



1 Tenant desires a renewal of this Lease, Tenant shall request a renewal, in writing, not less than  
2 six (6) months before the end of the then current Lease Term in accordance with § 6.04.220 of  
3 the City Code.

4  
5 **3. Condition of Premises.**

6  
7 Within ten days after the Effective Date Tenant shall inspect the Premises and provide  
8 the City with written notice of any conditions in the Premises that Tenant reasonably finds  
9 objectionable. The City shall have no further obligation to install or perform any improvements  
10 to the Premises after the Effective Date, except as the City and Tenant agree as a result of  
11 Tenant's inspection. If the City does not agree to any reasonable improvements requested by  
12 Tenant, Tenant, within ten days after receiving the City's response, may terminate this Lease  
13 without further obligation and any deposit monies paid shall be returned to Tenant. Except for  
14 any improvements agreed to by the City, the Premises shall be delivered to the Tenant in "AS  
15 IS, WHERE IS" condition. The Tenant acknowledges that it has inspected the Premises, and  
16 that the Tenant's occupancy of the Premises shall constitute acceptance thereof as complying  
17 with all obligations of the City with respect to the condition, order and repair thereof except for  
18 improvements that the City agrees to make as a result of Tenant's inspection. The Tenant, at  
19 its sole cost and expense, shall perform any additional work necessary to prepare the Premises  
20 for the Tenant's use and occupancy as provided by Sections 10 and 11.

21  
22 **4. Permitted Use.**

23  
24 (a) The Tenant shall use and occupy the Premises for the purpose of operation of a  
25 market house as described in § 7.28.020 of the Annapolis City Code or successor Code , and  
26 for no other purposes, and in accordance with the Tenant's "Business Summary", attached  
27 hereto and incorporated herein as **Attachment B.** The Business Summary shall only be  
28 modified through a written amendment approved by the Tenant and City Council. The Tenant  
29 shall be entitled to use the Alfred A. Hopkins Plaza (the "Hopkins Plaza") and adjacent to the  
30 Property, on a non-exclusive basis for purposes of conducting an Open Air Market as described  
31 in § 7.28.010 of the Annapolis City Code, with the prior written approval of the City, which  
32 approval may be altered or revoked at any time.

33 (b) The Tenant shall not use or occupy the Premises or the Property, or exercise its  
34 rights under this Lease, in any manner which would violate, or cause the City to violate, the  
35 Deed of Preservation Easement dated December 17, 2015, attached to this Lease as  
36 **Attachment C,** or any applicable law, including but not limited to the Americans With Disabilities  
37 Act and any Environmental Regulations (defined in Section 4(d)), or in a manner which may  
38 constitute a nuisance or a potential fire hazard. The City makes no representation as to the  
39 fitness of the Premises or satisfaction of zoning, historic district, historic preservation and all  
40 other government regulations and requirements with regard to the Tenant's proposed use of the  
41 Premises as contemplated herein.

42 (c) The Tenant shall not commit or suffer to be committed any waste or nuisance  
43 upon the Premises. The Tenant, at the Tenant's sole cost and expense, shall comply with and  
44 observe (i) all ordinances, rules, regulations and requirements of all municipal, state and federal  
45 and other applicable governmental authorities hereafter in force pertaining to the Premises and  
46 the use thereof, including but not limited to any Environmental Regulations; and (ii) all  
47 requirements and rules and regulations of any applicable insurance rating agency. Nothing in  
48 this paragraph shall require the Tenant to comply with any City law or regulation enacted after  
49 the Effective Date that unconstitutionally impairs the Tenant's contractual rights under this  
50 Lease

