

DOUGLAS BUILDING

Commercial Lease Agreement

between

Douglas, LLC, as Landlord

and

Fartleks LLC, as Tenant

Date: January 25, 2022

A PROPERTY MANAGED BY:



8111 E. 32nd St. North, Suite 101, Wichita, KS 67226
(316) 262-3331 Fax (316) 262-6321
www.occmgmt.com

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COMMERCIAL LEASE AGREEMENT

THIS COMMERCIAL LEASE AGREEMENT ("Lease") is made and entered into on this 25th day of January, 2022, by and between Douglas, LLC, a Kansas limited liability company ("Landlord") and Fartleks LLC, a Kansas limited liability company ("Tenant").

FOR AND IN CONSIDERATION of the rents, covenants, and agreements set forth herein, the parties agree as follows:

ARTICLE 1: LEASE SUMMARY AND CERTAIN DEFINITIONS.

1.1 In addition to terms defined elsewhere herein, the following terms shall have the meanings ascribed to them:

- | | | |
|-----|----------------------------|--|
| (A) | Landlord: | Douglas, LLC |
| (B) | Landlord's Agent: | Occidental Management, Inc.
8111 E. 32nd St. N., Suite 101
Wichita, KS 67226 |
| (C) | Landlord's Notice Address: | Douglas, LLC
c/o Occidental Management, Inc.
Attn: President and General Counsel
8111 E. 32nd St. N., Suite 101
Wichita, KS 67226
Telefacsimile: (316) 262-6321 |
| (D) | Tenant: | Fartleks LLC |
| (E) | Tenant's Billing Address: | Fartleks LLC
Attention: Andrew Schinstock
535 W. Douglas, Suite 130
Wichita, KS 67213 |
| (F) | Tenant's Notice Address: | Fartleks LLC
Attention: Andrew Schinstock
10933 W. Waterside Ct.
Maize, KS 67101 |
| (G) | Guarantor: | Andrew Schinstock |
| (H) | Development: | The Douglas Building located at 535 W. Douglas, Wichita, KS 67213 depicted on the diagram set forth in Appendix A-2 of Exhibit "A". |
| (I) | Leased Premises: | Suite 130 in the Development as identified on Appendix A-1 of Exhibit "A," more commonly known as 535 W. Douglas, Suite 130, Wichita, KS 67213 |
| (J) | Area of Leased Premises: | 3,321 rentable square feet. |

- (K) Term: Sixty-one (61) months, plus the number of days from the Rent Commencement Date to the Term Commencement Date.
- (L) Possession Date: January 25, 2022.
- (M) Occupancy Date: The earlier to occur of (i) the date on which Tenant opens for business at the Leased Premises, or (ii) the date a certificate of occupancy or temporary certificate of occupancy is issued for the Leased Premises by the applicable government authority.
- (N) Rent Commencement Date: The earlier to occur of (i) sixty (60) days after the Possession Date, or (ii) the Occupancy Date.
- (O) Term Commencement Date: The first (1st) day of the calendar month immediately following the Rent Commencement Date.
- (P) Term Expiration Date: The last day of the calendar month immediately prior to the sixty-first (61st) monthly anniversary of the Term Commencement Date.

ARTICLE 2: LEASED PREMISES, TENANT IMPROVEMENTS AND COMMON AREAS.

- 2.1 **Lease of Leased Premises.** Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord the Leased Premises in the Development. The location of the Leased Premises is shown on Appendix A-1 of Exhibit "A" attached hereto.
- 2.2 **Acceptance of the Leased Premises.** Tenant has had or will have prior to the Occupancy Date, full opportunity to examine the Leased Premises or plans therefor, including the sidewalks or Common Areas adjacent to the Leased Premises. Unless otherwise set forth in a written notice to Landlord given by Tenant within five (5) days following the Occupancy Date, Tenant's occupancy shall be an acknowledgement and agreement that (a) Tenant accepts the Leased Premises in its then-current condition; (b) there is nothing concerning the Leased Premises that is dangerous to persons or property; and (c) Landlord has complied with all requirements imposed upon it under the terms of this Lease to render the Leased Premises ready for occupancy. Tenant hereby waives any claim for damages that may arise from any defects or non-conformity in the Leased Premises after Tenant's occupancy.
- 2.3 **Tenant Improvements.** To the maximum extent permitted by law, Tenant leases the Leased Premises from Landlord on an "AS IS, WHERE IS" basis. Landlord shall have no obligation to make leasehold improvements to the Leased Premises and there shall be no tenant improvement allowance or other amounts given to Tenant for leasehold improvements to the Leased Premises. Tenant, at its sole cost, will be responsible to perform or cause to be performed by a properly licensed contractor, all tenant improvement work to the Leased Premises ("Tenant Improvements"). The Tenant Improvements shall be subject to the requirements of Exhibit "B" of this Lease. The parties acknowledge that the foregoing factors were considered in the negotiation of the rental price for the Leased Premises and constitute valuable consideration for this Lease.

- 2.4 **Non-Exclusive Use of Common Areas.** On the Occupancy Date, Landlord grants Tenant the non-exclusive right to use all Common Areas located within the Development. For purposes of this Lease, "Common Area" shall be deemed to mean such areas, improvements, space, equipment and special services in or at the Development as determined by Landlord from time to time to be devoted to the general usage of all the tenants of the Development and their employees, customers, licensees and other invitees, including without limitation all elevators, stairwells, parking areas, roof, exterior of outside walls of the building(s), access roads, driveways, entrances and exits, retaining walls, landscaped areas, roads and pathways, storm water system, accommodation areas such as sidewalks, grass plots, ornamental plantings, entry monuments and signs, directional signals and the like. Landlord shall have the right to close any or all portions of the Common Areas to such extent as may, in the sole opinion of Landlord, be sufficient to prevent a dedication thereof or the accrual of any rights to any person or to the public herein and to close temporarily, if necessary, any part of the Common Areas in order to perform maintenance or discourage non-customer parking. Landlord shall have the right from time to time to establish, modify and enforce rules and regulations with respect to all Common Areas, provided such changes or additions do not unreasonably interfere with Tenant's use of the Leased Premises.

ARTICLE 3: TERM.

- 3.1 **Initial Term.** The Term shall be (a) sixty-one (61) months, commencing on the Term Commencement Date and ending on the Term Expiration Date, plus (b) the number of days from the Rent Commencement Date to the Term Commencement Date.
- 3.2 **Survival of Tenant's Obligations.** All obligations of Tenant which by their nature involve performance after the end of the Term or which cannot be ascertained to have been fully performed until after the end of the Term, shall survive the expiration or sooner termination of the Term.

ARTICLE 4: RENT AND SECURITY DEPOSIT.

- 4.1 **Base Rent.** For the use of said Leased Premises, Tenant agrees to pay Landlord the aggregate Base Rent during the initial Term, without any deductions whatsoever, set forth in the Base Rent Table below. The annual Base Rent shall be payable in monthly installments during the Term as set forth in the Base Rent Table below. The first payment shall be due on the first (1st) day of the second (2nd) month of the initial Term. All remaining monthly installments shall be due and payable on or before the first day of each calendar month succeeding the second (2nd) month of the initial Term until the Term Expiration Date.

Base Rent Table

Term	Base Rate Per Sq. Ft.	Monthly Base Rent	Yearly Base Rent
Month 1	\$0.00	\$0.00	\$0.00*
Months 2-13	\$16.00	\$4,428.00	\$53,136.00
Months 14-25	\$16.00	\$4,428.00	\$53,136.00
Months 26-37	\$16.50	\$4,566.38	\$54,796.50
Months 38-49	\$16.50	\$4,566.38	\$54,796.50
Months 50-61	\$17.00	\$4,704.75	\$56,457.00
Total Base Rent			\$272,322.00

*One (1) month of abated rent. Rent from the Rent Commencement Date to the Term Commencement Date is also abated.

4.2 Additional Rent and Reporting.

- (A) **Payment of Certain Costs.** Tenant shall also pay to Landlord additional rent ("Additional Rent") to reimburse Landlord for Tenant's proportional share of the following costs relating to the Development: (i) ad valorem taxes, special assessments and other real property taxes ("Real Estate Taxes"); (ii) the cost of the insurance described in Article 12.1 ("Insurance Cost"); and (iii) any and all of Landlord's direct costs, expenses and disbursements of any kind and nature, incurred in connection with the management, operation and maintenance, repair of the Development, including the Common Areas ("Operating Costs"). Operating Costs include by way of illustration but not limitation: personal property taxes; water, sewer, electrical, natural gas and other utility charges for the Common Areas; service and other charges paid in connection with the operation, maintenance or replacement of the elevators (if any), the heating, ventilation and air-conditioning (HVAC) system (Landlord shall perform standard maintenance on the HVAC main unit twice per year, in the Spring and Fall) or any other Common Area equipment; cleaning and other janitorial services; tools and supplies; repair costs; landscape maintenance or replacement costs; repair or replacement of parking areas, drives and sidewalks; snow and ice removal; security services; trash services; maintenance/replacement reserves; permit and inspection fees; management fees; and, in general, all other costs and expenses which would generally be regarded as operating and maintenance costs and expenses, including those which would normally be amortized, provided any amortized costs shall be amortized over the useful life of the particular equipment or improvement to which said cost relates. Operating Costs shall also include the cost or portion thereof reasonably allocable to any capital improvement made to the Development by Landlord which (i) improves the operating or energy efficiency of any system or labor-saving devices within the Development and thereby reduces Operating Costs; and (ii) is installed with such cost being amortized over such period of time and in such manner as Landlord shall reasonably determine.
- (B) **Estimates.** Tenant shall pay to Landlord, monthly in advance, together with the Base Rent, such Additional Rent as Landlord, in its reasonable judgment, estimates from time to time to be due from Tenant for each calendar month (or fractional part thereof) during the Term. Such estimates by Landlord may be adjusted from time to time as the circumstances and actual experience dictate, and Tenant shall pay such monthly installments of Additional Rent according to such estimate or estimates. The initial estimated monthly Additional Rent for Tenant's proportional share is One Thousand Seventy-Nine and 33/100 Dollars (\$1,079.33) per month for Real Estate Taxes, Insurance Costs and Operating Costs. Tenant's proportional share shall be determined by dividing the total occupied square feet of the Leased Premises by the total completed rentable square feet of the Development. If ninety percent (90%) or more of the completed rentable square feet in the Development is leased, the Operating Costs shall be assessed proportionally to all tenants during such year as if the Development had been one hundred percent (100%) occupied.
- (C) **Reconciliation.** Within ninety (90) days after the end of each calendar year, Landlord shall determine that total Additional Rent for such calendar year (and Tenant's share thereof), and furnish a copy of such computations in writing to Tenant; provided that Landlord's failure to provide such statement within ninety (90) days after the end of the calendar year shall in no way excuse Tenant from its

obligation to pay the Additional Rent or constitute a waiver of Landlord's right to bill and collect the Additional Rent from Tenant. If the amount of such estimated Additional Rent paid by Tenant during any calendar year shall be less than the Additional Rent due for such year, then Landlord shall invoice Tenant for the amount of such deficiency and Tenant shall pay such invoice net ten (10) days of receipt. If the amount of such estimated Additional Rent paid by Tenant during any calendar year is greater than the Additional Rent actually due for such year, such excess will be applied by Landlord to the next succeeding installment of Additional Rent due hereunder; and if there be any excess not credited at the expiration of the Term hereof, provided that an Event of Default has not occurred and is continuing, the amount thereof will be refunded by Landlord to Tenant within thirty (30) days after the expiration of the Term. Notwithstanding the foregoing, rather than crediting or refunding the excess Additional Rent, Landlord retains the right to use any excess Additional Rent amounts to make repairs or replacements to the Common Areas in order to maintain the quality of the Development for all tenants, their employees, agents, contractors, licensees and invitees.

