

# COMMERCIAL LEASE AGREEMENT

THIS COMMERCIAL LEASE AGREEMENT (the "Lease") is made between City of Pflugerville, a political subdivision of the State of Texas, hereafter called "Lessor", and \_\_\_\_\_, hereafter called "Lessee".

The parties agree as follows:

**AGREEMENT TO LEASE AND DESCRIPTION OF THE PROPERTY.** The Lessor leases to the Lessee, and the Lessee rents from the Lessor, the following described commercial property: That certain property designated as 101 E. Pecan Street, Pflugerville, Texas 78660 and is further depicted by the floor layout image set out in Exhibit "A", which is attached hereto and incorporated herein (the "Leased Premises").

## 1. TERMS OF LEASE.

A. **Term.** The term of this Lease shall be a period of **Six (6) months**, commencing on **December 20, 2024** ("Commencement Date"), and ending at midnight on **June 20, 2025** (the "Term").

B. **Extension Term.** There will be **no** extension term on this Lease. The total term of this Lease shall not exceed a maximum period of **Six (6) months**.

## 2. RENT.

A. **Rent.** In advance on the First (1st) day of each calendar month, beginning on the Commencement Date, Lessee agrees to pay, without demand, deduction or offset, to Lessor **\$1,500.00** as rent for the Leased Premises, plus **\$1,692** as additional rent for Lessee's One-Twelfth (1/12) payment of the estimated annual real property taxes for the Leased Premises. Payment of said amounts shall be made to City of Pflugerville, Texas in care of: City of Pflugerville, Attn: Accounts Payable, P.O. Box 589, Pflugerville, Texas 78691 or such other place as Lessor may designate in writing.

B. **Untimely or Insufficient Payment of Rent.** If Lessee fails to timely pay any month's rent, Lessee will pay Lessor an initial late charge of FIFTY DOLLARS (\$50.00), plus additional late charges of TEN DOLLARS (\$10.00) per day thereafter until rent is paid in full. Time is of the essence for the payment of rent. **Lessee hereby acknowledges that strict compliance with rental due dates is required and that there is no grace period pertaining to the payment of rent.** Any waiver of late charges or failure to collect late charges under this paragraph will not affect or diminish any other right or remedy Lessor may exercise, at law or in equity, for Lessee's failure to timely pay rent (including but not limited to reporting late payments to consumer reporting agencies).

Lessee further agrees to pay Lessor TWENTY FIVE DOLLARS (\$25.00) for each check Lessee tenders to Lessor which is returned by the institution on which it is drawn for

any reason, plus initial and additional late charges until Lessor has received payment in full. Lessor may, upon written notice to Lessee, require Lessee to pay all rents by money order, cashier's check, certified funds, or other means acceptable to Lessor.

**3. SECURITY DEPOSIT. Upon execution of this Lease, Lessee will deposit with Lessor an amount equal to one full monthly rental amount for a security deposit.** The security deposit shall be held by Lessor for the performance of Lessee's covenants and obligations under this Lease, it being expressly understood that the security deposit shall not be considered an advance payment of rental or a measure of Lessor's damage in case of default by Lessee. Upon the occurrence of any event of default by Lessee or breach by Lessee of Lessee's covenants under this Lease, Lessor may, from time to time, without prejudice to any other remedy, use the security deposit to the extent necessary to make good any arrears of rent or taxes, or to repair any damage or injury, or pay any expense or liability incurred by Lessor as a result of the event of default or breach of covenant, and any remaining balance of the security deposit shall be returned by Lessor to Lessee upon termination of this Lease. If any portion of the security deposit is so used or applied, Lessee shall upon ten (10) days written notice from Lessor, deposit with Lessor by cash or cashier's check an amount sufficient to restore the security deposit to its original amount.

**4. TAXES.**

**A. Personal Property Taxes.** Lessee agrees to pay any taxes levied against the personal property and trade fixtures of the Lessee in and about the Leased Premises, provided, however, that if any such taxes of Lessee are levied against Lessor or Lessor's property or if the assessed value of Lessor's property is increased by the inclusion of the value placed on Lessee's property and Lessor pays those taxes, Lessee, on demand, shall reimburse Lessor for all taxes actually paid on Lessee's behalf.

**B. Real Property Tax Reimbursement:** Lessee agrees to pay all taxes, assessments and governmental charges of any kind and nature whatsoever (hereinafter collectively referred to as the "Taxes"), levied or assessed against the Leased Premises. Included also shall be Lessee's share of all costs in contesting, rendering and otherwise adjusting the Taxes.

- 1. Payment of Taxes to Lessor:** On the First (1<sup>st</sup>) day of each month during the Term and any Extension Term, Lessee shall pay to Lessor, as additional rent, without offset or deduction, an amount equal to one-twelfth (1/12) of the estimated Taxes as calculated by Lessor (prorated for any partial month). The estimated one-twelfth (1/12) monthly Tax payment for the first year of the Term is set forth above in Section 2 (A.).
- 2. Tax Statement; Deficiency or Offset of Tax Costs:** On or before January 31<sup>st</sup> of the Term or any Extension Term of the Lease, Lessor shall furnish to Lessee a tax statement showing the total actual Tax costs for such Lease term and the total amount of Tax payments made by Lessee during such Lease term.