1 (d) The Tenant shall not use, generate, place, store, release, discharge, transport or  
2 otherwise dispose of Hazardous Substances in, on or under the Premises except in strict  
3 accordance with environmental, federal, state or local laws and regulations concerning the  
4 environment ("Environmental Regulations"). If the Tenant breaches the foregoing, the Tenant  
5 shall give the City Notice (as defined in Section 27) of such breach and at the City's option, the  
6 City (at the Tenant's expense) or the Tena shall immediately undertake remedial action in  
7 accordance with Environmental Regulations. The Tenant shall indemnify, defend and hold the  
8 City, its elected officials, appointees, directors, employees, agents, and representatives  
9 harmless from and against, and shall reimburse the City for, all claims, demands, causes of  
10 action, losses, damages, liabilities, costs and expenses (including reasonable attorney's,  
11 consultant's and expert's fees) asserted against or incurred by the City arising out of the  
12 Tenant's breach of any warranty or representation or failure to comply with or perform any  
13 covenant, agreement or obligation set forth in this Section 4(d). The term "Hazardous  
14 Substance", as used in this Lease, shall mean any product, equipment, underground storage  
15 tank, material, waste or substance (i) which requires special handling, investigation, removal,  
16 transportation, closure, notification or other remedial action under any Environmental  
17 Regulation, (ii) which is or becomes defined as a hazardous waste, hazardous material,  
18 hazardous substance, pollutant, toxic substance or contaminant under any Environmental  
19 Regulation, (iii) which is or becomes regulated or governed by any Environmental Regulation or  
20 by any governmental authority, agency, department, commission, board or instrumentality of  
21 any governmental entity, or (iv) which causes or threatens to cause an erosion, contamination,  
22 drainage or nuisance problem on the Premises or to adjacent property, public roads or rights of  
23 way or which poses or threatens to pose a hazard to the health or safety of persons on or about  
24 the Premises or adjacent property. The provisions of this Section 4(d) shall survive the  
25 expiration or earlier termination of this Lease.

26 (e) Tenant shall continuously, actively and diligently operate the Market House  
27 throughout the whole of the Premises in accordance with the Business Summary. Tenant shall  
28 be in default of the Lease if more than twenty percent (20%) of the gross floor area of the  
29 Premises used for the sale of food, beverage and goods ceases to be in actual use for that  
30 purpose for more than three consecutive months, except for reason of fire or other casualty  
31 covered by Section 19 of this Lease. For purposes of this paragraph, floor area used for public  
32 restrooms shall not be included in the computation of "gross floor area."

33 (f) Tenant shall not commit waste or perform any acts or carry on any practices  
34 which may injure the Building or Premises.

35 (g) Notwithstanding anything else in this Lease, the City reserves the right to  
36 maintain, repair, replace and relocate the City's bollards, chains, parking meters and signage  
37 located on or in the sidewalks located on the Property.

## 38 39 **5. Tenant's Responsibilities for Management of the Premises and the Building.**

40  
41 (a) Unless otherwise provided in this Lease, the Tenant shall control all aspects of  
42 use, operations and management of the Premises in accordance with this Lease, and the  
43 Tenant shall operate the Premises to the best of its ability, using both paid staff and/or  
44 contractors, including, but not limited to the following:

- 45  
46 (i) Oversight of all operations at the Premises;  
47 (ii) Quality assurance for all aspects of the Premises' common areas, and the  
48 interior of the Building;  
49 (iii) Procurement at Tenant's expense of all Building service contracts,  
50 including, but not limited to, custodial, interior and exterior window washing/cleaning, refuse and  
51 recycling collection and disposal, music system, grease collection, grease trap cleaning, and

1 pest control contracts;

2 (iv) Determination of appropriate seasonal operating and extended hours,  
3 and special holiday hours for the Premises as reflected in Tenant's Business Summary;

4 (v) Development and assurance of proper security procedures for the  
5 Premises; and

6 (vi) Coordination of Building repair, maintenance and alteration requirements  
7 in coordination with and approval of the City as may be required in Sections 10 and 11.

8  
9 (b) The Tenant shall be responsible for establishing and maintaining regular and  
10 commercially reasonable business hours as reflected in Tenant's Business Summary, and shall  
11 provide a written copy of such hours to the City for its records in a timely manner. The City  
12 reserves the right to request the Tenant to alter or change the business hours, at any time,  
13 provided that the City substantiates a reasonable justification for that request that does not  
14 conflict with the provisions of this Lease. However, the Tenant shall not be required to accede  
15 to any such City request without an amendment to this Lease.

16 (c) The Tenant shall have the right to impose such reasonable regulations governing  
17 the use of the Premises by the public, and shall provide a written copy of such regulations to the  
18 City for its records in a timely manner. The City reserves the right to request the Tenant to alter  
19 or change any rule enacted pursuant to this Section, at any time, provided that the City  
20 substantiates a reasonable justification for that request that does not conflict with the provisions  
21 of this Lease. However, the Tenant shall not be required to accede to any such City request  
22 without an amendment to this Lease.