- (D) **Triple Net Lease.** Landlord and Tenant acknowledge that, except as otherwise provided to the contrary in this Lease, it is their intent and agreement that this Lease be a "Triple Net Lease" and that as such, the provisions contained in this Lease are intended to pass on to Tenant and reimburse Landlord for the costs and expenses reasonably associated with this Lease, the Leased Premises, the Development and Tenant's operation therefrom. To the extent such costs and expenses payable by Tenant cannot be charged directly to, and paid by, Tenant, such costs and expenses shall be paid by Landlord but reimbursed by Tenant as Additional Rent.
- 4.3 **Late Fee and Interest.** If the Base Rent or Additional Rent is not paid by Tenant within five (5) days of when due or any other sums due hereunder are not paid by Tenant within ten (10) days of demand, Tenant shall pay (a) simple interest at a rate of one percent (1%) per month on the amount past due until paid, or (b) a late fee in the amount of One Hundred Dollars (\$100.00), whichever is greater, as Additional Rent without any set off or deduction whatsoever. Late payments received will be applied first against the oldest outstanding balance due from Tenant and then to the interest and late fees.
- 4.4 **Payment Address.** All payments for rent and all other sums (whether designated Additional Rent or otherwise) shall be paid to Landlord c/o Landlord's Agent at 8111 E. 32nd St. N., Suite 101, Wichita, KS 67226, or to such other location as Landlord or Landlord's Agent may from time to time designate in writing.
- 4.5 **Security Deposit.** On or before February 2, 2022, Tenant will deposit with Landlord the sum of Five Thousand Seven Hundred Eighty-Four and 08/100 Dollars (\$5,784.08). Said deposit shall be held by Landlord as security for the faithful performance of all of the Terms, covenants and conditions of this Lease to be kept and performed by Tenant during the Term hereof. At any time during the Term, if any of the Base Rent or Additional Rent shall be overdue and unpaid, or any other sum payable by Tenant to Landlord hereunder shall be overdue and unpaid, then Landlord may, at the option of Landlord, appropriate and apply any portion of said deposit to the payment of any such overdue rent or other sum. Should the entire deposit, or any portion thereof, be appropriated and applied by Landlord for the payment of overdue rent or other sums due and payable to Landlord by Tenant hereunder, then upon the written demand of Landlord, Tenant shall remit to Landlord a sufficient amount in cash to restore said deposit to the original sum deposited, and Tenant's failure to do so within ten (10) days after receipt of such demand shall constitute an Event of Default of this

Lease. Landlord shall not be required to keep the security deposit separate from its general funds and Tenant shall not be entitled to interest on such deposit. If Tenant shall fully and faithfully perform every obligation of this Lease to be performed by it, the deposit or any balance thereof shall be returned to Tenant without interest within thirty (30) days of Tenant's vacating the Leased Premises. If the Leased Premises requires repairs following the vacating of the Leased Premises, the deposit balance shall be refunded upon completion of the repairs, less all costs of for any repairs.

ARTICLE 5: USE OF THE LEASED PREMISES.

- 5.1 **Use.** Unless approved by Landlord in writing, the Leased Premises shall be used only for the purpose of a lifestyle retail store selling athletic and running shoes and athletic and running apparel, and selling smoothies and healthy food and snacks, as well as any other lawful purposes as may be incidental thereto. Tenant shall not use the Leased Premises for the receipt, storage or handling of any product, material or merchandise that is explosive or highly flammable or hazardous. Outside storage, including, without limitation, storage of trucks and other vehicles, is prohibited without Landlord's prior written consent. Tenant shall not permit any objectionable or unpleasant odors, smoke, dust, gas, noise or vibrations to emanate from the Leased Premises.
- 5.2 **Compliance with Laws.** Tenant shall at all times comply with all governmental rules, regulations, ordinances, statutes and laws now in force or which may hereafter be enforced pertaining to the Leased Premises and to Tenant's use thereof. Tenant shall promptly comply with all governmental orders and directives for the correction, prevention and abatement of nuisances in or upon, or connected with, the Leased Premises, all at Tenant's sole cost.
- 5.3 **Use of Commons Areas.** Tenant shall not obstruct the Common Areas and shall refrain from committing any act or thing upon the Leased Premises or the Common Areas which disturbs the quiet enjoyment of any other tenant of the Development or inhibits or detracts from Landlord's ability to lease other parts of the Development.
- 5.4 **Hazardous Substances.** The term "Hazardous Substances", as used in this Lease shall mean pollutants, contaminants, toxic or hazardous wastes, or any other substances, the removal of which is required or the use of which is restricted, prohibited or penalized by any "Environmental Law", which term shall mean any federal, state or local law or ordinance relating to pollution or protection of the environment. Tenant hereby agrees that (i) no activity will be conducted on the Leased Premises that will produce any Hazardous Substances; (ii) the Leased Premises will not be used in any manner for the storage of any Hazardous Substances except for reasonable quantities of cleaning supplies provided such cleaning supplies are properly stored in a manner and location meeting all Environmental Laws ("Permitted Materials"); (iii) Tenant will not install any underground tanks of any type; (iv) Tenant will not allow any surface or subsurface conditions to exist or come into existence that constitute, or with the passage of time may constitute a public or private nuisance; (v) Tenant will not permit any Hazardous Substances to be brought onto the Leased Premises, except for the Permitted Materials, and if so brought or found located thereon, the same shall be immediately removed, with proper disposal, and all required cleanup procedures shall be diligently undertaken pursuant to all Environmental Laws. If at any time during or after the term of the Lease, the Leased Premises is found to be contaminated or otherwise in violation of any Environmental Law as a result of Tenant's acts or omissions to act, Tenant agrees to indemnify and hold Landlord harmless from all claims, demands, actions, liabilities, costs, expenses, damages and obligations of any nature, including Landlord's

reasonable attorneys' fees, arising from or as a result of the use of the Leased Premises by Tenant. The foregoing indemnification shall survive the termination or expiration of this Lease.

ARTICLE 6: ALTERATIONS AND REPAIRS.

6.1 Alterations and Installations.

- (A) Tenant shall make no alterations to the Leased Premises without the prior written consent of Landlord. All alterations to the Leased Premises made by Tenant shall be at Tenant's cost and shall be performed in a workmanlike manner without damage to the Leased Premises. Tenant shall be responsible for any additional maintenance or operating costs caused by alterations to the Leased Premises. At the termination of this Lease, whether by expiration of time or forfeiture, Tenant shall, if requested by Landlord in writing, restore the Leased Premises at Tenant's sole cost to the condition that the Leased Premises were in prior to the making of any alterations or improvements, normal wear and tear excepted.
- (B) Tenant, at its cost, may install furnishings, fixtures, equipment determined by it to be necessary for use in connection with its business or operations in or on the Leased Premises in accordance with applicable laws and ordinances; provided, however, that Landlord shall have the right to review and approve in writing the plans and specifications for such installations, including any subsequent alteration or modification thereof, and, as to the furnishings, fixtures and equipment, to refuse to permit such installation, or alteration or modification thereof, if, in the sole opinion of Landlord, would be damaging to the external appearance of the Development or would be damaging to the structural soundness of the Development or would not meet Landlord's requirements for the safe use of the Development. Provided that an Event of Default has not occurred and is continuing hereunder, Tenant shall have the right, on or before the termination of this Lease and any and all renewal periods thereof, to remove any furnishings, fixtures and equipment installed and any improvements constructed hereunder which are not considered real estate improvements; but provided further that Tenant, at its sole cost, shall repair or shall reimburse Landlord for the cost of repairing any damage which may be caused by such removal.

6.2 Landlord's Repair Obligation of Structural Items. Landlord, at its own cost, shall be responsible only for replacement of the structural elements of the Development, including only the foundation and exterior walls; provided; however, if the replacement to the structural elements is necessitated by actions or omissions to act of the Tenant, its employees, agents, contractors, licensees or invitees, then Tenant shall be responsible for reimbursing Landlord for the costs of such replacement. Tenant shall immediately give Landlord written notice of need for replacement, after which Landlord shall have reasonable opportunity to review and replace, if necessary, the structural elements. Landlord's liability with respect to any replacement for which Landlord is responsible hereunder shall be limited to the cost of such replacement.

6.3 Tenant's Repair Obligation. Tenant, at its own cost, shall maintain all parts of the Leased Premises (except those for which Landlord is expressly responsible hereunder) in good condition and repair, ordinary wear and tear excepted, including, but not limited to, all plumbing, fixtures, interior walls, storefront(s), floors, ceilings, sides, windows, doors, plate glass, showcase, roof, skylights, all electrical facilities and lighting fixtures, lamping, fans

and electrical motors, all other appliances and equipment, sprinkler equipment, and any other mechanical systems in or serving the Leased Premises. Tenant's obligations shall include, but not be limited to, the obligation to replace when necessary, any of the items required to be maintained by Tenant. Such replacement items shall be of comparable quality to those that are replaced, and Tenant shall provide to Landlord a copy of any warranty for the replacement item. Any repairs to the roof requires Landlord's prior written approval.

- 6.4 **Damage by Tenant.** Tenant shall take good care of the Leased Premises, the fixtures and equipment therein, and the Development. All damage, casualty or injury to the Leased Premises and to its fixtures and equipment or the Development caused by Tenant or resulting from any cause of any kind or nature whatsoever due to carelessness, omission, neglect, improper conduct or other cause by Tenant, its employees, agents, contractors, licensees or invitees, shall be repaired, restored or replaced promptly by Tenant, at Tenant's sole cost, to the satisfaction of Landlord. All repairs, restorations and replacements shall be in a quality and class equal to the original work or installation. If Tenant fails to make such repairs, restorations or replacements, the same may be made by Landlord, at Tenant's cost, and collectable as Additional Rent or otherwise and shall be paid by Tenant within ten (10) days after presentment of the invoice therefore.
- 6.5 **No Liens.** Tenant shall not have the power or right to create in any way liens for labor or material which would be a lien upon any interest of Landlord in and to the Leased Premises or the Development and shall protect Landlord's interest against any liens or claims or improvements made by Tenant. In the event any such liens are filed, Tenant shall hold harmless and indemnify Landlord from said liens and expenses (including Landlord's reasonable attorneys' fees), and promptly cause the same to be released.

ARTICLE 7: UTILITIES.

- 7.1 **Utilities.** Tenant shall obtain and pay for all water, gas, heat, light, power, telephone, sewer, sprinkler charges and other utilities and services used on or at the Leased Premises, together with any taxes, penalties, surcharges or the like pertaining to the Tenant's use of the Leased Premises, and any maintenance charges for utilities. Landlord shall have the right to cause any of said services to be separately metered to Tenant, at Tenant's cost. Tenant shall pay its pro rata share, as reasonably determined by Landlord, of all charges for jointly metered and Common Area utilities.
- 7.2 **Utility Deregulation.** Landlord advises Tenant that presently Westar is the utility company selected by Landlord to provide electricity service for the Development. Notwithstanding the foregoing, if permitted by law, Landlord shall have the right at any time and from time to time during the Term to contract for service from a different company or companies providing electricity service or provide electricity services directly (each such company or Landlord, as applicable, shall hereinafter be referred to as an "Alternative Service Provider"); or continue to contract for service from the current electric service provider. Tenant shall cooperate with Landlord, the electric service provider, and any Alternative Service Provider at all times and, as reasonably necessary, shall allow Landlord, electric service provider, and any Alternative Service Provider reasonable access to the Development's electric lines, feeders, risers, wiring, and any other machinery within the Leased Premises.
- 7.3 **Interruption or Failure of Utilities.** Landlord shall in no way be liable or responsible for any loss, damage or expense that Tenant may sustain or incur by reason of any change, failure, interference, disruption or defect in the supply or character of the electric energy,

water or other utilities furnished to the Leased Premises, or if the quantity or character of the electric energy or water supplied by the utility is no longer available or suitable for Tenant's requirements, and no such change, failure, defect, unavailability or unsuitability shall constitute an actual or constructive eviction, in whole or in part, or entitle Tenant to any abatement or diminution of rent, or relieve Tenant from any of its obligations under the Lease.

ARTICLE 8: SIGNS, PARKING AND RULES AND REGULATIONS.

8.1 Signs.

- (A) Tenant shall be required, at Tenant's sole cost, to install an exterior sign on the Leased Premises which conforms to the sign criteria attached hereto as Exhibit "C" ("Sign Criteria"). All signs are to be installed by Tenant and the locations thereof are subject to the prior written approval of Landlord. Tenant shall submit all plans and specifications of the signage to Landlord within thirty (30) days prior to Tenant opening the Leased Premises for business for prior approval. All approved signs must be installed and operational prior to Tenant opening to the public for business. If Tenant changes its sign during the Term, Tenant at its sole cost shall remove its sign, repair and paint fascia the appropriate color of existing fascia, before new sign can be installed.
- (B) Tenant shall not place, erect or maintain, or suffer to be placed, erected or maintained on the doors or on any exterior surface of the Leased Premises, or in any vestibule, or anywhere in the Development outside of the Leased Premises, nor in any area inside the Leased Premises which can be seen from the outside of the Leased Premises, any sign, lettering, decoration or advertising without the prior written consent of Landlord.

