, including but not limited to, the revenues derived from the Leased Premises, except after payment in full to Landlord of all amounts due and payable by Tenant to Landlord pursuant to the Lease. Guarantor hereby assigns to Landlord all of Guarantor's rights to any payments or distributions to which Guarantor may be entitled from Tenant out of any bankruptcy or similar state or federal proceeding in which filing of claims is required, and Guarantor hereby directs all applicable persons to make such distributions to Landlord, and not to Guarantor, until such time as all amounts due under the Lease to Landlord have been fully paid.


19. This Guaranty shall be enforced in accordance with the laws of the State of Texas, and the parties agree that venue of any disputes hereunder shall be in Harris County, Texas.

*[The Remainder of this Page was Intentionally Left Blank  
Signature Page Follows]*

IN WITNESS WHEREOF, the parties have signed this Guaranty on the dates indicated below.


**LANDLORD:**

**HUFSMITH – KOHRVILLE BUSINESS PARK LLC,**  
a Texas limited liability company

By:   
Name: William Lawrence  
Title: Partner

**TENANT:**

**DELLACASA, LLC,**  
a Texas limited liability company

By:   
Luisa Obando (Dec 6, 2023 16:57 CST)  
Printed Name: Luisa Obando  
Title: CEO

**GUARANTOR:**

  
Luisa Obando (Dec 6, 2023 16:57 CST)

**LUISA OBANDO**

Address for Notice:

10 Waterfall Way  
Tomball, TX 77375

**EXHIBIT “K”**  
**Tenant’s Insurance Requirements**

**1. Specific Insurance Requirements**

The following insurance shall be maintained in effect with limits not less than those set forth below at all times during the term of this Agreement and thereafter as required:

<b>Insurance</b>	<b>Coverage/Limits</b>	<b>Other Requirements</b>
Commercial General Liability (Occurrence Basis)	<ul style="list-style-type: none"> <li>▪ \$1,000,000 Per Occurrence</li> <li>▪ \$2,000,000 General Aggregate</li> <li>▪ \$2,000,000 Products/Completed Operations Aggregate</li> <li>▪ \$1,000,000 Personal And Advertising Injury</li> <li>▪ Designated Location(s) General Aggregate Limit</li> </ul>	<ul style="list-style-type: none"> <li>▪ Current ISO edition of CG 00 01</li> <li>▪ The personal injury contractual liability exclusion shall be deleted.</li> <li>▪ Landlord shall be included as an insured under the CGL policy for liability arising out of Tenant’s maintenance, use or occupancy of the Leased Premises under this Agreement. Such coverage shall be written on ISO form CG 20 11 04 13.</li> <li>▪ This coverage shall be endorsed to provide primary and non-contributing liability coverage. It is the intent of the parties to this Agreement that all insurance coverage required herein shall be primary to and shall seek no contribution from all insurance available to Landlord Parties, with Landlord Parties’ insurance being excess, secondary and non-contributing.</li> <li>▪ The following exclusions/limitations (or their equivalent(s), are prohibited:               <ul style="list-style-type: none"> <li>○ Contractual Liability Limitation CG 21 39</li> <li>○ Amendment of Insured Contract Definition CG 24 26</li> <li>○ Any endorsement modifying the Employer’s Liability exclusion or deleting the exception to it</li> <li>○ Any “Insured vs. Insured” exclusion except Named Insured vs. Named Insured</li> <li>○ Any Punitive, Exemplary or Multiplied Damages exclusion</li> </ul> </li> </ul>
Business Auto Liability	\$1,000,000 Per Accident	<ul style="list-style-type: none"> <li>▪ Current ISO edition of CA 00 01</li> <li>▪ Arising out of any auto (Symbol 1), including owned, hired and nonowned</li> </ul>
Workers’ Compensation and Employer’s Liability	<ul style="list-style-type: none"> <li>▪ Statutory Limits</li> <li>▪ \$1,000,000 Each Accident and Disease</li> <li>▪ USL&amp;H must be provided where such exposure exists.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The State in which work is to be performed must listed under Item 3.A. on the Information Page</li> <li>▪ Such insurance shall cover liability arising out of the Tenant’s employment of workers and anyone for whom the Tenant may be liable for workers’ compensation claims. Workers’ compensation insurance</li> </ul>