23  
24 **6. Security Deposit; Rent.**

25  
26 (a) No later than the Effective Date, the Tenant shall deposit with the City's Finance  
27 Director, 160 Duke of Gloucester Street, Annapolis MD, 21401, the amount of Eight Thousand  
28 Dollars and No Cents (\$8,000.00) (the "Security Deposit"). The City shall have no obligation to  
29 pay any interest on the Security Deposit, and may commingle it in an account with other funds.  
30 The City, at its option, may apply any part of the Security Deposit towards the payment of  
31 outstanding amounts due under this Lease, provided always that the Tenant's liability under this  
32 Lease shall not thereby be discharged. Upon any uncured monetary default, the City may  
33 request, and the Tenant shall be obligated to deposit, additional security to secure the Tenant's  
34 performance under this Lease within ten (10) business days to restore the Security Deposit to  
35 its original amount. If not used, the Security Deposit shall be returned to the Tenant within thirty  
36 (30) calendar days after the Tenant vacates the Premises in accordance with Section 22.

37 (b) Commencing on the Effective Date and continuing through June 30, 2023, the  
38 Tenant shall pay to the City "Basic Rent" in equal monthly installments of Eight Thousand  
39 Dollars and No Cents (\$8,000.00). At the beginning of each Renewal Term, the next Renewal  
40 Term's monthly Basic Rent shall be calculated at an amount equal to the previous term's  
41 monthly Basic Rent multiplied by 1.05%, so that each subsequent term's Basic Rent increases  
42 by 5%.

43 (c) Notwithstanding Section 6(b), Tenant shall pay no Basic Rent from the Effective  
44 Date through December 31, 2018, and then shall pay Basic Rent in equal monthly installments  
45 of Four Thousand Dollars (\$4,000.00) for a period of January 1, 2019 through June 30, 2019.

46 (d) In addition to Basic Rent, the Tenant shall pay to the City annually "Performance  
47 Rent" based upon a percentage of Tenant's annual gross revenues during the Lease Year. The  
48 formula for determining Tenant's Performance Rent is specified in **Attachment D**. Tenant  
49 agrees to pay each year's Performance Rent, without demand, deduction, recoupment or set-  
50 off, not later than thirty (30) days following the end of the Lease year. Tenant shall submit with  
51 each payment of Performance Rent such supporting documentation as the City reasonably shall

1 require to document gross sales by Tenant and any subtenants and the computation of the  
2 payment. Tenant shall implement procedures reasonably satisfactory to the City to ensure  
3 timely and proper recording and accounting of all sales by Tenant and subtenants.

4 (e) Basic Rent shall be payable in monthly installments without demand, deduction,  
5 recoupment or set-off (except in the event of default by the City), in advance on the first day of  
6 each and every month.

7 (f) As used in this Lease, "Additional Rent" shall mean all amounts, costs and  
8 expenses other than Basic Rent and any Performance Rent which the Tenant assumes or  
9 agrees to pay to the City as provided by this Lease. In the event of nonpayment of any amount  
10 of Additional Rent, the City shall have all of the rights and remedies provided for in the case of  
11 nonpayment of Basic Rent. The Tenant shall pay Additional Rent at such time or times as  
12 provided in this Lease or, if not otherwise provided, on the first day of each and every month  
13 commencing on the Effective Date, and the Tenant's obligation to pay Additional Rent shall  
14 survive the expiration or termination of this Lease. Basic Rent and Additional Rent are referred  
15 to collectively in this Lease as "Rent."

16 (g) All payments or installments of Rent hereunder (including attorneys' fees) shall  
17 be paid to the City's Finance Director, 160 Duke of Gloucester Street, Annapolis MD, 21401.  
18 Time is of the essence with respect to the Tenant's obligations to pay Rent. Any payment by  
19 the Tenant or acceptance by the City of a lesser amount than is due from the Tenant to the City  
20 shall be treated as a payment on account. The acceptance by the City of a payment for a lesser  
21 amount with an endorsement or statement, or upon any letter accompanying such payment, that  
22 such lesser amount is payment in full, shall be given no effect, and the City may accept such  
23 payment without prejudice to any other right or remedy which the City may have against the  
24 Tenant, unless otherwise agreed in writing by both parties.