8.2 Parking. Tenant and its employees shall park their cars in areas as designated by the Landlord on Appendix A-2 of Exhibit "A". Tenant's employees shall not park cars on the street or internal drives in the Development, or in any alley or court in the Development. Where there is a rear entrance, all loading and unloading of goods shall be made at the rear entrance. Landlord does not agree to reserve or permanently maintain any parking stations, which are now built or may hereafter be built in the Development. The Tenant further agrees that upon written notice from Landlord, Tenant will furnish the state automobile license numbers assigned to the cars of all its employees within five (5) days of receipt of the notice. Tenant acknowledges and agrees that Landlord may, but shall not be obligated to, enforce any parking rules or regulations in connection with the Development.

8.3 Rules and Regulations. Tenant shall at all times during the Term observe and comply with the Rules and Regulations as set forth in Exhibit "D" attached hereto and such other reasonable rules, regulations and covenants which may be adopted and amended from time to time by Landlord for the safety, care and cleanliness of the Development and Leased Premises. Any or all such other rules and regulations so made and enforced from time to time shall constitute a part of this Lease and be binding upon Tenant, and the employees, agents, servants, licensees and invitees of Tenant, in the same manner as if they were written in full herein.

8.4 Tenant Acknowledgment of Security Policy. Tenant acknowledges that neither Landlord nor Landlord's Agent has made any representations, written or oral, concerning the safety of the Leased Premises or the effectiveness or operability of any security devices (if

installed) or security measures at the Development. Tenant acknowledges that neither Landlord nor Landlord's Agent warrants or guarantees the safety or security of Tenant, or its employees, agents, contractors, licensees or invitees against the criminal or wrongful acts of third parties. Tenant and its employees, agents, contractors, licensees or invitees are responsible for protecting its, his or her own person and property. Tenant acknowledges that security devices or measures (if installed) may fail or be thwarted by criminals or by electrical or mechanical malfunction. Therefore, Tenant acknowledges that it should not rely on such devices or measures and should protect itself and its property as if these devices or measures did not exist.

ARTICLE 9: REPRESENTATIONS, COVENANTS AND GUARANTY.

9.1 **Authority of Parties.** Each of the parties hereto represents to the other that (a) if an organization, it is in good standing in the state of incorporation or organization; (b) it has full power, authority and legal right to enter into and perform this Lease; (c) the execution, delivery and performance of this Lease has been duly authorized by all necessary action on each party's part, does not require any approvals or consents except such approvals and consents as have heretofore been duly obtained; and (d) this Lease does not contravene any law binding on either of the parties or contravene any agreement to which either of the parties hereto is a party or by which it is bound, or any law, governmental rule, regulation or order. Upon request, each of the parties will provide the other party with documentary evidence of its authority to enter into this Lease.

9.2 **Tenant's Covenants.** During the Term:

- (A) Tenant covenants and agrees to keep the Leased Premises open for business continuously during all regular and customary hours for such type of business and on all customary business days, and will conduct such business in a lawful manner, in good faith with sound business practices. At a minimum, Tenant covenants to open for business no later than 10:00 a.m. and to remain open for business at least until 6:00 p.m., Monday through Friday, and 10:00 a.m. to 6:00 p.m., Saturday, so long as such days are not a public legal holiday as observed in the State of Kansas. Tenant covenants and agrees not to abandon the Leased Premises or the Development or suffer the Leased Premises to become vacant or deserted for a period of ten (10) days or more.
- (B) Tenant covenants and agrees to use and occupy the Leased Premises in a careful, safe and proper manner and shall keep the Leased Premises in a clean and safe condition in accordance with this Lease and local ordinances and the lawful direction of proper public officers. Tenant covenants and agrees to not permit solicitations, demonstrations, itinerant vending or any other activities inconsistent with such standards. Tenant covenants and agrees not to use or permit the Leased Premises to be used for any disreputable or immoral purpose or in any way that will injure the reputation of the Development.
- (C) Tenant covenants and agrees (i) not to waste or permit the waste of any of the Leased Premises; (ii) to use and maintain the Leased Premises consistent with reasonable standards of good business operations; and (iii) to initiate and carry out regular maintenance of the Leased Premises including the painting or refinishing of all areas of the interior and storefront, so as to impede, to the extent possible, deterioration of the same by ordinary wear and tear.

- (D) Tenant covenants and agrees to pay, when due, all licenses, fees, taxes and assessments charged, assessed or levied by any governmental authority against Tenant or the property of Tenant.
- (E) Tenant covenants and agrees to comply with the Americans with Disabilities Act of 2010 ("ADA") and the regulations promulgated thereunder. Tenant hereby expressly assumes all responsibility for compliance with the ADA relating to the Leased Premises and the activities conducted by Tenant within the Leased Premises. Any alterations to the Leased Premises made by Tenant for the purpose of complying with the ADA or which otherwise require compliance with the ADA shall be done in accordance with this Lease; provided, that Landlord's consent to such alterations shall not constitute either Landlord's assumption, in whole or in part, of Tenant's responsibility for compliance with the ADA, or representation or confirmation by Landlord that such alterations comply with the provisions of the ADA.
- (F) Tenant covenants and agrees to operate at Tenant's cost its heating or air conditioning (HVAC) unit in the Leased Premises so as to adequately heat and cool the same, as the case may be, during the hours that Tenant's Leased Premises is open for business; and to maintain at all times, sufficient heat in the Leased Premises to prevent pipes from freezing.
- (G) Tenant covenants and agrees to adhere to health department code and regulations as specified by the Sedgwick County Health Department. Tenant covenants to maintain an "A" or "Passing" rating according to the Sedgwick County Health Department's standards throughout the duration of the Term.
- (H) At Landlord's option, Tenant covenants and agrees to install an appropriate grease trap and pay all monthly fees and maintenance associated with the grease trap. Tenant agrees to maintain a grease container at a location approved by the Landlord that will not interfere with other tenants' operations and shall maintain a contract with a third-party to empty the grease container on a regular basis and provide Landlord with a copy of same upon request by Landlord.
- (I) At Landlord's option, Tenant covenants and agrees to maintain a maintenance contract with a plumbing contractor approved by Landlord, to have the plumbing lines jetted every quarter and provide Landlord with a copy of same upon request by Landlord. Tenant agrees to be responsible for any plumbing maintenance that may be deemed necessary by Landlord due to the presence and function of the restaurant in the Leased Premises.
- (J) At Landlord's option, Tenant covenants and agrees to maintain a pest control contract which provides monthly pest control services for the Leased Premises provide Landlord with a copy of same upon request by Landlord.
- (K) At Tenant's sole cost, Tenant covenants and agrees to properly maintain and service all ventilation and exhaust equipment in accordance and in compliance with all applicable codes and permits and shall exhaust and vent all odors, out and away from the Leased Premises. Odors from the Leased Premises shall not be allowed to enter any adjacent spaces through wall or ceiling penetrations. Tenant shall be responsible to seal off, cover, fill-in, or otherwise eliminate, any holes or openings in walls, ceilings, and exhaust ducts, or take whatever measures necessary, as directed by Landlord, to comply with appropriate codes, and to eliminate the

infiltration of odors into any adjacent space. Any and all roof repairs associated with such installation or removal of ventilation and exhaust equipment shall be at Tenant's cost. Any roof repairs or roof leakage associated with the installation or maintenance thereof shall be at Tenant's sole cost. Tenant, at its sole cost, shall provide Landlord with a semi-annual third-party vendor certificate of maintenance inspection and cleaning for (i) all interior exhaust hoods (grease hood, convection oven hood, dishwasher hood, etc.), associated ventilation ducts, and roof mounted exhaust fans (including the roof membrane); and (ii) all grease interceptors. In the event that Landlord requires Tenant to remove any ventilation, exhaust, or other installed equipment at the expiration or earlier termination of the Lease, Tenant, at its sole cost, shall repair any holes or intrusions to the ceiling, roof, walls, or flooring that were caused by the installation or removal of such equipment. Roof repairs shall be coordinated with Landlord's roofing contractor for compliance with any existing warranty.

- 9.3 **Quiet Enjoyment.** Landlord covenants that so long as Tenant pays all amounts due hereunder and performs all other covenants and agreements herein set forth, Tenant shall peaceably and quietly have, hold and enjoy the Leased Premises for the Term hereof without hindrance or molestation from Landlord, subject to the terms and provisions of this Lease.
- 9.4 **Guaranty of Lease.** As a condition precedent to this Lease, the Guarantor(s) will execute and deliver to Landlord the Guaranty of Lease in the form attached hereto as Exhibit "E".

ARTICLE 10: DAMAGE OR DESTRUCTION OF LEASED PREMISES.

- 10.1 **Notice of Damage or Destruction.** Tenant immediately shall give written notice to Landlord if the Leased Premises are damaged or destroyed.
- 10.2 **Destruction.**
- (A) If the Leased Premises or the Development shall be substantially damaged or destroyed by fire or casualty, Landlord shall have the option to terminate this Lease as of the date of such damage or destruction by written notice to Tenant within thirty (30) days after such damage or destruction. If the Leased Premises are damaged by fire or other casualty resulting in the Leased Premises being untenable in whole or in part during the last twelve (12) months of the then-current Term, then this Lease shall automatically terminate.
- (B) Subject to Article 13.1, if the Leased Premises are damaged by fire or other casualty resulting in the Leased Premises being untenable in whole or in part, then the damage may be repaired by and at the expense of Landlord subject to the availability of adequate insurance proceeds; provided, Landlord shall not be obligated to repair or replace any of Tenant's fixtures, equipment or other personal property, which such property Tenant shall be obligated to repair or replace. Until such repairs are completed, the Base Rent and Additional Rent shall be abated in proportion to the part of the Leased Premises which is untenable for use by Tenant in the conduct of its business; provided however, there shall be no abatement of Base Rent or Additional Rent by reason of any portion of Leased Premises being untenable if (i) the damage is due to the acts or negligence of Tenant, its employees, agents, contractors, licensees or invitees; (ii) the damage is caused by any of Tenant's leasehold improvements or other items of Tenant's personal property, including

trade fixtures, inventory or equipment, or (iii) the Leased Premises are untenable for a period of three (3) days or less. Following any fire or other casualty, Landlord may engage an independent investigator to determine the cause of the fire and casualty, which determination shall be binding upon the parties to this Lease.

- (C) Notwithstanding the foregoing, if Landlord cannot complete repair of the Leased Premises within twelve (12) months from the date of the damage or destruction, then Tenant shall have the right to terminate this Lease by thirty (30) days' prior written notice to the Landlord.

ARTICLE 11: CONDEMNATION.

- 11.1 **Complete Condemnation.** If during the Term of this Lease, or any renewal thereof, the whole of the Development, or such portion thereof as will make the Leased Premises unusable for the purpose leased, be condemned by public authority for public use, then, in either event, the Term shall terminate as the date of the vesting of title in the public authority, or when possession is given to such public authority, whichever event last occurs. Upon such occurrence, the Base Rent and Additional Rent shall be apportioned as of such date. Tenant shall not be entitled to any part of the award or any payment in lieu thereof.
- 11.2 **Partial Condemnation.** If a portion of the Leased Premises is taken or condemned by public authority for public use so as not to make the remaining portion of the Leased Premises unsuitable for the purposes leased, this Lease is not terminable but shall continue. In such case the Base Rent and Additional Rent shall be equitably and fairly reduced and abated for the remainder of the Term if a portion of the Leased Premises is taken or condemned, and Landlord shall be entitled to the entire award for the taking or condemnation of the portion of the Leased Premises.

ARTICLE 12: TAXES AND INSURANCE.