- a. If Lessee's actual Tax costs exceeds the aggregate of Lessee's monthly payments made during the current year, Lessee shall pay Lessor the deficiency within thirty (30) days after receipt of the statement.
  - b. If Lessee's monthly payments exceed Lessee's actual Tax costs as shown on the statement, Lessee shall be entitled to offset the excess against payments thereafter becoming due for Lessee's actual Tax costs.
  - c. Lessee's rent payment shall be adjusted in the event the Taxes increase or decrease thereby causing the Lessee's actual Tax costs to change. Lessor will notify Lessee of any rent adjustment in the tax statement that is sent to Lessee on or before January 31<sup>st</sup>.
3. **Remedy for Non-Payment:** If Lessee should fail to pay any Taxes, assessments, or governmental charges required to be paid by Lessee hereunder, in addition to any other remedies provided herein, Lessor may, if Lessor so elects, pay such Taxes, assessments and governmental charges. Any sums so paid by Lessor shall be deemed to be so much additional rental owing by Lessee to Lessor and due and payable upon demand as additional rental plus interest at the maximum rate of interest allowed by law from the date of payment by Lessor until repaid by Lessee. Any and all remedies that are set out herein for the late payment of rents may also be exercised by Lessor in relation to late payments of any Taxes, assessments, or governmental charges required to be paid by Lessee hereunder.
4. **Adjustment to Taxes; Contest of Taxes:**
  - (i) Lessee may, at its or their sole cost and expense, in its own name(s) and/or in the name of Lessor, dispute and contest the Taxes by appropriate proceedings diligently conducted in good faith but only after Lessee, joining with Lessee in such contest have deposited with the Lessor the amount so contested and unpaid, which shall be held by Lessor without obligation for interest until the termination of the proceedings, at which times the amount(s) deposited shall be applied by Lessor toward the payment of the items held valid (plus any court costs, interest, penalties and other liabilities associated with the proceedings), and Lessee's share of the excess shall be returned to Lessee. Lessee further agrees to pay to Lessor upon demand Lessee's share (as among all lessees who participated in the contest) of all court costs, interests, penalties and other liabilities relating to such proceedings.
  - (ii) Any payment to be made pursuant to this section with respect to the real estate tax year in which this Lease commences or terminates shall bear the same ratio to the payment which would be required to be made for the full tax year as that part of such tax year covered by the term of this Lease bears to a full tax year.

## 5. ALTERATIONS, IMPROVEMENTS AND UTILITIES.

**A. Alterations and Improvements by Lessee.** Lessor agrees that Lessee may make any exterior or interior alterations or improvements to the Leased Premises as Lessee may deem desirable for the permitted use of the Leased Premises at Lessee's option, sole expense and without cost to Lessor at any time during the Term or any Extension Term; provided, however, Lessee shall comply with the requirements set forth below in sections (i) through (v) below.

- i. All work shall be completed in a lien-free manner; at a time and in a manner that does not unreasonably interfere with adjacent property owners or users; and in compliance with all applicable laws, ordinances and regulations. Lessee shall, at Lessee's expense, make any alterations or improvements to the Leased Premises that may be required, as set forth elsewhere in this Lease, in order to comply with ADA or other laws and which are necessitated by, or trigger as a result of, any alterations or improvements made by Lessee to the Leased Premises. In the event any inspections or testing is required or becomes necessary due to Lessee's alterations or improvements, Lessee shall obtain and pay for all such inspections and testing.
- ii. Lessee shall submit to Lessor, at least thirty (30) days prior to the anticipated construction commencement date, copies of detailed working drawings, plans and specifications prepared for or on behalf of Lessee.
- iii. Lessor shall have twenty (20) days after the detailed working drawings, plans and specifications have been submitted to Lessor within which to object or accept the proposed alterations or improvements. Any changes or corrections required by Lessor will be submitted to Lessee within the twenty (20) day period. If Lessor fails to object in writing to the proposed alterations or improvements within the twenty (20) day period, Lessor will be deemed to have accepted Lessee's proposed alterations or improvements. Any changes or corrections required by Lessor must be made and plans resubmitted to Lessor within twenty (20) days after the required corrections or changes have been noted. Lessor's failure to object to such resubmitted plans and specifications within twenty (20) days shall constitute Lessor's approval of the changes. However, notwithstanding any other provision to the contrary in this Lease, Lessee shall have the right to install in and on the Leased Premises (on its roof or wherever Lessee deems appropriate) any equipment without the prior written approval of Lessor so long as the installation of any such equipment is not in violation of any local or federal laws or regulations. Furthermore, notwithstanding any other provision to the contrary in this Lease, any alterations or improvements which would affect any of the structural or load bearing elements of buildings on the Leased Premises, including the load bearing walls, foundation and structural supports; or increase the area of the Leased Premises by horizontal or vertical expansion, shall require the written approval of Lessor before the commencement of construction.

- iv. Lessee shall, prior to commencement of construction and at all times until completion of construction, maintain and furnish to Lessor or cause Lessee's construction contractor to maintain and furnish proof of insurance coverages in the minimum amounts as described below. Coverage shall be written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and rated A- or better by A.M. Best Company, or otherwise acceptable to Lessor.

<b>Type of Coverage</b>	<b>Limits of Liability</b>
a. Worker's Compensation	Statutory
b. Employer's Liability	
Bodily Injury by Accident	\$500,000 Ea. Accident
Bodily Injury by Disease	\$500,000 Ea. Employee
Bodily Injury by Disease	\$500,000 Policy Limit
c. Comprehensive general liability including completed operations and contractual liability insurance for bodily injury, death, or property damages in the following amounts:	

COVERAGE	PER OCCURRENCE
Comprehensive General Liability <i>(including premises, completed operations and contractual)</i>	\$1,000,000

Aggregate policy limits: \$2,000,000

- d. Comprehensive automobile and auto liability insurance (covering owned, hired, leased and non-owned vehicles):

COVERAGE	PER PERSON	PER OCCURRENCE
Bodily injury <i>(including death)</i>	\$1,000,000	\$1,000,000