25 (h) Except as otherwise expressly provided in this Lease, and except for default by  
26 the City, no abatement, refund, offset, counterclaim, recoupment, diminution or any reduction of  
27 Rent, charges or other compensation shall be claimed by or allowed to Tenant, or any person  
28 claiming under it, under any circumstances, whether for inconvenience, discomfort, interruption  
29 of business, interruption of utility services or otherwise, arising from the making of alterations,  
30 changes, additions, improvements or repairs to the Building or the Premises, by virtue or  
31 because of any present or future governmental laws, ordinances, or for any other cause or  
32 reason.

## 33 34 **7. Taxes.**

35  
36 (a) The Tenant shall pay all impositions including all applicable state, county and  
37 City taxes (including real estate, ad valorem, personal property, sales, use, and occupancy  
38 taxes), and assessments of any kind and nature whatsoever, including all interest and penalties  
39 on them, which shall or may accrue or be incurred during the Term of this Lease. The Tenant  
40 shall pay all such taxes and assessments before any fine, penalty, interest, or cost may be  
41 added for nonpayment, and shall furnish to the City, on request, official receipts or other  
42 satisfactory proof evidencing such payment. If any tax or assessment is payable in installments  
43 over a period of years, the Tenant shall be liable only for payment of those installments falling  
44 due and payable during the Term, with appropriate pro-ration in case of fractional years. If  
45 Tenant's leasehold estate under this Lease becomes subject to taxation to the Tenant, City  
46 agrees to reasonably cooperate with Tenant to modify this Lease to provide a credit against  
47 Basic Rent for the amount of City real property taxes paid by Tenant.

48 (b) Taxes and assessments shall not be deemed to include any municipal, state or  
49 federal income taxes assessed against the City, or any municipal, state or federal capital levy,  
50 estate, succession, inheritance or transfer taxes of the City, or any franchise taxes imposed on

1 the City, or any income, profits or revenues tax, assessment or charge imposed on the rent  
2 received as such by the City under this Lease.  
3

4 **8. Insurance.**  
5

6 (a) At all times during the Term, at the Tenant's sole cost and expense, the Tenant  
7 shall obtain and keep in full force and effect a policy of comprehensive general public liability  
8 insurance on an "occurrence" basis, naming the City, its elected officials, appointees, directors,  
9 employees, agents, and representatives as additional insureds with respect to the Premises and  
10 the business of the Tenant in, on, within, from or connected with the Premises, for which the  
11 limits of liability shall be not less than Three Million Dollars (\$3,000,000.00) with respect to  
12 injuries and/or death to any number of persons arising out of one accident; One Million Dollars  
13 (\$1,000,000.00) with respect to injury and/or death of any one person; and in the amount of not  
14 less than Three Million Five Hundred Thousand Dollars (\$3,500,000.00) with respect to the  
15 destruction of or damage to property, including the Premises. Such insurance policy shall be  
16 issued by an insurance company approved by the City. Even though the City, its elected  
17 officials, appointees, directors, employees, agents, and representatives are named additional  
18 insureds on the policy provided by the Tenant, such policy must specifically provide for payment  
19 of damage or loss to the City when the damage to the City, to its property or to its agents,  
20 contractors or employees is caused by the negligent or other wrongful act of the Tenant or its  
21 contractors, employees, agents, licensees or invitees. At the City's request, made no more  
22 frequently than the commencement of each Renewal Term, the Tenant shall increase the  
23 amounts of coverages required by this Section 8(a) to amounts reasonably satisfactory to the  
24 City taking into account inflation, changes in risks being insured, and changes in commercially  
25 reasonable standards for insurance of such types.

26 (b) At all times during the Term, at the Tenant's sole cost and expense, the Tenant  
27 shall insure the contents of the Premises, including, without limitation, alterations, decorations,  
28 furnishings, fixtures and equipment used or installed in the Premises by or on behalf of Tenant,  
29 and all personal property of the Tenant in the Premises, against loss due to fire and other  
30 property risks included in standard all risk coverage insurance policies, in an amount equal to  
31 the replacement cost thereof and covering loss of income from such property risk. All insurance  
32 carried by the Tenant hereunder shall be primary and not contributing with any insurance  
33 carried by the City.