- 12.1 **Real Estate Taxes.** Subject to reimbursement as provided in Article 4.2, Landlord agrees to pay all Real Estate Taxes that accrue against the Leased Premises and the Development. If at any time during the Term of this Lease, there shall be levied, assessed or imposed on Landlord 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 from the Leased Premises and/or the Building, 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 "Real Estate Taxes" for the purposes hereof. The Landlord shall have the right to employ a tax consulting firm to attempt to assure a fair tax burden on the building and grounds within the applicable taxing jurisdiction. The cost of such consultant shall be included in the amount of Real Estate Taxes for purposes of calculating of Additional Rent.
- 12.2 **Personal Property Taxes.** Tenant shall be liable for all taxes levied or assessed against any personal property or fixtures placed in the Leased Premises. If any such taxes are levied or assessed against Landlord or Landlord's property and (i) Landlord pays the same; or (ii) the assessed value of Landlord's property is increased by inclusion of such personal property and fixtures and Landlord pays the increased taxes, then, upon demand Tenant shall pay to Landlord the amount of such taxes.
- 12.3 **Landlord Insurance.** Landlord shall, throughout the Term of this Lease and any extensions, renewals and holding over thereof, maintain property and casualty insurances covering the Development (including the Leased Premises) in the amount equal to the full

insurable value of the Development, insuring against perils determined necessary by Landlord, which may include the perils of Fire, Wind and Hail, Lightning, Extended Coverage, Vandalism and Malicious Mischief, Liability and Rental Interruption. The cost for such insurance shall be proportionately reimbursed as provided in Article 4.2 above. Landlord shall not insure any property of Tenant or any property that may be in the Leased Premises not owned by Landlord.

- 12.4 **Tenant Insurance.** Tenant, at its own cost, shall maintain during the Term of this Lease (a) a policy or policies of worker's compensation in statutory amounts; (b) comprehensive general liability insurance (with contractual liability endorsement), including personal injury and property damage occurring in or about the Leased Premises in the amount of at least One Million Dollars (\$1,000,000.00) per occurrence, and Two Million Dollars (\$2,000,000.00) in the aggregate; and (c) all risk or special form property insurance covering loss of or damage to Tenant's alterations (but not including work done by Landlord), additions, improvements, floor coverings, deCora E.tions, fixtures, inventory, and other business personal property located in or about the Leased Premises to the full replacement value thereof, and loss of income including rent payments for at least 12 months. For the policies in sub-articles (b) and (c) above, the policies shall (i) name Landlord and Landlord's Agent as additional insureds; (ii) be issued by an insurance company which is acceptable to Landlord in its sole discretion; provided that the insurance companies shall be rated by AM Best as A VII or greater and licensed in the state where the Leased Premises are located); (iii) provide that said insurance shall not be canceled unless thirty (30) days prior written notice shall have been given to Landlord; (iv) shall waive Tenant's rights of subrogation against Landlord and Landlord's agent; (v) shall be delivered to Landlord by Tenant upon commencement of the Term of the Lease and upon each renewal of said insurance policy; and (vi) shall provide primary coverage to Landlord when any policy issued to Landlord is similar or duplicate in coverage, and Landlord's policy shall be excess over Tenant's policies.

Tenant shall not permit the Leased Premises to be used for any purpose or in any manner that would (1) void the insurance thereon; (2) increase the insurance risk, or (3) cause the disallowance of any sprinkler credits. Tenant shall pay any increase in the cost of any insurance on the Leased Premises or the Development, which is caused by Tenant's use of the Leased Premises or because Tenant vacates the Leased Premises.

All personal property of any kind or description whatsoever in the Leased Premises shall be at Tenant's sole risk, and Landlord shall not be liable for any damage done to, or loss to, such personal property; or for damage or loss suffered by the business or occupation of Tenant arising from any act or neglect of co-tenants or other occupants of the Development, or their employees, agents, contractors, licensees and invitees or of other persons, or from bursting, overflowing or leaking of sprinkler, water, sewer or steam, pipes, or from the heating, air conditioning or plumbing fixtures, or from electric wires, or from roof, wall and floor leaks, or from gas, or odors, or caused in any other manner whatsoever.

- 12.5 **Waiver of Subrogation.** Anything in this Lease to the contrary notwithstanding, to the extent of a recovery of loss proceeds under the policies of insurance described in this Lease, Tenant hereby waives and releases Landlord and Landlord's Agent of and from any and all rights of recovery, claim, action or cause of action, against Landlord, its managers, officers employees, agents and contractors, for any loss or damage that may occur to the Leased Premises, or personal property on or within the Leased Premises arising from or caused by fire or other casualty or hazard covered or required to be covered by insurance under this Lease. Upon execution of this Lease, Tenant shall notify its respective insurance companies

of the waiver of subrogation contained herein and shall cause each policy described in this Lease to be so endorsed.

ARTICLE 13: INDEMNIFICATION.

- 13.1 **Indemnification.** Tenant shall indemnify, protect, hold harmless and defend Landlord, its managers, directors, officers, employees, agents (including Landlord's Agent) and contractors, against any and all claims, demands, suits, losses, judgments, actions, damages, liabilities, costs and expenses (including reasonable attorneys' fees) in connection with (a) any loss, injury or damage to any person or property occurring in, on or about or arising out of all or part of the Leased Premises or the use or occupancy thereof; (b) the conduct or operation of Tenant's business; (c) any act, neglect, fault of, or omission or violation of any duty with respect to the same by Tenant, its employees, agents, contractors, licensees and invitees, and/or (d) arises from a breach, violation, or non-performance of any term, provision, covenant or agreement of Tenant under this Lease.
- 13.2 **Survival of Indemnity.** The provisions of this Article 13 shall survive the expiration or termination of this Lease with respect to any claims or liability occurring prior to such expiration or termination.

ARTICLE 14: RIGHTS TO ENTER; INSPECTION.

- 14.1 **Inspection.** Landlord and Landlord's Agent shall have the right to enter the Leased Premises at any reasonable time during business hours, to inspect the Leased Premises and to make such repairs as may be required or permitted pursuant to this Lease. Landlord shall have the right to enter onto the Leased Premises at any time in the event of an emergency affecting the Development.
- 14.2 **Right to Enter and Show Leased Premises.** Additionally, during the period that is six (6) months prior to the end of the Term, Landlord and Landlord's Agent may enter the Leased Premises during business hours for the purpose of showing the Leased Premises. In addition, Landlord shall have the right to erect a suitable sign on the Leased Premises stating the Leased Premises are available for lease.

ARTICLE 15: ASSIGNMENT AND SUBLEASE.

- 15.1 **Assignment or Sublease by Tenant.** Tenant shall not assign, mortgage, pledge or encumber this Lease, or a part thereof, directly or indirectly, or allow same to be assigned by operation of law or otherwise, or sublet the Leased Premises or any part thereof, or use or permit same to be used for any purpose other than stated herein, without the prior written consent of Landlord. Such permitted assignment or sublease shall not relieve Tenant from its obligations hereunder for the payment of Base Rent or Additional Rent or the performance of conditions, covenants and provisions of this Lease. Tenant agrees to pay Landlord any costs or expenses (including reasonable attorneys' fees) incurred by Landlord in conjunction with any actual or requested assignment of this Lease or the subletting of the Leased Premises.
- 15.2 **Assignment by Landlord.** Landlord shall have the right to transfer and assign, in whole or in part, any of its rights under this Lease, and in the Development and the real property underlying the Development. To the extent that such assignee assumes Landlord's obligations under this Lease, Landlord shall by virtue of such assignment be released from all such obligations.

ARTICLE 16: DEFAULT AND REMEDIES.

16.1 **Tenant Event of Default.** Any one (1) or more of the following events shall constitute an "Event of Default" by the Tenant:

- (A) Tenant shall, at any time, fail to pay Base Rent, Additional Rent or any other payment to Landlord required hereunder within five (5) days after the same shall be due;
- (B) Tenant shall fail to keep, perform or observe any covenant, agreement, condition or undertaking hereunder (other than as provided in Article 16(A) above), or shall violate the rules and regulations of the Development now or hereafter to be established, and shall fail to remedy such failure within ten (10) days after written notice thereof;
- (C) The Leased Premises are abandoned or vacated by Tenant or the Leased Premises remain closed for a period of ten (10) days (without the prior written consent of Landlord), or Tenant shall fail to operate and conduct business as required in Article 9.2(A);
- (D) The admission in writing by Tenant of its inability to pay its debts when due;
- (E) The appointment of a receiver or trustee for the business or property of Tenant unless such appointment shall be vacated within ten (10) calendar days of its entry;
- (F) The making by Tenant of an assignment for the benefit of its creditors, or if in any other manner Tenant's interest in this Lease shall pass by operation of law; or
- (G) The commencement of a case under any chapter of the Federal Bankruptcy Code by or against Tenant; or the filing of a voluntary or involuntary petition proposing the adjudication of Tenant, or any Guarantor of this Lease, as bankrupt or insolvent; or the reorganization of Tenant; or an arrangement by Tenant or any Guarantor with its creditors; unless a petition is filed or case commenced by a party other than Tenant or any such Guarantor and is withdrawn or dismissed within thirty (30) days after the date of its filing.

16.2 **Landlord Remedies.** Upon the occurrence of an Event of Default by Tenant, Landlord shall have the right at its election, then or at any time thereafter, to pursue any one or more of the following remedies in addition to all other rights or remedies provided herein at law or in equity:

- (A) **Acceleration.** Any and all rent for the entire unexpired part of the Term and all other sums due and owing hereunder or that might become owing under this Lease, shall be accelerated and immediately become due and payable to Landlord. All sums of money and charges of whatever character collectible under this Lease shall be conclusively deemed to be rent. Landlord may collect all rent, including all sums of money of whatever collectible under this Lease, by any means prescribed by law or by this Lease.
- (B) **Right to Re-enter.** Landlord shall have the immediate right of re-entry and may remove all persons and property from the Leased Premises, using such force for that purpose as may be necessary, without being liable to any prosecution for said re-entry or the use of such force, and any such property may be removed and stored

in a public warehouse or elsewhere at the cost of, and for the account of Tenant, all without service of notice or resort to legal process and without being deemed guilty of trespass or becoming liable for any loss or damage which may be occasioned thereby. No such reentry or taking possession of the Leased Premises by Landlord shall be construed as an election on its part to terminate this Lease unless written notice of such intention is given to Tenant or unless the termination thereof is decreed by a court of competent jurisdiction.

- (C) **Right to Relet.** Should Landlord elect to re-enter as provided above, or should it take possession pursuant to legal proceedings or pursuant to any notice provided for by law, it may, from time to time without terminating this Lease, make such alterations and repairs as may be necessary in order to relet the Leased Premises, and relet said Leased Premises, or any part thereof, for such term or terms (which may be for a term extending beyond the Term of this Lease) and at such rental rate and upon such other terms and conditions as Landlord, in its sole discretion, may deem advisable; (a) for its own account, or (b) as agent for Tenant's account in the name of Tenant or its own name, and shall give Tenant notice within thirty (30) days as to whose account the Leased Premises have been let for; but if Landlord relets for Tenant's account, Landlord may thereafter notify Tenant that it proposes to relet for its own account and will no longer relet the Leased Premises for Tenant. Upon each such reletting, all rent received by Landlord from such reletting shall be applied, first, to the payment of any indebtedness other than rent due hereunder from Tenant to Landlord; second, to the payment of any costs and expenses of such reletting, including brokerage fees, attorneys' fees and costs of such alterations and repairs; third, to the payment of rent due and unpaid hereunder; and the residual amount, if any, and if Landlord shall have relet as agent of Tenant for Tenant's account, shall be held by Landlord and applied in payment of future rent as the same may become due and payable hereunder, or if Landlord has relet on its own account, then the residual amount shall belong to Landlord. If such rent received from such reletting during any month shall be less than that to be paid during that month by Tenant hereunder, Tenant shall pay any such deficiency to Landlord. Such deficiency shall be calculated and paid monthly.
- (D) **Termination.** Landlord may, in its sole discretion, terminate this Lease with or without process of law, and notwithstanding such termination, in addition to any other remedy it may have, Landlord may recover from Tenant all damages it may incur by reason of such breach by Tenant through the end of the Term.
- (E) **Enforcement of Landlord's Lien.** Landlord may enforce its Landlord's Lien as provided in Article 16.4 below on the personal property at the Leased Premises
- (F) **Additional Costs.** In addition to any sum provided to be paid herein, Tenant also shall be liable for and shall pay to Landlord (i) any brokerage fees incurred by Landlord in connection with the execution of this Lease; (ii) brokers' fees incurred by Landlord in connection with any reletting of the whole or any part of the Leased Premises; (iii) cost for changing the locks and securing the Leased Premises; (iv) the costs of removing and storing Tenant's or other occupant's property; (v) the costs of repairing, altering, remodeling or otherwise putting the Leased Premises into condition acceptable to a new tenant or tenants; (vi) the unamortized amount of the Tenant Improvement Allowance (if any), rent abatements or other incentives; and (vii) all reasonable expenses incurred by Landlord in enforcing or defending Landlord's rights and/or remedies.