- e. Property damage
- |                         | PER PERSON         | PER OCCURRENCE |
|-------------------------|--------------------|----------------|
|                         | \$1,000,000        | \$1,000,000    |
| Aggregate policy limits | No aggregate limit |                |

All policies provided by the Lessee must provide as follows:

- a. that the policy shall not be canceled, limited in scope or coverage, or non-renewed until after thirty (30) calendar days prior written notice, or ten (10) calendar days for non-payment of premium, has been given to the Lessor;

- b. the insurance shall be deemed primary with respect to any insurance or self insurance carried by Lessor;
  - c. that the Lessor, its officials, directors, employees, representatives, and volunteers are added as additional insured;
  - d. that the workers' compensation and employers' liability policy will provide a waiver of subrogation in favor of the Lessor.
- v. Lessee agrees that it will not permit any mechanic's, materialmen's, or other liens to stand against the Leased Premises for work or materials furnished in connection with any such alterations, remodeling or improvements. Provided, however, that Lessee shall have the right to contest the validity of any such lien or claim, but upon a final determination of the validity thereof, Lessee shall immediately pay any judgment or decree rendered against Lessee, with all proper costs and charges, and shall cause any lien to be released of record without cost to Lessor. During the pendency of any such contest, Lessee shall, at Lessee's expense, take such action as may be necessary in order to preclude foreclosure or other enforcement of such lien and, upon request by Lessor, shall bond around such lien as provided in Section 53.171 *et. seq.* of the Texas Property Code.

**B. Utility Facilities and Services.** Lessee shall be responsible for arranging and paying for all utility facilities and services required in and to the Leased Premises since no utilities or utility facilities will be provided by Lessor. Such utility facilities and services shall include but not limited to electricity, gas, water, wastewater, telephone, IT communication services, alarm monitoring systems, television, sewer charges, and trash collection. Lessee further agrees to pay all connection fees, service fees, usage fees, and all other costs and fees for all utilities and utility facilities to the Leased Premises. Lessee must, at a minimum, keep the following utilities on at all times during any term of this Lease (to the extent they are available at the Leased Premises): gas; electricity; water; wastewater/sewer; and garbage services and collection. If the Lessee fails to keep said utilities on during any term of this Lease, Lessee shall be deemed to be in default of this Lease.

**6. INDEMNIFICATION AND INSURANCE.**

**A. INDEMNIFICATION - EMPLOYEE PERSONAL INJURY CLAIMS. TO THE FULLEST EXTENT PERMITTED BY LAW, LESSEE SHALL INDEMNIFY, DEFEND (WITH COUNSEL OF CITY'S CHOOSING), AND HOLD HARMLESS LESSOR, AND LESSOR'S EMPLOYEES, AGENTS, REPRESENTATIVES, OFFICERS, AND DIRECTORS (COLLECTIVELY, THE "INDEMNITEES") AND SHALL ASSUME ENTIRE RESPONSIBILITY AND LIABILITY (OTHER THAN AS A RESULT OF INDEMNITEES' GROSS NEGLIGENCE) FOR ANY CLAIM OR ACTION BASED ON OR ARISING OUT OF THE PERSONAL INJURY, OR DEATH, OF ANY EMPLOYEE OF LESSEE, OR OF ANY SUBCONTRACTOR, OR OF ANY OTHER ENTITY FOR WHOSE ACTS THEY MAY BE LIABLE, WHICH OCCURRED OR WAS ALLEGED TO HAVE OCCURRED ON THE LEASED PREMISES OR IN CONNECTION WITH THE PERFORMANCE OF THIS LEASE. LESSEE HEREBY INDEMNIFIES THE INDEMNITEES EVEN TO THE EXTENT THAT SUCH PERSONAL INJURY WAS CAUSED OR ALLEGED TO HAVE BEEN CAUSED BY THE SOLE, COMPARATIVE OR CONCURRENT**

**NEGLIGENCE OF THE STRICT LIABILITY OF ANY INDEMNIFIED PARTY. THIS INDEMNIFICATION SHALL NOT BE LIMITED TO DAMAGES, COMPENSATION, OR BENEFITS PAYABLE UNDER INSURANCE POLICIES, WORKERS COMPENSATION ACTS, DISABILITY BENEFITS ACTS, OR OTHER EMPLOYEES BENEFIT ACTS.**

**INDEMNIFICATION - OTHER THAN EMPLOYEE PERSONAL INJURY CLAIMS. TO THE FULLEST EXTENT PERMITTED BY LAW, LESSEE SHALL INDEMNIFY, DEFEND (WITH COUNSEL OF LESSOR'S CHOOSING), AND HOLD HARMLESS LESSOR, AND LESSOR'S EMPLOYEES, AGENTS, REPRESENTATIVES, OFFICERS, AND DIRECTORS (COLLECTIVELY, THE "INDEMNITEES") FROM AND AGAINST CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES, ARISING OUT OF OR ALLEGED TO BE RESULTING FROM THE PERFORMANCE OF THIS LEASE OR LESSEE'S USE OF THE LEASED PREMISES, TO THE EXTENT CAUSED BY THE NEGLIGENCE, ACTS, ERRORS, OR OMISSIONS OF LESSEE OR ITS SUBCONTRACTORS, ANYONE EMPLOYED BY THEM OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE, REGARDLESS OF WHETHER OR NOT SUCH CLAIM, DAMAGE, LOSS OR EXPENSE IS CAUSED IN WHOLE OR IN PART BY A PARTY INDEMNIFIED HEREUNDER.**

**B. Insurance.** In order to insure the fulfillment of the above referenced indemnity provision, Lessee hereby agrees to maintain, at all times during any term of this Lease, at Lessee's sole cost, a comprehensive public liability insurance policy protecting Lessor against all claims or demands that may arise or be claimed on account of Lessee's use of the Leased Premises, in an amount of at least ONE MILLION DOLLARS (\$1,000,000.00), per occurrence of accident and/or injury, for injuries to persons and damages to real and/or personal property. Said insurance shall be written by a company or companies acceptable to Lessor, authorized to engage in the business of general liability insurance in the state of Texas, and name Lessor as an additional insured. Furthermore, said insurance shall be primary as to any other existing, valid, and collectible insurance. Lessee shall deliver to Lessor annual certificates demonstrating that said insurance is paid up and copies of the insurance policies issued by the insurance companies.