34 (c) At all times during the Term, the Tenant shall maintain, at the Tenant's sole cost  
35 and expense, worker's compensation insurance in statutory limits.

36 (d) At all times during the Term, the Tenant shall maintain, at the Tenant's sole cost  
37 and expense, a flood insurance policy for all furnishings, fixtures and equipment in the Premises  
38 in accordance with the U.S. Government's National Flood Insurance Program, for which the  
39 limits of liability shall be not less than One Million Dollars (\$1,000,000.00), and naming the  
40 City, its elected officials, appointees, directors, employees, agents, and representatives as  
41 additional insureds.

42 (e) The Tenant hereby waives all claims for recovery from the City for any loss or  
43 damage insured under valid and collectible insurance policies to the extent of any recovery for  
44 loss insured thereunder. The policy required to be kept in force by the Tenant as provided by  
45 Section 8(a) shall contain provisions whereby the insurer waives any right of subrogation  
46 against the City and its contractors, agents and employees. Neither the issuance of such policy  
47 or the minimum limits of coverage specified in Section 8(a) or elsewhere in this Lease shall limit  
48 or restrict, or be deemed to limit or restrict in any way, the Tenant's responsibility or liability  
49 arising out of its covenants under the provisions of this Lease. The insurance protection  
50 afforded by the Tenant's insurance policy must be written as primary coverage and not as  
51 contributing with or in excess of any coverage which the City may carry.

1 (f) Before the Tenant occupies the Premises, the Tenant shall deliver to the City one  
2 or more original certificates of Tenant's insurance policies required to be maintained by this  
3 Section 8, together with true and complete copies of such policies and of receipts or other  
4 evidences of the pre-payment of its premiums for not less than one (1) year in advance.  
5 Thereafter, during the entire Lease Term, and at least thirty (30) calendar days before each  
6 expiration date of each such policy, the Tenant will similarly deliver an original certificate of the  
7 renewal policy to the City together with true and complete copies of the renewal policies and of  
8 receipts or other evidence of the prepayment of the annual premiums. Each certificate of the  
9 Tenant's insurance policies must be reasonably acceptable to the City in form, substance and  
10 detail and contain an agreement by the insurer or the Tenant that it will not cancel or amend the  
11 policy without giving at least thirty (30) calendar days prior written notice to the City.

12 (g) The insurance required to be maintained by the Tenant by this Section 8 may be  
13 placed under one or more "blanket policies;" provided, however, that the insurer named in each  
14 such blanket policy must certify to the City's satisfaction that the coverage required to be  
15 provided by the Tenant is separately identified and is actually provided and available to protect  
16 the Premises within the terms of the blanket policy.

17  
18 **9. Utilities.**

19  
20 (a) The Tenant shall be solely liable to pay all costs and expenses of electricity,  
21 water, sanitary sewer, heating, natural gas, air conditioning, and any other utility service used at  
22 the Premises, and for exterior lighting of the Building. The Tenant shall pay all such costs and  
23 expenses either directly to the providers of such services if the Building is separately metered  
24 therefor or, if not separately metered, to the City as Additional Rent, based on the City's  
25 reasonable proration of such costs and expenses, within thirty (30) calendar days after the City  
26 gives Tenant a statement therefor with supporting documentation. Under no circumstances shall  
27 the City be liable to Tenant in damages or otherwise (i) if any utility shall become unavailable  
28 from any public utility company, public authority or any other person or entity supplying or  
29 distributing such utility, or (ii) for any interruption in service of electricity, water, sewer, gas, heat,  
30 ventilation, or air conditioning caused by fire, accidents, strikes, breakdowns, necessary  
31 maintenance, alterations, repairs, acts of God or any other causes; and, except as permitted by  
32 Section 19, the foregoing shall not constitute a termination of this Lease, provided, however,  
33 that if such interruption or unavailability occurs and extends for more than five (5) business  
34 days, Tenant's obligation to pay Basic Rent to the City shall cease and abate unless and until  
35 said interruption or unavailability ceases.