- (G) **Attorneys' Fees and Costs.** In the event (i) Landlord employs counsel to enforce performance of any of the covenants or obligations of Tenant hereunder; or (ii) Landlord shall have to file any proceeding, whether at law or in equity, to enforce collection of any rent or other sum due hereunder, in addition to all sums to which Tenant shall otherwise be obligated hereunder, Landlord shall be entitled to recover from Tenant and Tenant agrees to pay to Landlord an amount of money equal to all reasonable expenses, including reasonable attorneys' fees, incurred by Landlord in enforcing the covenants and obligations hereof.

Actions to collect any amounts due by Tenant as provided in this Article may be brought from time to time on one or more occasions without the necessity of Landlord's waiting until expiration of the Term.

- 16.3 **Waiver; Remedies Cumulative.** Tenant hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event of Tenant being evicted or dispossessed for any cause, or in the event of Landlord obtaining possession of the Leased Premises, by reason of an Event of Default hereunder. The rights and remedies specified herein upon an Event of Default by Tenant shall be cumulative and in addition to any other rights or remedies otherwise available to Landlord, at law or in equity.
- 16.4 **Landlord's Lien.** As security for the performance of obligations of Tenant under this Lease, Tenant hereby grants Landlord a security interest in all of the personal property now owned or hereafter acquired by Tenant which is located on the Leased Premises, including, without limitation, goods, inventory, equipment, furniture, computers and computer equipment, and trade fixtures, and all proceeds and products thereof. Tenant shall not remove any of such personal property from the Leased Premises without Landlord's prior written consent until all of Tenant's obligations under the Lease have been satisfied in full, except in the ordinary course of Tenant's business. It is intended by the parties that this instrument shall have the effect of a security agreement and lien upon such personal property and Landlord, upon an Event of Default, may take possession of said property either for its own use or to sell the same for the best price that can be obtained at public or private sale, and out of the money arising therefrom, pay the amount due Landlord and all costs due and owing Landlord out of this Lease, paying the surplus, if any, to Tenant. Tenant hereby authorizes Landlord to file financing statements, continuation statements or other instruments relating to its security interest granted herein. Tenant agrees to execute any other instruments that might reasonably be required by Landlord to perfect, protect or continue the foregoing security interest within two (2) days after written request thereof.
- 16.5 **Bankruptcy.** Neither this Lease, nor any interest therein nor any estate hereby created shall pass to any trustee or receiver in bankruptcy, or to any other receiver or assignee for the benefit of creditors or otherwise by operation of law.
- 16.6 **Default by Landlord.** Landlord shall not be deemed to be in default in the observance or performance of any covenants, conditions, agreements or provisions of this Lease, on its part to be observed or performed, unless Landlord shall fail to remedy such default within fifteen (15) days after written notice from Tenant specifying the nature of any such default, or, if default cannot be reasonably remedied within the said fifteen (15) day period, Landlord shall not be deemed to be in default unless Landlord shall fail to initiate action to remedy such default within fifteen (15) days after such written notice and to prosecute the same to completion with due diligence.

- 16.7 **Landlord's Liability.** In the event of any default or breach by Landlord with respect to any of the terms, covenants and conditions of this Lease to be observed and/or performed by Landlord, Tenant agrees that it shall look solely, first, to any insurance coverage of Landlord, and then to the estate and property of Landlord in the Development, for the payment of money by Landlord, and no other assets of Landlord shall be subject to levy, execution or other procedures for the satisfaction of Tenant's remedies. Tenant hereby waives all rights to proceed against the assets of Landlord except as expressly set forth in this Article 16.7. In the event Landlord assigns or transfers this Lease, upon such assignment or transfer, Landlord will be released from all liability and obligations hereunder, provided that the assignee or transferee assumes the obligations of this Lease.

ARTICLE 17: SURRENDER OF LEASED PREMISES.

- 17.1 **Surrender.** On the Term Expiration Date or earlier termination of this Lease; (a) Tenant shall surrender the Leased Premises in the same condition as the Leased Premises were in on the Occupancy Date or Possession Date as may be requested by Landlord, reasonable wear and tear excepted; provided that any alterations or modifications shall be handled as set forth in Article 6.1; and (b) Tenant shall surrender all keys for the Leased Premises to Landlord at the place then fixed for the payment of rent and shall inform Landlord of all combinations on locks, safes and vaults, if any, in the Leased Premises. Provided that no Event of Default has occurred and is continuing, Tenant shall remove its trade fixtures and all improvements and alterations required to be removed by it under Article 6.1, and shall repair any damage caused thereby, before surrendering the Leased Premises. Tenant's obligation to repair damage shall survive the expiration or other termination of the Term of this Lease and Tenant's surrender of the Leased Premises.
- 17.2 **Notice and Joint Inspection.** Tenant shall notify Landlord in writing at least thirty (30) days prior to vacating the Leased Premises and shall arrange to meet with Landlord for a joint inspection of the Leased Premises prior to vacating. If Tenant fails to give such notice or to arrange for such inspection, then Landlord's inspection of the Leased Premises shall be deemed correct for the purpose of determining Tenant's responsibility for repairs and restoration of the Leased Premises.
- 17.3 **Tenant's Property.** If for any reason Landlord obtains possession of the Leased Premises, whether by expiration, surrender, termination or forfeiture, Tenant's property not previously removed shall be deemed to have been abandoned and shall become the property of Landlord and may be used or disposed of by Landlord as it sees fit. Tenant further agrees to pay to Landlord the cost of removal of any such property so abandoned by Tenant.
- 17.4 **Survival.** All obligations of Tenant hereunder not fully performed as of the expiration or earlier termination of the Term of this Lease shall survive the surrender of the Leased Premises, including, without limitation, all obligations concerning the condition and repair of the Leased Premises.

ARTICLE 18: HOLDING OVER.

- 18.1 **Holding Over with Consent.** If Tenant shall remain in possession of the Leased Premises with the consent or approval of Landlord after the expiration of either the initial Term of this Lease or any extended term, except pursuant to an exercise of an option to extend, such possession shall be as a month-to-month tenant and shall not be deemed or construed to be renewal of this Lease. During such month-to-month tenancy, (a) base rent and additional rent shall be payable at a rate equal to one hundred fifty percent (150%) multiplied by the

Base Rent and Additional Rent in effect during the last month of the preceding Term, (b) the provisions of this Lease shall be applicable, and (c) such month-to-month tenancy may be terminated by Landlord at the end of any month upon thirty (30) days prior written notice to Tenant.

- 18.2 **Holding Over Without Consent.** In the event of a holdover by Tenant without Landlord's consent or approval, (a) Tenant shall be liable to Landlord for base rent and additional rent during the unauthorized holdover period (determined on a daily basis) in an amount equal to two hundred percent (200%) multiplied by the Base Rent and Additional Rent in effect during the last month of the preceding Term, (b) Tenant shall be liable to Landlord for (i) any payment or rent concession which Landlord may be required to make to any new tenant who has signed a lease for all or any part of the Leased Premises ("New Tenant") in order to induce such New Tenant not to terminate its lease by reason of the holding over by Tenant, and (ii) the loss of the benefit of the bargain if any New Tenant shall terminate its lease by reason of the unauthorized holding over by Tenant, and (c) Tenant shall indemnify and hold harmless Landlord against all claims for damages by any such New Tenant, if any. Such unauthorized holdover shall not be construed to create any periodic tenancy rights in favor of Tenant.

ARTICLE 19: LEASES AND MORTGAGES.

- 19.1 **Subordination.** This Lease shall be subject and subordinate to all underlying leases and to mortgages which may now or hereafter affect such leases or the real property of which Development forms a part, and also to all renewals, modifications, consolidations and replacements of said underlying leases and said mortgages. Although no instrument or act on the part of Tenant shall be necessary to effectuate such subordination, Tenant shall, nevertheless, execute and deliver such further instruments affirming such subordination of this Lease as may be desired by the holders of said mortgages or by any of landlords under such underlying leases. Tenant hereby appoints Landlord attorney-in-fact, irrevocably, to execute and deliver any such instrument for Tenant.
- 19.2 **Attornment.** Without limitation of any of the provisions of this Lease, in the event, that by reason of any default on the part of Landlord, any mortgagee or its assignees shall succeed to the interests of Landlord or of any successor to Landlord, then, at the option of such mortgagee this Lease shall nevertheless continue in full force and effect and Tenant shall and does hereby agree to attorn to such mortgagee or its assigns and to recognize such mortgagee or its assigns as its Landlord. Tenant hereby constitutes and appoints Landlord or such mortgagee or their respective assigns as Tenant's attorney-in-fact to execute and deliver any such agreement of attornment for and on behalf of Tenant.
- 19.3 **Estoppel Certificates.** Tenant shall, within ten (10) days after receipt of written request from Landlord, execute, acknowledge and deliver to Landlord or to Landlord's mortgagee, proposed mortgagee, land lessor or proposed purchaser of the Development or any part thereof, any estoppel certificates requested by Landlord, from time to time, which estoppel certificates shall show whether the Lease is in full force and effect and whether any changes may have been made to the original Lease; whether the Term has commenced and full rental is accruing; whether there are any defaults by Landlord and, if so, the nature of such defaults; whether possession has been assumed and all improvements to be provided by Landlord have been completed; and whether Base Rent and/or Additional Rent has been paid more than thirty (30) days in advance and that there are no liens, charges or offsets against rental due or to become due and that the address shown on such estoppel is accurate.

- 19.4 **Restrictions of Records and Laws.** Notwithstanding anything to the contrary herein provided, this Lease is subject to utility easements, both recorded and unrecorded, all protective and restrictive covenants and all other recorded documents pertaining to or affecting the Leased Premises, the Development of which the Leased Premises are a part or the real estate upon which the Development and Leased Premises are situated. This Lease is also subject to all governmental laws, ordinances, orders, regulations, codes, directives, variances, permits and all orders, permits, rules and regulations issued by or at the direction of any such governmental agency or authority or any board or instrumentality thereof.

ARTICLE 20: NOTICES.

- 20.1 **Notices.** Any formal notice required or permitted under this Lease shall be deemed sufficiently given if said notice is (i) personally delivered; (ii) sent by registered or certified mail (return receipt requested); (iii) sent by overnight delivery through a nationally recognized overnight courier (FedEx, UPS or DHL) with signature acceptance; or (iv) sent by means of telefacsimile or telecopier, to the party to whom said notice is to be given at the notice addresses set forth in Article 1.1. Notices delivered in person or sent via telefacsimile or telecopier shall be deemed to be served effective as of the date the notice is delivered or sent, as applicable. Notices sent by overnight courier shall be deemed to be served as of the date of acceptance signature. Notices sent by registered or certified mail (return receipt requested) shall be deemed to be served seventy-two (72) hours after the date said notice is postmarked to the addressee, postage prepaid.

ARTICLE 21: MISCELLANEOUS.

- 21.1 **Interpretation.** Words of any gender used in this Lease shall be held and construed to include any other gender, and words in singular number shall be held to include the plural, unless the context otherwise requires.
- 21.2 **Benefit.** The terms, provisions and covenants contained in this Lease shall apply to, and adhere to the benefit of, and be binding upon the parties hereto and their respective permitted assigns, successors and interests, heirs and legal representatives except as otherwise herein expressly provided.
- 21.3 **Amendment.** Any modification of this Lease shall not be binding upon Landlord unless the same be made in writing and signed by an authorized representative of Landlord. Any modifications, amendments, exhibits or other documents which require Landlord to prepare, review and/or administer, after the initial execution of the Lease shall be at the cost of the Tenant in the amount of Two Hundred Fifty Dollars (\$250.00) payable to Landlord's Agent.
- 21.4 **Counterparts.** This Lease may be executed in any number of counterparts, and by Landlord and Tenant on separate counterparts, each of which, when so executed and delivered, shall be an original, but all of which shall together constitute one and the same agreement. The parties may rely on facsimile signatures in portable document format (.pdf) as if original.
- 21.5 **Severability.** Violation of any of the provisions herein contained by law, judgment or court order shall not otherwise affect any of the other provisions which shall remain in full force and effect.