		<p>is required, and no “alternative” forms of insurance shall be permitted.</p> <ul style="list-style-type: none"> <li>▪ Where a Professional Employer Organization (PEO) or “leased employees” are utilized, Tenant shall require its leasing company to provide Workers’ Compensation insurance for said workers and such policy shall be endorsed to provide an Alternate Employer endorsement in favor of Landlord.</li> </ul>
Excess Liability (Occurrence Basis)	\$2,000,000 Each Occurrence	<ul style="list-style-type: none"> <li>▪ Such insurance shall be excess over and be no less broad than all coverages described above.</li> <li>▪ Drop-down coverage shall be provided for reduction and/or exhaustion of underlying aggregate limits and shall include a duty to defend any insured.</li> </ul>
Environmental Liability	<ul style="list-style-type: none"> <li>▪ \$1,000,000 Each Occurrence</li> <li>▪ Such insurance must provide third party liability coverage for bodily injury, property damage, clean up expenses, and defense arising from the operations of Tenant.</li> <li>▪ All coverage provided in the policy shall apply to operations and completed operations of the firm without separate restrictions for either of these time frames.</li> <li>▪ Mold and/or microbial matter and/or fungus and/or biological substance shall be specifically included within the definition of Pollutants in the policy.</li> </ul>	<ul style="list-style-type: none"> <li>▪ This insurance is not permitted to include any type of exclusion or limitation of coverage applicable to claims arising from: <ul style="list-style-type: none"> <li>○ asbestos or lead</li> <li>○ contractual assumption of liability</li> <li>○ impaired property that has not been physically injured</li> <li>○ materials supplied or handled by the named insured. However, exclusions for the sale and manufacture of products are allowed. Exclusionary language pertaining to materials supplied by the insured shall be reviewed by the certificate holder for approval.</li> <li>○ punitive, exemplary or multiplied damages</li> </ul> </li> </ul>
Property	<ul style="list-style-type: none"> <li>▪ Coverage shall be provided In an amount not less than 100% of the full replacement cost thereof and in compliance with all laws, regulations or ordinances affecting such property at any time during the Lease</li> </ul>	<ul style="list-style-type: none"> <li>▪ ISO Special Form, including theft</li> <li>▪ Flood coverage shall be included</li> <li>▪ Replacement Cost, Agreed Value basis</li> <li>▪ Such insurance shall cover all buildings, piers, docks and other Tenant leasehold improvements, Tenant’s business personal property, HVAC, trade fixtures and signs from time to time in, on, adjacent to or upon the Leased Premises, and all alterations, additions, or changes made by Tenant pursuant to the terms of this Lease, and shall not be subject to coinsurance</li> </ul>
Business Income and Extra Expense	<ul style="list-style-type: none"> <li>▪ Coverage shall be provided on all operations at the described Leased Premises</li> </ul>	<ul style="list-style-type: none"> <li>▪ ISO Special Form, including theft</li> <li>▪ Flood coverage shall be included</li> <li>▪ Agreed Value basis</li> </ul>

	<ul style="list-style-type: none"> <li>▪ Coverage shall be provided in an amount of not less than 80% of Tenant’s gross annual income at the described Leased Premises less non-continuing expenses</li> </ul>	
Boiler & Machinery	<ul style="list-style-type: none"> <li>▪ Coverage shall be provided on all operations at the described Leased Premises</li> </ul>	<ul style="list-style-type: none"> <li>▪ Comprehensive Form or its equivalent, including Business Income</li> <li>▪ Replacement Cost, Agreed Value basis</li> </ul>
j		

**2. General Insurance Requirements**

**A. Definitions. For purposes of this Agreement:**

- i. “ISO” means Insurance Services Office.
- ii. “Tenant” shall include lessees of any tier.
- iii. “Landlord Parties” means (a) Hufsmith – Kohrville Business Park LLC, a Texas limited liability company (“**Landlord**”), (b) its shareholders, members, partners, joint venturers, affiliates, subsidiaries, successors and assigns, (c) any directors, officers, employees, or agents, and (d) others as required by the Lease Documents.