Lessee further agrees to maintain at all times during any term of this Lease, at Lessee's cost, broad coverage fire and casualty insurance on its property and to provide Lessor with a copy of the policy and a certificate issued by the insurance company demonstrating that insurance is paid up. Lessee's property will not be covered by any hazard insurance that may be carried by Lessor. The Lessee assumes the risk of loss on all contents of the Leased Premises owned by the Lessee, excluding the building structures and improvements owned by the Lessor.

Lessee shall, within Ten (10) calendar days from the execution of this Lease, obtain a certified statement by each insurance carrier containing a clause providing that the insurance carrier will give Lessor Thirty (30) days' written notice before any cancellation shall be effective. The insurance policies shall be provided by Lessee and shall be for a period of at least One (1) year.

**7. SUBORDINATION.** This Lease and all rights of Lessee under it are and shall be subject to and subordinate to the rights of any mortgage holder or security interest holder now or hereafter

having a security interest in the Leased Premises or any other encumbrances Lessor desires to place on the Leased Premises.

**8. LESSEE'S COVENANTS.** Lessee further covenants and agrees as follows:

**A.** To pay the rent and provide the consideration for the Lease as it is set out herein; to use the Leased Premises in a careful and proper manner for the express purpose of operating a commercial for profit or non-profit business; to commit or permit no waste or damages to the Leased Premises; to conduct or permit no business or act that is a nuisance or may be in violation of any federal, state, or local law or ordinance; to surrender the Leased Premises on expiration or termination of this Lease in clean condition and good repair, normal wear and tear excepted, provided, however, that all alterations, additions, and improvements permanently attached and made by Lessee (excepting movable furniture, equipment, supplies, and inventory installed by Lessee) shall become and remain the property of Lessor on the termination of Lessee's occupancy of the Leased Premises.

**B.** To comply with the Rules and Regulations attached hereto and incorporated herein.

**C.** To prohibit and refrain from engaging or in allowing any use of the Leased Premises that will increase Lessor's premiums for insurance on the building without the express written consent of Lessor.

**D.** In case of damage to glass in or on the Leased Premises, to replace it with glass of the same kind, size, and quality as quickly as possible at Lessee's expense.

**E.** To make no alterations in or additions or improvements to the Leased Premises, install any equipment in or on the Leased Premises or maintain signs advertising the Lessee on the Leased Premises without, in each case, obtaining the written consent of Lessor. If any alterations, additions, or improvements in or to the Leased Premises are made necessary by reason of the special use and occupancy of the Leased Premises by Lessee and, provided that Lessor grants its prior written permission to Lessee regarding such alterations, additions or improvements, Lessee agrees that it will make all such alterations, additions, and improvements in or to the Leased Premises at its own expense and in compliance with all building codes, ordinances, and governmental regulations pertaining to such work, use, or occupancy. **In accordance with indemnification provision above, Lessee agrees that it will hold Lessor harmless against all expenses, liens, claims, and damages to either property or person that may or might arise because any repairs, alterations, additions, or improvements are made.** Upon request of Lessor, Lessee agrees to restore, at Lessee's sole expense, the Leased Premises to its original condition upon the termination of this Lease.

**F.** To permit Lessor to enter, inspect, and make such repairs to the Leased Premises as Lessor *may* reasonably desire.

**G.** Lessee agrees that it is solely responsible for making, at its sole cost, any alterations, additions, or improvements to the Leased Premises that are mandated by any and all state,

federal and local accessibility legal requirements (“accessibility alterations”). The allocation of responsibility to Lessee for compliance with accessibility legal requirements with respect to the Leased Premises is a material inducement for the parties to enter this Lease. The cost incurred on said accessibility alterations shall be borne solely by Lessee. Lessee must obtain the written consent of Lessor before making any type of accessibility alterations.

**H.** Lessee agrees that any and all minor adults and/or children of guests or invitees of Lessee, who may be present on the Leased Premises from time to time, shall not be left unattended and shall be accompanied and supervised, at all times while on the Leased Premises, by such minor adult’s and/or child’s parent or legal guardian. Whether supervised or unsupervised by a parent or legal guardian, at no time shall such minor adults and/or children be allowed to play on, near or about the Leased Premises, injure any person who may be present on the Leased Premises or otherwise damage the Leased Premises, any personal property situated on the Leased Premises, or any improvements situated thereon. In the event that such minor adults and/or children damage or destroy the Leased Premises or any improvements situated thereon or otherwise injure such persons who may be present on the Leased Premises, **Lessee hereby agrees that Lessee, in accordance with the indemnification provision above, shall be solely liable for any and all damages and/or injuries caused by such minor adults and/or children.** Immediately upon demand by Lessor, Lessee shall repair, at Lessee’s sole cost, any and all damages caused to the Leased Premises and/or any improvements situated thereon. In the event such minor adults and/or children cause injury to persons who are present on the Leased Premises, Lessee hereby agrees to be solely liable to such persons who are injured.