36 (b) Tenant understands and acknowledges that the heating, cooling and make-up air  
37 capacity of the Premises is provided by a geothermal system; and that the system provides  
38 approximately 40 tons of cooling capacity. This consists of approximately 25.5 tons for the  
39 Building base load and people load; and the remaining 14.5 tons of cooling capacity is available  
40 for Tenant's installed-equipment heat load. Tenant further acknowledges that the efficiency and  
41 sufficiency of the cooling system is dependent upon Tenant not exceeding the equipment heat  
42 load and Tenant keeping all doors to the Building shut except when people are entering or  
43 leaving the Premises. Tenant agrees to use and operate the Building and Premises in a manner  
44 consistent with this Paragraph. If the efficiency and sufficiency of the system are not adequate  
45 to provide comfortable all-season temperatures and humidity in the Premises for Tenant and its  
46 customers, Tenant may replace or upgrade, and thereafter maintain, at its sole cost and  
47 expense, the heating and cooling system as necessary to provide comfortable all-season  
48 temperatures and humidity in the Premises for Tenant and its customers. Any supplementation  
49 of the existing heating and cooling system shall be subject to prior approval by the City, which  
50 shall not be unreasonably denied, conditioned or delayed.

51

1 (c) The Tenant shall be solely liable to pay all costs and expenses for any telephone,  
2 internet, cable, and similar services, including any necessary telecommunications build-out of  
3 the Premises. The Tenant shall not arrange or pay for any build-out of any telecommunications  
4 that penetrates the exterior wall of the Building, attaches to the exterior of the Building or  
5 impacts the columns in the Building without the prior written consent of the City.

6 (d) The Tenant shall be solely liable to pay all costs and expenses for any operating  
7 expenses, housekeeping services and janitorial work that Tenant reasonably deems necessary  
8 for the operation of the Premises, including, but not limited to, cleaning any and all bathroom  
9 facilities, cleaning windows and floors, and all other general and/or routine janitorial  
10 maintenance.

11  
12 **10. Repairs and Maintenance.**  
13

14 (a) The Tenant, at its sole cost and expense, shall maintain, repair and replace as  
15 necessary, and keep, in a clean, safe and proper operating condition, the entire interior and,  
16 except as otherwise provided in Paragraph 10(d), the exterior of the Premises, including but not  
17 limited to all windows, doors and glass, all machinery, equipment, lighting, sump pumps, grease  
18 traps, controls, oil minder pump, mechanical, electrical, plumbing, heating, ventilating, air  
19 conditioning, sprinkler, fire suppression and alarm systems and equipment, inventory and  
20 appurtenances thereof used by or for the benefit of the Tenant, and shall keep the Premises in  
21 good order and repair, and in a safe and clean condition, free of dirt, trash, pests, and in all  
22 respects in such manner as to comply with all applicable laws and regulations. Notwithstanding  
23 the foregoing, the City shall be responsible for the maintenance, repair and replacement of  
24 pipes and equipment located below the concrete floor of the Premises, except for grease traps,  
25 and unless necessitated by the negligence or willful wrongful act or omission of Tenant, its  
26 agents, contractors, invitees or employees. The Tenant shall also maintain and keep, in a first  
27 class condition, the Adjoining Areas, and shall arrange for removal of ice and snow from the  
28 Adjoining Areas when reasonably necessary. Tenant shall not take any action to interfere with,  
29 damage or destroy any of the City's bollards, chains, parking meters or signage located on or in  
30 the Adjoining Areas that are Tenant's responsibility to maintain.

31 (b) At the Tenant's sole cost and expense, Tenant shall enter into and maintain  
32 during the entire Term service contracts with reputable third-party contractors licensed to  
33 maintain and monitor all mechanical, electrical, plumbing, sprinkler, fire suppression, alarm and  
34 other systems and equipment at the Premises for which Tenant is responsible as provided by  
35 Section 10(a), including but not limited to Building operating systems and equipment, as  
36 described in Section 10(a). All such service contracts and contractors must (i) comply with all  
37 applicable manufacturer's recommendations, (ii) be terminable without penalty upon thirty (30)  
38 calendar days prior written notice, and (iii) be approved by the City prior to the Tenant entering  
39 into the service contracts, which approval shall not be unreasonably withheld.

40 (c) The Tenant, at its sole cost and expense, shall take commercially reasonable  
41 precautions and measures to protect the Premises, including the Building and any personal  
42 property therein, from flooding (collectively, "Flood Measures") prior to an impending weather  
43 event reasonably expected to have flooding potential. Tenant shall coordinate with the City and  
44 its staff on other protective measures to be taken, except that Tenant may not make any  
45 physical alteration to the Building without the prior written approval of the City, which shall not  
46 be unreasonably withheld.