**B. Policies.**

- i. All policies must:
  - a. Be written through insurance companies authorized to do business in the State in which the work is to be performed and rated no less than A-: VII in the most current edition of A. M. Best’s Key Rating Guide at all times during this Agreement.
  - b. Provide a waiver of subrogation in favor of Landlord Parties on all insurance coverage carried by Tenant, whether required herein or not
  - c. Contain an endorsement providing for thirty (30) days prior written notice to Landlord of cancellation.
  - d. Be provided to the Landlord Parties in compliance with the requirements herein and shall contain no endorsements that restrict, limit, or exclude coverage required herein in any manner without the prior express written approval of the Landlord.
- ii. Failure of any Landlord Party to demand such certificate or other evidence of full compliance with these insurance requirements or failure of any Landlord Party to identify a deficiency from evidence that is provided shall not be construed as a waiver of the Tenant’s obligation to maintain such insurance.
- iii. Tenant shall provide to the Landlord a certified copy of all insurance policies required herein within ten (10) days of any such request. Renewal policies, if necessary, shall be delivered to the Landlord prior to the expiration of the previous policy.
- iv. Commencement of occupancy without provision of the required certificate of insurance, evidence of insurance or required endorsements, or without compliance with any other provision of this Agreement, shall not constitute a waiver by any Landlord Party of any rights. The Landlord shall have the right, but not the obligation, of prohibiting the Tenant from utilizing the Leased Premises in any manner until such certificate of insurance, evidence of insurance or required endorsements are received and approved by the Landlord.

**C. Limits, Deductibles and Retentions**

- i. The limits of liability may be provided by a single policy of insurance or by a combination of primary and excess policies, but in no event shall the total limits of liability available for any one occurrence or accident be less than the amount required herein.

- ii. No deductible or self-insured retention shall exceed \$25,000 without prior written approval of the Landlord, except as otherwise specified herein. All deductibles and/or retentions shall be paid by, assumed by, for the account of, and at the Tenant's sole risk. The Tenant shall not be reimbursed for same

**D. Forms**

- i. If the forms of policies, endorsements, certificates or evidence of insurance required by this Exhibit are superseded or discontinued, Landlord will have the right to require other equivalent forms.
- ii. Any policy or endorsement form other than a form specified in this Exhibit must be approved in advance by Landlord.

**E. Evidence of Insurance.** Insurance must be evidenced as follows:

- i. ACORD Form 25 Certificate of Liability Insurance for liability coverages.
- ii. ACORD Form 28 Evidence of Commercial Property Insurance for property coverages.
- iii. Evidence shall be provided to Landlord prior to commencing Work and prior to the expiration of any required coverage.
- iv. ACORD Forms specify:
  - a. Landlord as certificate holder at Landlord's mailing address;
  - b. Insured's name, which must match that on this Agreement;
  - c. Insurance companies producing each coverage and the policy number and policy date of each coverage;
  - d. Producer of the certificate with correct address and phone number and have the signature of the authorized representative of the producer;
  - e. Additional Insured status in favor of Landlord Parties;
  - f. Amount of any deductible or self-insured retention in excess of \$25,000;
  - g. Designated Location(s) General Aggregate Limit;
  - h. Personal Injury Contractual Liability;
  - i. Primary and non-contributory status;
  - j. Waivers of subrogation; and
  - k. All exclusions and limitations added by endorsement to the General Liability coverage. This can be achieved by attachment of the Schedule of Forms and Endorsements page.
- v. Copies of the following General Liability endorsements shall also be provided:
  - a. Additional insured endorsement
  - b. 30 Day Notice of Cancellation
  - c. Schedule of Forms and Endorsements