**I.** Lessee agrees that it is solely responsible for making, at its sole cost, any alterations, additions, or improvements to the Leased Premises which are mandated or otherwise may be required for the issuance of a certificate of occupancy from the local municipality. Furthermore, Lessee agrees that it is solely responsible, at its sole cost, for making all alterations, additions, or improvements necessary to the Leased Premises to cause the Leased Premises and its intended use to be in compliance with any laws, rules, ordinances, development codes or regulations of any applicable governmental authority, entity, or body, including, without limitation, the American’s with Disabilities Act, the Federal Government, the local municipality, the County of Travis, and the State of Texas. The allocation of responsibility to Lessee for compliance with said laws, rules, ordinances, development codes or regulations is a material inducement for the parties to enter into this Lease. The costs incurred in causing the Leased Premises and its intended use to be in compliance with said laws, rules, ordinances, development codes or regulations shall be solely borne by Lessee.

**J.** At Lessee’s expense, Lessee shall construct and perform all necessary repairs and maintenance, including but not limited to the heating and air-conditioning equipment/system, plumbing or septic or sewer system after giving notice and obtaining permission to proceed from Lessor.

**K.** Lessee shall not conduct within the Leased Premises any sale advertised as “fire”, “auction”, “bankruptcy”, “going-out-of-business”, “lost-our-lease”, “cut-price”, “cut-rate”, or similar sales, operate within the Leased Premises a wholesale or factory outlet store, a cooperative store, a second hand or sample store, a surplus store or a store commonly referred to as a discount house. Lessee is not prohibited from occasionally marketing its products or services at discounts or as part of sales.

**L.** Lessee shall not permit any objectionable or unpleasant odors to emanate from the Leased Premises, place or permit any radio, television, loud-speaker or amplifier on the roof or outside the Leased Premises or where the same can be seen or heard from outside the building, place any antenna, awning or other projection on the exterior of the Leased Premises, or do anything which would tend to injure the reputation of the Lessor.

**M.** Lessee agrees that Lessor shall not be liable to Lessee for losses to Lessee's property or personal injury caused by criminal acts or entry by unauthorized persons into the Leased Premises.

**9. LESSOR'S COVENANTS.** Lessor covenants and agrees as follows:

**A.** To warrant and defend Lessee in the enjoyment and peaceful possession of the Leased Premises during the aforesaid term.

**B.** Lessee agrees to maintain the structure of the building, which includes the roof, exterior walls, floors and foundation.

**C.** If the Leased Premises are destroyed or so damaged by fire, casualty, or other disaster that they become untenable, Lessor will have the right to terminate this Lease by written notice to Lessee.

**10. PARKING FOR LESSEE'S CUSTOMERS AND EMPLOYEES.** The parking adjacent to and near the Leased Premises is entirely public parking and Lessor cannot designate reserved parking spots for use by Lessee's customers and employees.

**11. HAZARDOUS SUBSTANCES - LESSEE'S RESPONSIBILITY REGARDING HAZARDOUS SUBSTANCES**

**A. Hazardous Substances.** The term "Hazardous Substances," as used in this section, shall include, without limitation, flammables, explosives, radioactive materials, asbestos, polychlorinated biphenyls (PCBs), chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic substances or related materials, petroleum and petroleum products, and substances declared to be hazardous or toxic under any law or regulation now or hereafter enacted or promulgated by any governmental authority.

**B. Lessee's Restrictions:** Lessee shall not cause or permit to occur:

(1) Any violation of any federal, state, or local law, ordinance, or regulation now or hereafter enacted, related to environmental conditions on, under, or about the leased premises, or arising from Lessee's use or occupancy of the leased premises, including, but not limited to, soil and ground water conditions; or

(2) The use, generation, release, manufacture, refining, production, processing, storage, or disposal of any Hazardous Substance on, under, or about the Leased Premises, or the transportation to or from the Leased Premises of any Hazardous Substance.

**C. Lessee's Obligations.**

(1) Lessee shall promptly provide all information regarding any use, generation, storage, transportation, or disposal of Hazardous Substances that is requested by Lessor. If Lessee fails to fulfill any duty imposed under this section within a reasonable time, Lessor may exercise any rights under this Lease including but not limited to termination of this Lease.

(2) Lessee's obligations and liabilities under this section shall survive the expiration of this Lease.

**D. Lessee's Indemnity in Relation to Hazardous Materials.**

(1) **LESSEE SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS LESSOR AND ITS OFFICERS, DIRECTORS, AGENTS, AND EMPLOYEES FROM ALL FINES, SUITS, PROCEDURES, CLAIMS, AND ACTIONS OF EVERY KIND, AND ALL COSTS ASSOCIATED THEREWITH (INCLUDING ATTORNEYS' AND CONSULTANTS' FEES) ARISING OUT OF OR IN ANY WAY CONNECTED WITH ANY DEPOSIT, SPILL, DISCHARGE, OR OTHER RELEASE OF HAZARDOUS SUBSTANCES THAT OCCURS DURING THE TERM OF THIS LEASE, AT OR FROM THE LEASED PREMISES, OR WHICH ARISES AT ANY TIME FROM LESSEE'S USE OR OCCUPANCY OF THE LEASED PREMISES, OR FROM LESSEE'S FAILURE TO PROVIDE ALL INFORMATION, MAKE ALL SUBMISSIONS, AND TAKE ALL STEPS REQUIRED BY ALL AUTHORITIES UNDER THE LAWS AND ALL OTHER ENVIRONMENTAL LAWS.**

(2) Lessee's obligations and liabilities under this section shall survive the expiration of this Lease.