- 21.6 **Waiver.** No waiver of any covenant, term, condition, rule or regulation by Landlord shall be construed as a waiver of a further breach of the same. It is agreed that each and every one of the rights, remedies and benefits provided by this Lease shall be cumulative and shall not be exclusive of any other said rights, remedies and benefits, or any rights, remedies and benefits allowed by law.
- 21.7 **Captions.** The captions are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Lease or the intent of any provision thereof.
- 21.8 **Choice of Law and Forum.** This Lease shall be governed exclusively by the terms hereof, and by the laws of the state of Kansas. Any legal proceeding relating to this Lease shall be brought exclusively in the Eighteenth Judicial District Court, Wichita, Sedgwick County, Kansas, or in the United States District Court for the District of Kansas at Wichita, Kansas, and both parties hereto consent to the jurisdiction of said courts.
- 21.9 **Waiver of Jury Trial.** Landlord and Tenant hereby waive, if permitted under applicable law, any and all right to a trial by jury in the event that summary dispossession proceedings or any other proceedings shall be instituted by Landlord or Tenant.
- 21.10 **Brokers.** Except for Landlord's agent, Occidental Brokerage, Inc., the parties agree that no discussions or negotiations were had with any other broker or agent concerning this Lease, and each agree to indemnify and hold the other harmless from and against any claim or liability for a brokerage commission, finder's fee or other compensation arising out of their respective agreements or conduct. Landlord shall solely be responsible for compensating the agents listed above in connection with this Lease per a written agreement between Landlord and the agents.
- 21.11 **Broker Disclosure.** Occidental Brokerage, Inc. hereby notifies the undersigned Tenant in writing as part of this Lease agreement as follows: (a) Occidental Brokerage, Inc. has been acting as Agent of the Landlord with the duty to represent the Landlord's interest; (b) in the absence of Tenant's representation by a real estate agent or broker, Occidental Brokerage, Inc. will transition to a Transaction Broker with the express interest of representing the transaction as defined in the BRETТА Broker Relationship Disclosure form; (c) Tenant hereby acknowledges receipt of and acceptance of the BRETТА form defining this relationship and the required disclosures contained therein; (d) Gary Oborny is a Manager or Managing Member of Landlord; (e) Gary Oborny is a licensed real estate broker in the State of Kansas; and (f) Gary Oborny is the responsible broker for Occidental Brokerage, Inc.
- 21.12 **Time of Essence.** Time is of the essence with respect to the obligations of the parties hereunder. Any payment or reimbursement required hereunder for which a payment date is not specifically stated shall be due and payable net ten (10) days of receipt.
- 21.13 **Force Majeure.** Except for any payment obligation, in the event Landlord or Tenant shall be delayed or hindered or prevented from the performance of any obligation required under this Lease by reason of strikes, lockouts, inability to procure labor or materials, failure of power, fire or other casualty, acts of God, restrictive governmental laws or regulations, riots, insurrection, war or any other reason not within the reasonable control of said party, then the performance of such obligation shall be excused for a period of such delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

- 21.14 **Memorandum of Lease.** Tenant shall not record this Lease without the written consent of Landlord; however, upon the request of either party hereto, the other party shall join in the execution of a memorandum or so-called "short form" of this Lease for the purposes of recordation. Said memorandum or short form of this Lease shall describe the parties, the Leased Premises and the Term of this Lease, and shall incorporate this Lease by reference.
- 21.15 **Accord and Satisfaction.** No payment by Tenant or receipt by Landlord of a lesser amount than the Base Rent or Additional Rent stipulated herein shall be deemed to be other than on account of the earliest stipulated Base Rent or Additional Rent, nor shall any endorsement or statement on any check, or any letter which accompanies any check, or payment as rent be deemed an accord and satisfaction, and Landlord may accept such rent payment without waiving any of Landlord's rights under this Lease.
- 21.16 **Consents and Approvals.** Unless otherwise stated herein, any consents or approvals of the Landlord required hereunder shall be given or withheld in Landlord's sole discretion.
- 21.17 **Construction.** The parties acknowledge that each party and their counsel have had the opportunity to review and negotiate the terms and conditions of this Lease, and that the normal rule of construction to the effect that any ambiguities are to be construed against the drafting party shall not be employed.
- 21.18 **No Partnership.** Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating a relationship between the parties hereto other than the relationship of landlord and tenant.
- 21.19 **Entire Agreement.** This Lease constitutes the entire agreement between the parties. There are no verbal understandings, agreements, representations or warranties between the parties which are not expressly set forth herein. This Lease supersedes all prior agreements and understandings between the parties, both written and oral. Each party to this Lease hereby acknowledges and agrees that the other party has made no warranties, representations, covenants, or agreements, expressed or implied, to such party other than those expressly set forth herein and that each party, in entering into and executing this Lease, has relied upon no warranties, representations, covenants or agreements, expressed or implied, to such party other than those expressly set forth herein.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Lease on the date first above written.

DOUGLAS, LLC

By _____
Gary L. Oborny, Manager

("Landlord")

FARTLEKS LLC

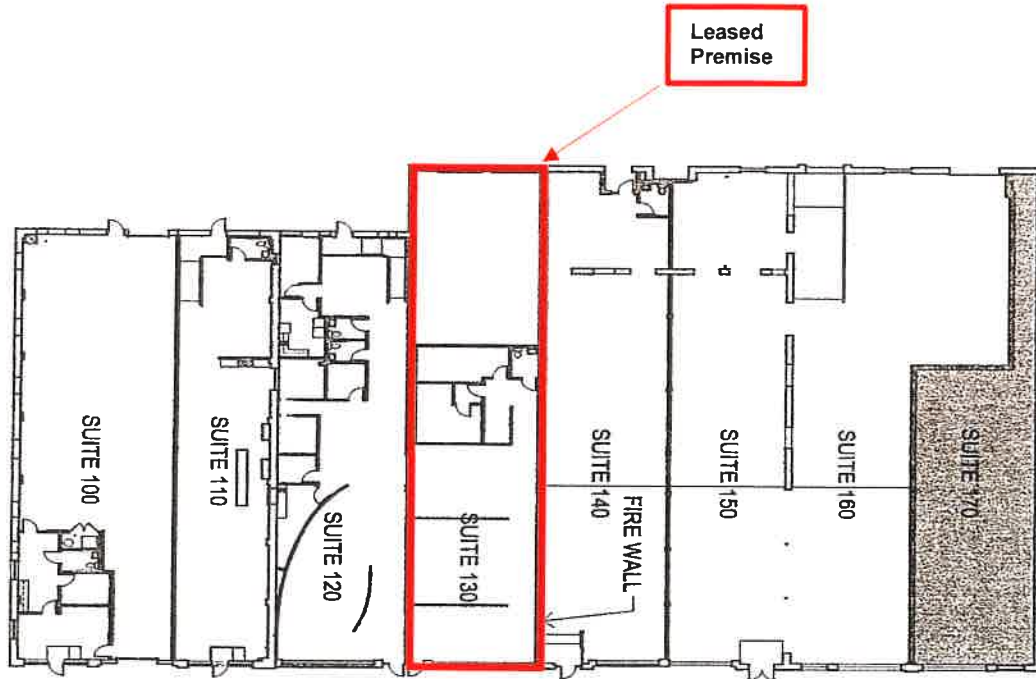
By  _____
Andrew Schinstock, Manager

("Tenant")

EXHIBIT "A"

Leased Premises and Development

Appendix A-1: Depiction of Leased Premises



Appendix A-2: Depiction of Development and Parking Plan

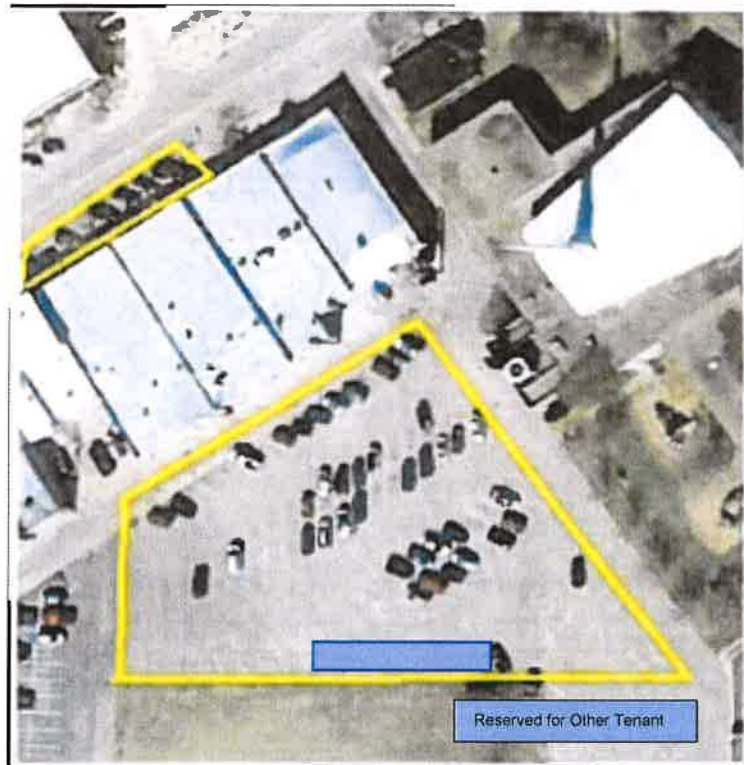


EXHIBIT "B"

Tenant Improvement Requirements and Landlord's Work

A. **TENANT IMPROVEMENT REQUIREMENTS.**

1. **Landlord's Review and Approval.** Tenant shall provide the following documents to the Landlord's Agent for review and approval, prior to any Tenant Improvements of the Leased Premises:

- (A) Contract Documents (plans and specifications).
- (B) Finish selections, color boards and samples.
- (C) Copy of the Building Permit.
- (D) Copy of Contract between Tenant and their Tenant Improvement general contractor.
- (E) General contractor's Certificate of Insurance.
- (F) Copy of the general contractors Safety Program and hot work permit procedures.
- (G) List of Subcontractors with their contact information.
- (H) Construction Schedule.

Landlord's and Landlord Agent's review and approval of Tenant's plans, specifications, architectural/engineering drawings and other documents ("Tenant Improvement Documents") shall not be deemed a representation of its compliance with laws, codes and other legal requirements.

2. **Minimum Tenant Improvement Work and Design Standards.**

The following minimum Tenant improvement and designed standards shall apply to all Tenant Improvements (deviations must be approved by Landlord):

- (A) Lobby:
 - Ceramic/porcelain/stone tile, LVT (luxury vinyl tile), or Carpet floor.
 - Wood or tile base in public areas.
 - Solid surface or hard surface (stone) counter tops to be utilized in public areas
- (B) Offices:
 - Carpet floor.
 - Vinyl or wood base (Vinyl base is standard at service/non-public areas)
 - Any vinyl base must be non-segmented. All corners to be scribed
- (C) Work Service Areas (Break Rooms, Work/Copy Rooms):
 - Laminate countertops and cabinets.
- (D) Mechanical, Electrical, Storage, Janitor, Elevator Equipment:
 - Clear sealed concrete, VCT or epoxy floors.
 - Any floors to remain as exposed sealed concrete or polished concrete are to have all concrete joints caulked
- (E) Restrooms:
 - Ceramic/porcelain/stone tile or LVT (Luxury Vinyl Tile) at floors.
 - Minimum 5'-0" wainscot ceramic/porcelain/stone tile walls.
 - Vanity sink with stone or solid surface countertop.
 - Partitions are built-in, laminate or stainless steel textured.
- (F) Paint and wall coverings:
 - All wall finishes to be vinyl wall coverings or primer with 2 coats of paint.
 - Wall and ceiling mounted conduits that remain visible shall be painted the same color as the backdropped wall or ceiling.
 - All wall penetrations shall be fully caulked/ sealed

- (G) Flooring:
- All Floor Coverings and base (meeting class A office and commercial standards. Base to be tile or wood in public areas).
 - Tenant to provide all floor prep and leveling required for installation of flooring, including any required patching, floor filler, sanding, crack membrane, bridging compound over joints/cracks, etc. to provide a proper installed floor system.
 - Rubber transition strips are acceptable between concrete and LVT, VCT, carpet.
 - Transitions between tile and carpet shall be aligned with Schluter metal trim or approved equal.
 -
- (H) Walls:
- All interior walls and partitions extending up to structure must utilize deep leg deflection/slip track.
 - Drywall to be scribed and caulked at roof deck and steel structures.
 - All penetrations to be fully sealed/caulked.
 - All demising wall drywall work with an average Sound Transmission Class rating of 45.
- (I) Doors:
- Doors to be wood doors in public areas
 - All door hardware and locks to be commercial grade.
- (J) Ceilings:
- 2x2 textured regular tile (Armstrong Dune or equal) and/or painted gypsum board.
- (K) Fire protection:
- Distribution and sprinkler heads, to meet applicable fire code.
 - Sprinkler heads must be concealed type heads.
- (L) Fire Alarm:
- As required by applicable code.
- (M) HVAC
- All ductwork from main duct drop, including temperature control boxes, electrical wiring, diffusers, thermostats, control devices, energy saving devices, etc. and any additional units or tonnage above the standard Landlord's work.
 - (Tenant is responsible to hire a licensed engineer to design a proper performing HVAC system for the intended use of the Tenant's space and confirm Landlord provided HVAC equipment is adequate for the design. Any required additional HVAC equipment to meet this design is to be provided by the Tenant. Tenant is responsible to hire a Test and Balance company to insure the HVAC system has been installed, commissioned and is operating per design).
- (N) Electrical:
- Electrical service – electrical distribution panel(s); lighting fixtures, wiring, switches, convenience outlets, outlets for special equipment and conduit / conductors from the meter to the Tenant's electrical service-panel.
- (O) Lighting:
- LED or fluorescent lamps only.
 - No acrylic lenses at recessed troffer fixtures.
 - Utility lights must have a cover at finished spaces.
- (P) Telephone and Data:
- Extension from telephone equipment room, including all conduit, wiring and outlets,

and phone/data equipment.