**F. Tenant Insurance Representations to Landlord Parties**

- i. It is expressly understood and agreed that the insurance coverages required herein (a) represent Landlord Parties' minimum requirements and are not to be construed to void or limit the Tenant's indemnity obligations as contained in this Agreement nor represent in any manner a determination of the insurance coverages the Tenant should or should not maintain for its own protection; and (b) are being, or have been, obtained by the Tenant in support of the Tenant's liability and indemnity obligations under this Agreement. Irrespective of the requirements as to insurance to be carried as provided for herein, the insolvency, bankruptcy or failure of any insurance company carrying insurance of the Tenant, or the failure of any insurance company to pay claims accruing, shall not be held to affect, negate or waive any of the provisions of this Agreement.
- ii. Failure to obtain and maintain the required insurance shall constitute a material breach of, and default under, this Agreement. If the Tenant shall fail to remedy such breach within five (5) business days after notice by the Landlord, the Tenant will be liable for any and all costs, liabilities, damages and penalties resulting to the Landlord Parties from such breach, unless a written waiver of the specific insurance requirement(s) is provided to the Tenant by the Landlord. In the event of any failure by the Tenant to

comply with the provisions of this Agreement, the Landlord may, without in any way compromising or waiving any right or remedy at law or in equity, on notice to the Tenant, purchase such insurance, at the Tenant's expense, provided that the Landlord shall have no obligation to do so and if the Landlord shall do so, the Tenant shall not be relieved of or excused from the obligation to obtain and maintain such insurance amounts and coverages.

- iii. This Exhibit is an independent contract provision and shall survive the termination or expiration of the Lease.

#### **G. Release and Waiver**

The Tenant hereby releases the Landlord Parties from any and all claims or causes of action whatsoever which the Tenant might otherwise now or hereafter possess resulting in or from or in any way connected with any loss covered by insurance, whether required herein or not, or which should have been covered by insurance required herein, including the deductible and/or uninsured portion thereof, maintained or required to be maintained by the Tenant pursuant to this Agreement. **THE FOREGOING RELEASE AND WAIVER APPLY EVEN IF THE LOSS OR DAMAGE IS CAUSED IN WHOLE OR IN PART BY THE FAULT OR NEGLIGENCE OR STRICT LIABILITY OF THE LANDLORD PARTIES.**

#### **H. Self-Insurance, Large Deductibles and/or Retentions**

- i. If Tenant elects to self-insure or to maintain insurance required herein subject to deductibles and/or retentions exceeding \$25,000.00, Landlord and Tenant shall maintain all rights and obligations between themselves as if Tenant maintained the insurance with a commercial insurer including any Additional Insured status, Primary and Non-Contributory Liability, Waivers of Rights of Recovery, Other Insurance Clauses, and any other extensions of coverage required herein. Tenant shall pay from its assets the costs, expenses, damages, claims, losses and liabilities, including attorney's fees and necessary litigation expenses at least to the extent that an insurance company would have been obligated to pay those amounts if Tenant had maintained the insurance pursuant to this Exhibit.
- ii. All deductibles, retentions, and/or uninsured amounts shall be paid by, assumed by, for the account of, and at Tenant's sole risk. Landlord shall not be responsible for payment of any deductible or self-insured retention or uninsured amount.
- iii. The Tenant's right to self-insure shall terminate at any time (1) Tenant's net worth, as reported in its latest annual report, or audited financial statement prepared in accordance with GAAP, drops below two hundred fifty million dollars (\$250,000,000.00), (2) Tenant's Moody's rating on its long-term debt drops below investment grade, or (3) Tenant fails to maintain adequate loss reserves to fund its self-insurance obligations.