**12. DEFAULTS BY LESSEE.** In addition to the termination rights set out herein and any remedies specifically set forth herein and those available at law or in equity, if Lessee fails to perform or breaches any term, condition or agreement set forth in this Lease, and this failure or breach continues for Ten (10) days after a written notice specifying the required performance has been given to the Lessee, Lessor may:

**A.** enforce specific performance causing the Lessee to strictly comply with and perform such term, condition or agreement; and in this event, the Lessee shall pay the Lessor all expenses of the litigation, including reasonable attorneys' fees; or

**B.** institute action in a court of competent jurisdiction to terminate this Lease and sue

for damages, and the Lessee shall pay the Lessor all expenses of the litigation, including reasonable attorneys' fees; or

C. may, but not be obligated to do so, enter the Leased Premises and perform Lessee's obligations for the account of and at the expense of Lessee. Bills for all amounts paid by Lessor and all losses, costs, and expenses incurred by Lessor in connection with such performance by Lessor pursuant to this clause, including without limitation, all amounts paid and costs and expenses incurred by Lessor for any property, material, labor or services provided, furnished, or rendered or caused to be provided, furnished or rendered, by Lessor to Lessee may be sent by Lessor to Lessee monthly or immediately, at Lessor's option, and shall be due and payable by Lessee to Lessor as Additional Rent within Five (5) days after same is sent to Lessee by Lessor; or

D. terminate this Lease, without liability, by written notice to Lessee, in which event, the term and tenancy hereby created shall terminate on the Tenth (10<sup>th</sup>) day after such notice is given (the "Termination Date") and Lessee shall within such Ten (10) day period vacate the Leased Premises and surrender them to Lessor in the state required under this Lease, with Lessor having the right to reenter and repossess the Leased Premises discharged of this Lease and to expel all occupants and to remove all property therefrom.

In addition to the remedies set forth herein and available at law, upon the occurrence of any default or breach, Lessor may enter and take possession of the Leased Premises by self-help, by picking or changing locks if necessary, and may lock out Lessee or any other person who may be occupying the Leased Premises, until the default is cured, without being liable for damages.

**13. Holding Over.** In the event that Lessee does not vacate the Leased Premises upon the expiration or termination of this Lease, Lessee shall be a tenant at will for the holdover period and all of the terms and provisions of this Lease shall be applicable during that period, except that Lessee shall pay Lessor as base rental for the period of such holdover an amount equal to 200% of the then current monthly rent which would have been payable by Lessee had the holdover period been a part of the original term of this Lease. The rental payable during the holdover period shall be payable to Lessor on demand. No holding over by Lessee, whether with or without the consent of Lessor, shall operate to extend the term of this Lease and Lessee agrees to vacate the Leased Premises upon receipt of Lessor's notice to vacate.

**14. DEFAULTS BY LESSOR.** Defaults by Lessor are failing to comply with any provision, term, condition or agreement of this Lease within Thirty (30) days after written notice from Lessee. Lessee's sole remedy for Lessor's default is to terminate this Lease.

**15. VOLUNTARY TERMINATION.** Either party may terminate this Lease, without cause or liability, upon giving Thirty (30) days written notice to the other party. Upon a party's termination pursuant to this provision, Lessee shall surrender the Leased Premises peaceably to Lessor in the state required under this Lease. It is understood and agreed that all amounts due Lessor as of and including the date of termination, will be immediately due and payable on the date of Lessee's surrender of the Leased Premises. In the event that the effective date of termination occurs in the middle of a month, Lessor shall be obligated to reimburse Lessee, on a pro-rata basis, the proportion of rents, if any, that have been prepaid for any unused portion of a lease term.

**16. RIGHT TO SELL.** It is understood and agreed that Lessor shall have the right to sell or assign its right, title and interest in the Leased Premises, in whole or in part, at any time during any term of this Lease. If during any term of this Lease, the Leased Premises are sold by Lessor to a third party, this Lease shall terminate. Not later than **Thirty (30)** days from the date in which Lessor gives Lessee notice that the Leased Premises has been sold, Lessee shall vacate the Leased Premises.

**17. LESSOR TO HAVE LIEN.** Lessor will have a lien against all goods, equipment, furniture, and other personal property of Lessee brought, stored, or kept on the Leased Premises during any term of this Lease, in the aggregate amount of all rent, damages, and other sums that may at any time be owed by Lessee to Lessor under the Lease. In the event of any default by Lessee, Lessor may foreclose the lien in the same manner that a mortgage would be foreclosed and, in that event, Lessee shall be obligated for all court costs and reasonable attorneys' fees.

**18. INSOLVENCY, BANKRUPTCY, ETC., OF LESSEE.** If Lessee is declared insolvent or adjudicated a bankrupt; if Lessee makes an assignment for the benefit of creditors; if Lessee's leasehold interest is sold under execution or by a trustee in bankruptcy; or if a receiver is appointed for Lessee, Lessor, without prejudice to its rights hereunder and at its option, may terminate this Lease and retake possession of the Leased Premises immediately and without notice to Lessee or any assignee, transferee, trustee, or any other person or persons, using force if necessary.

**19. ELECTION BY LESSOR NOT EXCLUSIVE.** The exercise by Lessor of any right or remedy to collect rent or enforce its rights under this Lease will not be a waiver or preclude the exercise of any other right or remedy afforded Lessor by this Lease or by statute or law. The failure of Lessor in one or more instances to insist on strict performance or observations of one or more of the covenants or conditions of this Lease or to exercise any remedy, privilege, or option conferred by this Lease on or reserved to Lessor shall not operate or be construed as a relinquishment or future waiver of the covenant or condition or the right to enforce it or to exercise that remedy, privilege, or option; that right shall continue in full force and effect. The receipt by Lessor of rent or any other payment or part of payment required to be made by the Lessee shall not act to waive any other additional rent or payment then due. Even with the knowledge of the breach of any covenant or condition of this Lease, receipt will not operate as or be deemed to be a waiver of this breach, and no waiver by Lessor of any of the provisions of this Lease, or any of Lessor's rights, remedies, privileges, or options under this Lease, will be deemed to have been made unless made by Lessor in writing.