- (Q) Security System
 - Per Tenant's requirement.
- (R) Millwork:
 - Commercial grade casework to be utilized
 - solid surface or hard surface counter tops to be utilized in public areas
- (S) Window Coverings.
 - Per Tenant's requirement Commercial grade roll shades to be utilized (no mini blinds allowed)
- (T) Roof Penetrations
 - Water tight by the Landlord's roofing contractor to insure all roofing warranties are upheld and compliant.
- (U) In-line water meter
 - Mechanical Meter (5/8x3/4 Hersey 45211S) or
 - Mechanical Meter with Remote Reader
 - (5/8x3/4 Hersey 45211S with Translator Encoder Register and 6 Wheel Absolute Encoder) in addition to TRuRead Remote Display (Part Number C6551G)
- (V) Tenant shall not design or construct any exterior mounted utilities (gas pipe, electrical conduit, etc.) on the Development without written approval of the Landlord. In the event the Tenant installs same without written approval it will be the sole cost of the Tenant to remove and reinstall per approved routing plan.
- (W) All Tenant installed systems are to be integrated into the existing building's HVAC controls, electrical metering, security systems, building management systems, lighting controls, fire alarm, etc. Tenant's design team is to investigate and fully understand all existing systems and provide design accordingly.

If Tenant improvements include demising an existing space, the Tenant's design is required to incorporate all necessary work in the remaining adjacent space for an "as-was" functioning space. Drywall, painting, ceiling repair, restrooms and plumbing, HVAC duct work and controls separation, electrical service separation, so that a complete leasable space is available.

3. **Tenant Improvement Supervision.** Tenant's general contractor shall have at a minimum, one full time supervisor (superintendent / foreman) dedicated to this project who will be on the project at all times that work is being performing on the project. (More than one supervisor may be required.) Contractor's supervisor must:
- Be a direct employee of the contractor.
 - Attend all coordination meetings.
 - Ensure work is per the contract documents, this agreement and per the project schedule.
 - Have the authority to represent and act on behalf of the contractor regarding safety/projection/quality and other matters pertaining to the work.
 - For communication and safety reasons the contractor's supervisor must be fluent in the English language.

Contractor shall replace its supervisor (superintendent / foreman) within 48 hours of written notice from the Landlord or Landlord's Agent that its current supervisor does not meet the above requirements.

4. **Landlord Inspections.** Tenant's general contractor shall schedule with Landlord's Agent (Construction Services Department) the following inspections during and after construction:

- Framing and in-wall rough-in.
- Above ceiling / overhead rough-in.
- Final completion / punch list walk with Tenant and Tenant's architect*.

Tenant's general contractor is required to make all corrections per the Landlord inspections to meet the Lease and approved design requirements in a timely matter to not delay the project schedule.

(*regarding punch list inspections, the architect and Landlord will provide an initial punch list inspection, corrective work verification/final inspection. Additional inspections required by the Landlord's architect and/or the Landlord due to corrective work not being completed by the final inspection will be assessed a charge of \$500.00 per inspection.)

Tenant and Tenant's general contractor must notify the Landlord immediately of any governing authority inspection failures and provide proof of correction, reinspection and approval.

5. **Close-Out Documents.** Tenant shall provide the following documents to Landlord and Landlord's Agent prior to occupying the Leased Premises:
 - Record Drawings / contract documents (to include all As-built information, addendums, Requests for Information, changes, etc.)
 - As-built plans verified by Tenant's architect, verifying the dimensions and layout of the constructed space, including the calculated constructed Usable Square Footage and Rentable Square Footage, described in the Lease, on the front cover of the As-built plans.
 - Irrigation system As-built plans (if applicable).
 - Operating & Maintenance manuals.
 - Copy of general contractor's letter of one (1) year warranty.
 - Copy of all material and extended warranties.
 - Copy of all HVAC Test and Balance reports.
 - Substantial completion form from Tenant's architect with completed punch list items completed and signed off by Tenant's architect and Landlord or Landlord's Agent*.
 - Copies of all Temporary Certificates of Occupancy and the Final Certificate of Occupancy.
 - Copies of the Tenant's general contractor and all subcontractors' final lien releases for the project.

The above items shall be provided on CD w/ PDFs of all documents and CAD files of the record drawings.

6. **Special Conditions.**
 - (A) Occupancy permit and approved architectural drawings (stamped by a Kansas licensed architect) is a Tenant cost.
 - (B) The Tenant's contractor shall provide the Tenant and Landlord a warranty for all work for the Tenant improvements extending one (1) year from final completion.
 - (C) Tenant is required to incorporate the requirements of Exhibit "B" and the Contractor Requirements set forth on Appendix B-1 into the contract between Tenant and their Tenant Improvement general contractor.
 - (D) Tenant and Tenant's general contractor are required to attend a preconstruction meeting with Landlord's Agent (Construction Services Dept.) prior to start of any construction.

B. LANDLORD'S WORK

1. NONE.

APPENDIX B-1

CONTRACTOR STANDARDS

The Landlord and Landlord's Agent have adopted a policy of requiring all contractors retained to perform work on behalf of the Landlord, or to perform work on property owned by the Landlord, to submit a certificate evidencing insurance coverage and limits in accordance with our requirements listed below. An acceptable certificate of insurance and must be submitted prior to performing any work.

Tenant's contractor shall maintain in force at its own expense, the following insurance coverage from companies acceptable to Landlord, at all times while performing work on behalf of Landlord or on property owned by Landlord.

<u>Coverage Type</u>	<u>Coverage Amount</u>
Worker's Compensation	Statutory
Employer's Liability	\$1,000,000 (bodily injury - each accident)
	\$1,000,000 (disease-each employee)
	\$1,000,000 (disease-policy aggregate)
General Liability General Aggregate	\$2,000,000
	Completed Operations \$2,000,000
	Personal Injury \$1,000,000
	Each Occurrence \$1,000,000
Builder's Risk:	Tenants General Contractor will provide the comprehensive Builder's Risk Insurance for the Project
Auto Liability	\$1,000,000 Combined Single Limit
Umbrella/Excess Liability	\$4,000,000 General Aggregate

If the Contractor's work requires design services including, but not limited to, the preparation of design, drawings or specifications, Contractor shall also provide professional liability errors and omissions insurance covering such design services. Coverage shall be a minimum of \$1,000,000 per occurrence.

Workers' Compensation Insurance in full compliance with the laws of the state or states in which work is performed to include Employer's Liability insurance with minimum limits as noted above which may be outside the scope of the workers' compensation statute of the state in which the work is performed.

Comprehensive General Liability Insurance covering premises operations, completed operations and products liability, blanket contractual liability, independent contractor's liability, broad form property damage endorsement, personal injury liability, and explosion (X), collapse (C), and underground (U) hazards, policy limits shall not be as noted above.

Comprehensive Automobile Liability Insurance covering owned, non-owned and hired automotive equipment with limits as noted above.

Umbrella/Excess Liability Insurance to apply in excess of the primary policies described above.

All policies carried by contractor must provide for a thirty (30) days' notice to Landlord prior to cancellation and waiver of the underwriter's right of subrogation against Landlord. Landlord shall be named as an additional insured under contractor's comprehensive general liability and umbrella/excess policies.

Contractor shall be responsible at all times for damage to or destruction of contractor's equipment and material. Landlord does not assume any risk of loss to property of contractor.

Contractor covenants and agrees to fully defend, protect, indemnify and hold Landlord, its employees and agents, harmless from and against any and all claims, demands, liabilities, costs or expenses (including reasonable attorneys' fees) which may be made or asserted by any person or entity arising out of performance of work on property owned by Landlord by contractor, its agents and employees.

Contractor must be able to post a Performance and Payment Bond for the amount of the Tenant Improvement contract.

EXHIBIT "C"

Sign Criteria

Tenant will be allowed the following types of signs:

1. Tenant has the right to have the name or trade name of Tenant or its affiliates listed in the following locations:
 - A. An exterior sign on the Leased Premises.
 - B. A panel on the monument or pylon sign for the Development (if applicable).
 - C. A sign in the elevator lobby and on the floor of the Leased Premises (if applicable).
2. All signs, other than the monument or pylon sign, will be installed and maintained by Tenant at Tenant's cost.
3. All signs shall be designed and built by qualified sign contractors and no sign manufacturer's name, label or other lettering shall be visible on any sign letters.
4. All signs shall be in accordance with all local laws, codes and regulations.
5. Complete detailed sign design drawings indicating the size, design, colors, materials, specific location in Tenant's storefront, type of construction, method of mounting and source of illumination shall be submitted to Landlord for approval.
6. The size, color, materials, specific location, content, type of construction, method of mounting and illumination of each sign shall be subject to the approval of the Landlord, which approval, if within the standards herein set forth, shall not be unreasonably withheld. Said approval must be in writing and received by Tenant before requesting a permit from the City, fabrication or installation of any signs or storefronts. Signs, storefronts, or their components which are installed without first receiving said approval, or which are not in accordance with said approval, shall be promptly removed from the Leased Premises at by Tenant at its cost following notice from Landlord.
7. All approved signs shall be removed by Tenant at Tenant's cost upon vacating the Leased Premises and any damage caused by such removal shall be promptly repaired, including painting the fascia the appropriate color of existing fascia.
8. Signs will be kept in a neat and clean condition at all times. Signs are required to be repaired within five (5) business days from time of sign failure. Signs not repaired within five (5) business days will be repaired by the Landlord and invoiced to the Tenant for payment upon receipt.