# 2023.12.06 Della Casa Pasta lease-final for signature

Final Audit Report

2023-12-06

Created:	2023-12-06
By:	William Lawrence (Bill@wjl.me)
Status:	Signed
Transaction ID:	CBJCHBCAABAAAFoRzFt1vaAOturmP5NdGge4nZhFjjQ1

## "2023.12.06 Della Casa Pasta lease-final for signature" History









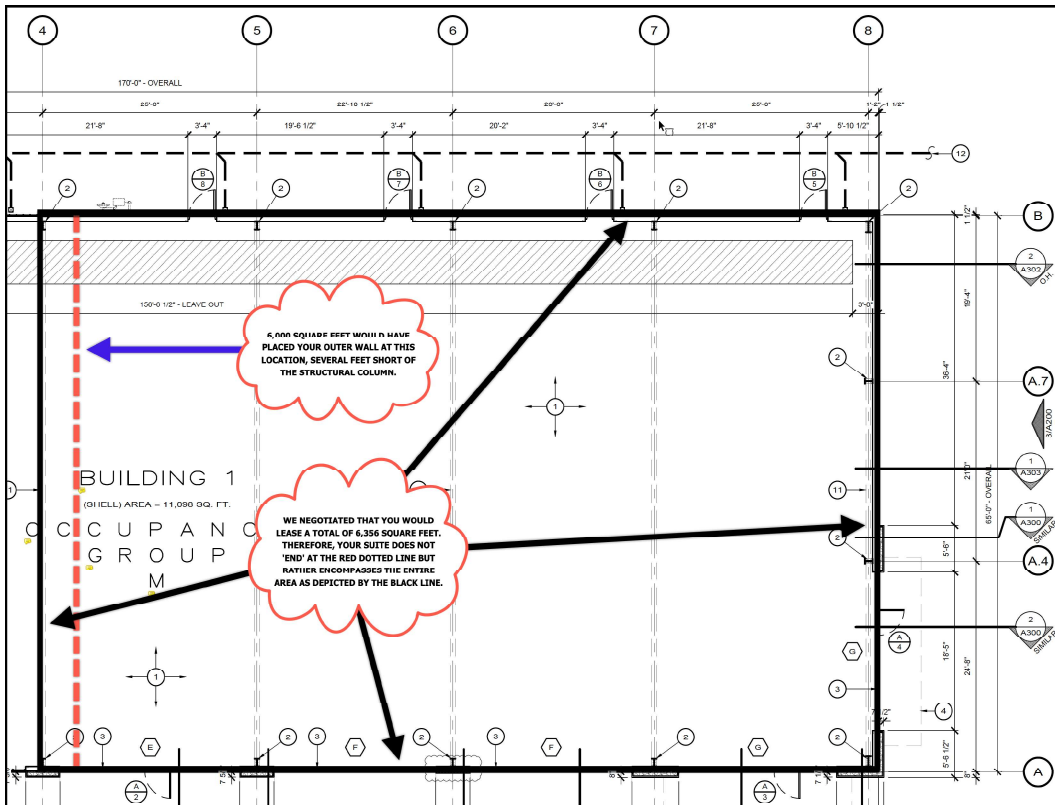
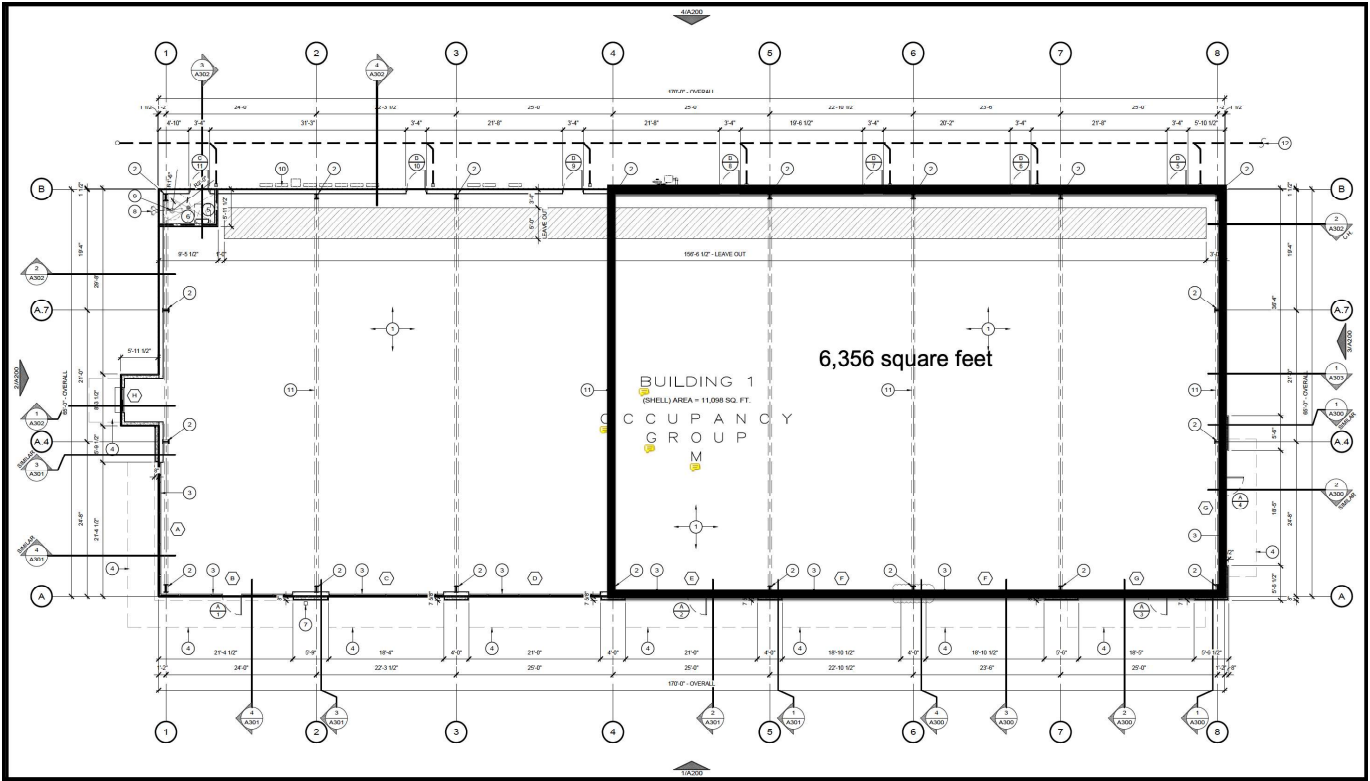
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-  Email viewed by Luisa Obando (luisa@dellacasapasta.com)  
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-  Document e-signed by Luisa Obando (luisa@dellacasapasta.com)  
Signature Date: 2023-12-06 - 10:57:20 PM GMT - Time Source: server- IP address: 172.56.25.151
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-  Document e-signed by William Lawrence (Bill@wjl.me)  
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-  Agreement completed.  
2023-12-06 - 11:35:56 PM GMT

EXHIBIT "B"

SITE PLAN FOR LEASED PREMISES



Luisa Obando

Luisa Obando (Dec 13, 2023 10:23 CST)

Luisa Obando












# 2023.12.06 Della Casa Pasta lease-page 36

Final Audit Report

2023-12-13


Created:	2023-12-07
By:	William Lawrence (Bill@wjl.me)
Status:	Signed
Transaction ID:	CBJCHBCAABAAWmUVJmhYgQhABv4gnPOTPMjDIi2dBZP9

## "2023.12.06 Della Casa Pasta lease-page 36" History

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2023-12-13 - 4:23:35 PM GMT- IP address: 108.210.128.153

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Signature Date: 2023-12-13 - 4:23:53 PM GMT - Time Source: server- IP address: 108.210.128.153

 Agreement completed.

2023-12-13 - 4:23:53 PM GMT