No surrender of the Leased Premises for the remainder of any term of this Lease will be valid unless accepted by Lessor in writing. Lessee will not assign or sublet this Lease without Lessor's prior written consent. No assignment or sublease will relieve the assignor or sublessor of any obligation under this Lease. Each assignee or sublessee, by assuming such status, will become obligated to perform every agreement of this Lease to be performed by Lessee, except that a sublessee shall be obligated to perform such agreements only insofar as they relate to the subleased part of the property and the rent required by the sublease.

**20. LIMITATIONS OF WARRANTIES.** LESSEE ACKNOWLEDGES AND AGREES THAT, OTHER THAN AS MAY BE SPECIFICALLY SET FORTH HEREIN, LESSOR HAS NOT MADE, DOES NOT

MAKE AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO (A) THE NATURE, QUALITY OR CONDITION OF THE LEASED PREMISES, INCLUDING, WITHOUT LIMITATION, STRUCTURES, THE WATER, SOIL AND GEOLOGY, (B) THE INCOME TO BE DERIVED FROM THE LEASED PREMISES, (C) THE SUITABILITY OF THE LEASED PREMISES FOR ANY AND ALL ACTIVITIES AND USES WHICH LESSEE MAY CONDUCT THEREON, (D) THE COMPLIANCE OF OR BY THE LEASED PREMISES OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, INCLUDING, WITHOUT LIMITATION, THE CITY OF PFLUGERVILLE AND CITIES HEALTH DISTRICT, THE AMERICANS WITH DISABILITIES ACT AND ANY RULES AND REGULATIONS PROMULGATED THEREUNDER OR IN CONNECTION THEREWITH, AND THE TEXAS ARCHITECTURAL BARRIERS ACT AND ANY RULES AND REGULATIONS PROMULGATED THEREUNDER OR IN CONNECTION THEREWITH, (E) THE HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE LEASED PREMISES, OR (F) ANY OTHER MATTER WITH RESPECT TO THE LEASED PREMISES, AND SPECIFICALLY THAT LESSOR HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING SOLID WASTE, AS DEFINED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY REGULATIONS AT 40 C.F.R., PART 261, OR THE DISPOSAL OR EXISTENCE, IN OR ON THE LEASED PREMISES, OF ANY HAZARDOUS SUBSTANCE, AS DEFINED BY THE COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY ACT OF 1980, AS AMENDED, AND APPLICABLE STATE LAWS, AND REGULATIONS PROMULGATED THEREUNDER. LESSEE FURTHER ACKNOWLEDGES AND AGREES THAT HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE LEASED PREMISES, LESSEE IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE LEASED PREMISES AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY LESSOR. LESSEE FURTHER ACKNOWLEDGES AND AGREES THAT ANY INFORMATION PROVIDED OR TO BE PROVIDED WITH RESPECT TO THE LEASED PREMISES WAS OBTAINED FROM A VARIETY OF SOURCES AND THAT LESSOR HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION.

LESSEE FURTHER ACKNOWLEDGES AND AGREES THAT THE LEASE OF THE LEASED PREMISES AS PROVIDED FOR HEREIN IS MADE ON AN “AS IS, WHERE IS” CONDITION AND BASIS “WITH ALL FAULTS”. LESSEE ACKNOWLEDGES AND AGREES THAT THE PROVISIONS OF THIS PARAGRAPH WERE A MATERIAL FACTOR IN THE DETERMINATION OF THE AMOUNT OF THE RENT AND CONSIDERATION TO BE PAID AND TENDERED FOR LESSEE’S USE OF THE LEASED PREMISES. THE TERMS OF THIS PARAGRAPH WILL SURVIVE ANY TERMINATION OF THIS LEASE.

**21. CONDEMNATION.** If during any term of this Lease, all of the Leased Premises are taken for any public or quasi-public use under any governmental law, ordinance, or regulation, or by right or eminent domain, or are sold to the condemning authority under threat of condemnation, this Lease will terminate, effective as of the date the condemning authority takes the Leased Premises. If only a part of the Leased Premises shall be so taken or sold, but the remainder of the Leased Premises is not tenantable, Lessor may terminate this Lease at any time within Forty Five (45) days following such taking or sale without liability to the Lessee. Any and all payments made for or arising from any such taking or for damages to the Leased Premises resulting therefrom shall belong and be payable entirely to Lessor.

**22. LESSOR'S LEASE ADMINISTRATOR AND PROPERTY MANAGER.** The Special Projects Manager for City of Pflugerville (or her successor, as designated by Lessor), shall serve as the Lessor's lease administrator and property manager. The said lease administrator and property manager shall also serve as liaison between the City of Pflugerville and the Lessee.

Lessor's lease administrator and property manager contact information is as follows:

Breanna Higgins (or successor)  
Special Projects Manager  
City Manager's Office  
City of Pflugerville, TX  
[BreannaH@pflugervilletx.gov](mailto:BreannaH@pflugervilletx.gov)  
512-990-6129

**23. NOTICES.** Any notice to be given hereunder shall be in writing and may be affected by personal delivery or in writing by certified mail, return receipt requested, addressed to the proper party, at the following addresses:

LESSOR: City of Pflugerville  
Attn: City Manager's Office  
P.O. Box 589  
Pflugerville, Texas 78691

LESSEE: See Lessee's Address below Lessee's Signature Block

Notices to Lessee may also be mailed or delivered to the Leased Premises and proof of mailing or posting of those notices to the Leased Premises will be deemed the equivalent of personal service on Lessee.