EXHIBIT "D"

Rules and Regulations

1. All loading and unloading of goods shall be done only at such times, in the areas, and through the entrances designated for such purposes by Landlord.
2. Tenant and all employees shall utilize parking areas designated for "Tenant and Employee Parking" only, leaving areas designated as "Customer and Client Parking" available for customers, clients and invitees of the Development. See Appendix A-2 of Exhibit "A".
3. The delivery and shipping of merchandise, supplies and fixtures to and from the Leased Premises shall be subject to such rules and regulations as in the judgment of Landlord are necessary for the proper operation of the Leased Premises or Development.
4. All garbage and refuse shall be kept in the kind of container specified by Landlord. Any trash removed from Tenant's interior space must be placed in a trash receptacle immediately. No trash will be allowed to collect in back of the Leased Premises. If Landlord shall provide or designate a service for picking up refuse and garbage, Tenant shall use the same at Tenant's cost. Tenant shall pay the cost of removal of any of Tenant's refuse or rubbish.
5. No radio or television or other similar device shall be installed without first obtaining in each instance Landlord's consent in writing. No aerial shall be erected on the roof or exterior walls of the Leased Premises or on the grounds, without in each instance, the written consent of the Landlord. Any aerial so installed without such written consent shall be subject to removal without notice at any time.
6. No loud speakers, televisions, phonographs, radios or other devices shall be used in a manner so as to be heard outside of the Leased Premises without the prior written consent of Landlord.
7. The plumbing facilities shall not be used for any other purpose than that for which they are constructed, and no foreign substance of any kind shall be thrown therein, and the expense of any breakage, stoppage or damage resulting from a violation of this provision shall be borne by Tenant who shall, or whose employees, agents, or invitees shall, have caused it.
8. Tenant shall not burn any trash or garbage of any kind in or about the Leased Premises, the Development, or within one mile of the outside property lines of the Development.
9. Tenant shall not smoke within the Leased Premises or in any building in the Development. The non-smoking policy applies to all Tenants, as well as all Tenant's employees and guests. Tenants, employees or guest who smoke are requested to smoke in designated smoking areas in the Development and utilize cigarette refuse containers.
10. Tenant shall not make noises, cause disturbances, or create odors, which may be offensive to other tenants of the Development or their officers, employees, agents, servants, customers or invitees.
11. If Tenant desires telegraphic or telephonic connections, Landlord will direct the electricians as to where the wires are to be introduced, and without such direction boring or cutting for wires shall not be permitted.
12. No room or rooms shall be occupied or used as sleeping or lodging apartments.
13. Tenant shall when leaving the Leased Premises at close of business, or unoccupied at any time, lock doors and for any default or carelessness in this respect shall make good all injury sustained by other tenants and by the Landlord or by either of them, for damages resulting from such default or carelessness.

14. No animal or bird shall be allowed in any part of the Leased Premises without the consent of Landlord.
15. Landlord reserves the right to exclude from the Development all drunken persons, idlers, peddlers, solicitors and generally persons of a character or conduct to create disturbances and persons entering in crowds of such unusual numbers as to cause inconvenience to the tenants of the Development.
16. Landlord reserves the right to change these rules and to make such other and further reasonable rules and regulations either as it affects one or all tenants as in its judgment may from time to time be needed for the safety, care and cleanliness of the Leased Premises, or for the preservation of good order therein or for any other cause, and when said changes are made, such modified or new rules shall be deemed a part hereof, with the same effect as if written herein, when a copy shall have been delivered to the Tenant or left with some person in charge of the Leased Premises.

EXHIBIT "E"

GUARANTY OF LEASE

THIS GUARANTY OF LEASE (this "**Guaranty**") is made and entered into on this 25th day of January, 2022, and given by Andrew Schinstock, an individual ("**Guarantor**"), in favor of Douglas, LLC, a Kansas limited liability company ("**Landlord**").

WHEREAS, Fartleks LLC ("**Tenant**") and Landlord executed that certain Commercial Lease Agreement, dated January 25, 2022 (the "**Lease**"), the terms and conditions of which Lease are hereby incorporated by reference, for certain Leased Premises located at 535 W. Douglas, Suite 130, Wichita, KS 67213; and

WHEREAS, Landlord requires as a condition to its execution of the Lease that Guarantor guarantee the performance and obligations of Tenant under the Lease; and

WHEREAS, Guarantor desires to have Landlord and Tenant enter into the Lease and therefore desires to guaranty Tenant's performance under the Lease as hereinafter provided.

NOW, THEREFORE, in consideration of, and as an inducement for the granting, execution and delivery of the Lease, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor hereby covenants as follows:

1. Guaranty. Guarantor unconditionally and irrevocably guarantees to Landlord the full, faithful and prompt performance of all obligations imposed on Tenant by the terms of the Lease, including, but not limited to: (a) the payment of any and all Base Rent and Additional Rent payable by Tenant under the Lease ("**Rent**"), and (b) the performance and observance of all the covenants, terms, conditions and agreements of the Lease to be performed and observed by Tenant. Guarantor does hereby become surety to Landlord for and with respect to all of the aforesaid obligations of Tenant under the Lease.
2. Covenants. If Tenant defaults in the payment of any Rent payable by Tenant under the Lease or in the performance of any of the covenants, terms, conditions and agreements contained in the Lease, upon written demand, Guarantor will immediately: (a) pay such Rent to Landlord and any arrears thereof; (b) faithfully perform and fulfill all of such covenants, terms, conditions and agreements; and (c) pay the Landlord all damages, costs and expenses that may arise in consequence of any default by Tenant under Lease (including, without limitation, all reasonable attorneys' fees incurred by Landlord or caused by any such default and/or by the enforcement of this Guaranty). This Guaranty is a primary, absolute, continuing and unconditional guaranty of payment and of performance and not of mere collection. Guarantor's liability hereunder is direct and may be enforced without Landlord being required to resort to any other right, remedy or security against the Tenant. The validity of this Guaranty and the obligations of Guarantor hereunder shall not be terminated, affected or impaired by reason of the assertion or the failure to assert by Landlord against Tenant of any of the rights or remedies reserved to Landlord pursuant to the provisions of the Lease.
3. No Release. This Guaranty shall remain in full force and effect without regard to, and shall not be released, discharged or in any way impaired by: (a) any amendment or modification of, or supplement to, or extension or renewal (pursuant to an option granted, holding over, or otherwise) of the Lease (whether material or otherwise) or any assignment or transfer thereof (all of which Guarantor hereby consents to); (b) any exercise or non-exercise of any right, power, remedy or privilege under or in respect of the Lease or this Guaranty or any waiver, consent or approval by Landlord with respect to any of the covenants, terms, conditions or agreements contained in the Lease or any indulgences, forbearance or extensions of time for performance or observance allowed to Tenant from time to time and for any length of time; or (c) the voluntary or involuntary liquidation or dissolution of Tenant, the sale of substantially all of the assets of Tenant, the marshaling of assets on liabilities, receiverships, conservatorship, insolvency, bankruptcy,

assignment for the benefit of creditors, reorganizations, arrangement, composition or readjustment of, or other similar proceeding affecting Tenant or any of Tenant's assets.

4. Rejection of Lease. This Guaranty will continue unchanged by any bankruptcy, reorganization or insolvency of Tenant or any successor or assignee thereof, or by a disaffirmance or abandonment by a trustee of Tenant. If the Lease is rejected or disaffirmed by Tenant or Tenant's trustee in bankruptcy pursuant to any bankruptcy law or any other law affecting creditor's rights, then Guarantor shall, and does hereby (without the necessity of any further agreement or act) assume all obligations and liabilities of Tenant under the Lease to the same extent as if: (a) Guarantor were originally named Tenant under the Lease; and (b) there had been no such rejection or disaffirmance. Guarantor shall, upon Landlord's request, promptly confirm in writing such assumption.
5. Waiver. Guarantor has been advised of and hereby waives and agrees not to assert or take advantage of any of the following rights: (a) notice of any kind, including, but not limited to, notice of acceptance, notice of default and/or notice of any obligations or liabilities contracted or incurred by Tenant; (b) any defense that may arise by reason of the incapacity, lack of authority, death or disability of any other person or persons under the Lease (c) any defense based upon an election of remedies by Landlord; and (d) any invalidity, irregularity or unenforceability, in whole or in part, of any one or more provisions of the Lease.
6. Joint and Several Liability.
 - (A) Guarantor's liability shall be primary and joint and several with that of Tenant, notwithstanding the fact that Guarantor has had no prior notice of any default or of any forbearance or extension.
 - (B) If there is more than one Guarantor, the liability of the multiple guarantors hereunder shall be joint and several.
7. Assignment by Landlord. Landlord may, without notice, assign this Guaranty in whole or in part and no assignment or transfer of the Lease shall operate to extinguish or diminish the liability of the Guarantor hereunder.
8. Representations, Warranties and Covenants. Guarantor hereby represents, warrants and covenants to Landlord as follows:
 - (A) Financial Statements. The financial statements of Guarantor provided to Landlord are true and correct and fairly present financial condition of Guarantor as of the dates indicated and there has occurred no material adverse change in the financial condition of Guarantor since the date of such financial statements.
 - (B) Proceedings. There is no action, suit, litigation or proceeding pending or, to the knowledge of Guarantor, threatened against the Tenant or Guarantor that could reasonably be expected to have a material adverse effect on the financial condition of Guarantor or its ability to execute or deliver, or perform its obligations under this Guaranty.
9. Notice. Any formal notice required or permitted under this Guaranty shall be deemed sufficiently given if said notice is (i) personally delivered; (ii) sent by registered or certified mail (return receipt requested); or (iii) sent by overnight delivery through a nationally recognized overnight courier (FedEx, UPS or DHL) with signature acceptance, to the party to whom said notice is to be given at the notice addresses set forth on the signature page below. Notices delivered in person shall be deemed to be served effective as of the date the notice is delivered or sent, as applicable. Notices sent by overnight courier shall be deemed to be served as of the date of acceptance signature. Notices sent by registered or certified mail (return receipt requested) shall be deemed to be served seventy-two (72) hours after the date said notice is postmarked to the addressee, postage prepaid.

10. Miscellaneous

- (A) No Subrogation. Notwithstanding the satisfaction by Guarantor of any liability hereunder, Guarantor's rights of subrogation, contribution, reimbursement or indemnity, if any, or any right of recourse to or with respect to the assets or property of Tenant or any other guarantor, shall be subject and subordinate to the rights of Landlord. Guarantor expressly agrees not to exercise any and all rights of subrogation against Landlord.
- (B) No Waiver. The failure of Landlord to enforce any of the respective rights or remedies hereunder, or to promptly enforce any such rights or remedies, shall not constitute a waiver thereof nor give rise to any estoppel against Landlord nor excuse any of the parties hereto from their respective obligations hereunder. Any waiver of such right or remedy must be in writing and signed by the party to be bound and must expressly state that such right or remedy has been or thereby is waived.
- (C) Successors and Assigns. This Guaranty shall be legally binding upon Guarantor and his or her successors, personal representatives, heirs and permitted assigns.
- (D) Governing Law and Forum. This Guaranty shall be governed exclusively by the terms hereof, and by the laws of the state of Kansas. Any legal proceeding relating to this Lease shall be brought exclusively in the Eighteenth Judicial District Court, Wichita, Sedgwick County, Kansas, or in the United States District Court for the District of Kansas at Wichita, Kansas, and both parties hereto consent to the jurisdiction of said courts.
- (E) Waiver of Jury Trial. To the extent allowed by applicable law, Guarantor and Landlord hereby knowingly, voluntarily and intentionally waive the right either of them or their heirs, personal representatives, successors or assigns may have to a trial by jury in respect to any litigation arising out of, under or in connection with this Guaranty.
- (F) Invalidity. The invalidity or unenforceability of any term herein shall not affect the validity or enforceability of any other term.
- (G) Terms. All capitalized terms used but not defined herein shall have the meaning designated to them in the Lease unless otherwise set forth herein.
- (H) Survival. This Agreement shall be deemed to be continuing in nature and shall remain in full force and effect and shall survive the exercise of any remedy by Landlord under the Lease.
- (I) Amendment. Any amendments or modifications to this Guaranty, in order to be effective, shall be in writing and executed by Landlord and Guarantor.
- (J) Severability. A determination that any provision of this Guaranty is unenforceable or invalid shall not affect the enforceability or validity of any other provision.
- (K) Captions for Convenience. The captions and headings of the section and paragraphs of this Guaranty are for the convenience of reference only and shall not be construed in interpreting the provisions hereof.
- (L) Interpretation. Words of any gender used in this Guaranty shall be held and construed to include any other gender, and words in singular number shall be held to include the plural, unless the context otherwise requires. The parties acknowledge that each party and their counsel have had the opportunity to review and negotiate the terms and conditions of this Lease, and that the normal rule of construction to the effect that any ambiguities are to be construed against the drafting party shall not be employed.

- (M) Entire Agreement. This Guaranty constitutes the entire agreement between the parties. There are no verbal understandings, agreements, representations or warranties between the parties which are not expressly set forth herein. This Guaranty supersedes all prior agreements and understandings between the parties, both written and oral.

IN WITNESS WHEREOF, the parties hereto have executed this Guaranty on the date first above written.

Guarantor:



Andrew Schinstock, individually

Notice Address:

10933 W. Waterside Ct.
Maize, KS 67101

Landlord:

Douglas, LLC

By: _____
Gary L. Oborny, Manager

Notice Address:

c/o Occidental Management, Inc.
Attn: President and General Counsel
8111 E. 32nd St. N., Suite 101
Wichita, KS 67226