**24. GENDER, NUMBER AND HEADINGS.** Words of any gender used in this Lease Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The headings and section numbers are for convenience only and shall not be considered in interpreting or construing this Lease. The captions and paragraphs or letters appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of the sections or articles of this Lease or affect this Lease in any way.

**25. PLACE OF PERFORMANCE.** This Lease shall be interpreted according to the laws of the State of Texas and shall be performed in City of Pflugerville, Texas, and exclusive jurisdiction and venue shall lie in City of Pflugerville, Texas.

**26. TERMS INCLUSIVE.** As used herein, the terms "Lessor" and "Lessee" include the plural whenever the context requires or admits.

**27. SEVERABILITY.** If any provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable

any other provision hereof, but rather this entire Lease will be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligation of the parties shall be construed and enforced in accordance therewith. The parties acknowledge that if any provision of this Lease is determined to be invalid or unenforceable, it is the desire and intention of each that such provision be reformed and construed in such a manner that it will, to the maximum extent practicable, give effect to the intent of this Lease and be deemed to be validated and enforceable.

**28. GOVERNMENTAL IMMUNITY.** Nothing in this Lease shall be deemed to waive, modify or amend any legal defense available at law or in equity to Lessor nor to create any legal rights or claim on behalf of any third party. Lessor does not waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.

**29. ASSIGNMENT.** Lessee may not assign, in whole or in part, any interest it may have in this Lease without the prior written consent of Lessor.

**30. NO INDEMNIFICATION BY LESSOR.** Lessee acknowledges and agrees that Lessor, as a Texas Municipality and a political subdivision of the State of Texas, under the Constitution and the laws of the State of Texas, cannot enter into an agreement whereby it agrees to indemnify or hold harmless any other party, including but not limited to Lessee; therefore, all references of any kind, if any, to Lessor indemnifying, holding or saving harmless any other party, including but not limited to Lessee, for any reason whatsoever are hereby deemed void and deleted.

**31. ENTIRE AGREEMENT.** This Lease and its addenda, if any, sets forth all the promises, agreements, conditions, and understandings between Lessor and Lessee relative to the Leased Premises and supersedes any prior understandings or written or oral agreements between the parties with respect to the to the Leased Premises. There are no other promises, agreements, conditions, or understandings, either oral or written, between them. No subsequent alteration, amendment, change, or addition to this Lease will be binding on Lessor or Lessee unless in writing and signed by them and made a part of this Lease by direct reference.

IN WITNESS WHEREOF, Lessor and Lessee have duly executed to be effective as of \_\_\_\_\_, **2024.**

Signed, sealed, and delivered in our presence as:

**LESSOR: CITY OF PFLUGERVILLE**

By: \_\_\_\_\_  
Authorized Representative

**LESSEE:** \_\_\_\_\_

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

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

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

Lessee's Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_

## RULES AND REGULATIONS

In addition to the terms, conditions, rules and regulations set out in the Lease, Lessee hereby also agrees to the following Rules and Regulations:

1. Lessee and Lessee's employees shall not loiter in any common area adjoining the Leased Premises nor shall they in any way obstruct the sidewalks, entry passages, pedestrian passageways, driveways, entrances and exits to in, on or around the Leased Premises.

2. Lessee shall keep all sidewalk areas in, on and around the Leased Premises clean and free of debris. Lessee shall reimburse Lessor for the expense of cleaning or repairing any breakage, stoppage or damage resulting from a violation of this rule.

3. Lessee shall not do anything in the Leased Premises, or bring or keep anything therein, which will in any way increase or tend to increase the risk of fire or the rate of fire insurance or which shall conflict with the regulations of the local fire department or other local or state laws, or with any insurance policy on the Leased Premises or any part thereof, or with any rules or regulations established by any administrative body or official having jurisdiction.

5. Lessee nor Lessee's officers, agents and employees shall make or permit any loud, unusual or improper noises, nor bring into nor keep within the Leased Premises any animal or bird (except for animals assisting handicapped persons).

6. All garbage, including wet garbage, refuse or trash, shall be placed by Lessee in the receptacles near the Leased Premises provided by Lessee at Lessee's cost for that purpose.

7. Lessee shall not permit any chemicals, trash or other foreign materials to be deposited or disposed of in the Leased Premises except that trash which legally may be sent to the municipal or county landfill may be placed in the receptacles provided on the Leased Premises by Lessee at Lessee's expense. Lessee shall cooperate with Lessor so that any common areas adjoining the Leased Premises may be kept in a clean and orderly condition and free of obstructions.

8. Lessee, at Lessee's cost, shall service the Leased Premises, on not less than on a quarterly basis, to prevent the development of pests, roaches, rodents, ants, spiders, or etc.

12. Lessee shall cooperate with any security regulations issued by Lessor from time to time, and shall comply with instructions and/or directions of Lessor's duly authorized personnel for the protection of the Leased Premises.

13. No waiver of any rule or regulation by Lessor or Lessor's agent shall have any effect unless expressed in writing and signed by Lessor or its authorized agent.

17. Lessor reserves the right at any time to reasonably change or rescind any one or more of these rules or regulations or to make such other and further reasonable rules and regulations as in Lessor's judgment may from time to time be necessary for the management, safety, care and cleanliness of the Leased Premises, and for the preservation of good order therein. Lessor shall not be responsible to Lessee or any other person for the non-observance or violation of the rules and regulations by any other Lessee or other person; however, Lessor shall not discriminate when enforcing the rules and regulations. Lessee shall be deemed to have read these rules and to have agreed to abide by them as a condition to its occupancy of the Leased Premises herein leased.

18. In the event of any conflict between these rules and regulations or any further or modified rules and regulations from time to time issued by Lessor and the Lease provisions, the Lease provisions shall prevail.

Exhibit "A"