47 (d) The City shall maintain, repair, replace and renew the roof, foundation, exterior  
48 walls of the Building, and HVAC system (except for such any replacements or upgrades to the  
49 system installed by Tenant), as and when reasonably required, and make all other capital  
50 improvements to the Property for which the Tenant is not responsible to make pursuant to  
51 Section 10(a) and (b) above (the "Capital Repairs"), provided that the Tenant promptly shall give

1 the City Notice of the necessity for such repairs, and further provided that the damage thereto  
2 shall not have been caused by the Tenant, its agents, contractors, invitees or employees, in  
3 which event the Tenant shall be responsible therefore and shall promptly repair such damage at  
4 its sole cost and expense pursuant to Section 25. Capital Repairs that are the responsibility of  
5 Tenant to undertake and that the Tenant does not undertake after written notice from the City in  
6 accordance with Paragraph 15(a) shall be undertaken by the City and invoiced to the Tenant as  
7 Additional Rent. As used in this sub-paragraph (d), a capital improvement means the addition  
8 of a permanent structural change or the restoration of some aspect of the Property that will  
9 either enhance its overall value, increase its useful life or adapt it to a new use.

10 (e) Except as provided in this Lease, the City shall have no obligation or liability for  
11 repair or maintenance of the Premises, or any part thereof, nor shall the City be under any  
12 liability to repair, maintain or replace any electrical, plumbing, heating, air conditioning or other  
13 mechanical installation, nor shall the City be obligated to make any improvements of any kind  
14 upon the Premises, or to make any repairs, replacements or improvements to any equipment,  
15 facilities or fixtures contained therein, all of which shall be the responsibility of the Tenant and  
16 shall be performed as provided by Sections 10 and 11.

## 17 18 **11. Alterations by the Tenant.**

19  
20 (a) The Tenant shall not make any alterations or improvements to the Premises  
21 during the Term, unless such alterations (i) are not structural in nature and do not affect the  
22 structural integrity of the Building, (ii) comply with all restrictions and/or requirements of any  
23 Maryland Historic Trust easements for the Premises, (iii) are approved by the City's Historic  
24 Preservation Commission, (iv) do not adversely affect the qualification of the Building as an  
25 historic structure or the historic tax credits available to the City in connection therewith, and (v)  
26 are performed after written approval by the City of the Tenant's specific plans and specifications  
27 therefor, which approval shall not be unreasonably withheld. All alterations and improvements to  
28 the Premises shall be done at the sole cost and expense of the Tenant in a good and  
29 workmanlike manner, using only new or reclaimed materials and in compliance with all  
30 applicable laws, codes, rules and regulations. Such alterations and improvements shall, upon  
31 the installation thereof, become and be the property of the City and shall remain upon and be  
32 surrendered with the Premises at the termination or expiration of this Lease. The City agrees to  
33 reasonably cooperate with Tenant to process Tenant's applications for permits for alterations or  
34 improvements in a timely manner.

35 (b) The Tenant shall cause all debris, rubbish and surplus materials caused by the  
36 performance of its alterations and improvements to be removed from the Premises and  
37 disposed of at a lawful facility as necessary or when directed by the City, but not less frequently  
38 than every two (2) business days. Tenant shall not allow any such debris, rubbish and surplus  
39 materials to unreasonably interfere with the operation of the Premises to the extent that the  
40 Premises remain open during the making of alterations and improvements.

## 41 42 **12. Mechanics' and Materialmen's Liens and Other Liens.**

43  
44 The Tenant shall not do or suffer to be done any act, matter or thing whereby the  
45 Premises (or the Tenant's interest therein), or any part thereof, may be encumbered by any  
46 mechanics' or materialmen's lien or by any other lien or encumbrance. The Tenant shall cause  
47 to be canceled and discharged of record, by bond approved by the court or as otherwise  
48 permitted by such court in which the claim is filed, within ten (10) business days after the date of  
49 filing, any mechanics' or materialmen's liens filed against the Premises (or the Tenant's interest  
50 therein), or any part thereof, purporting to be for work or material furnished or to be furnished to  
51 the Tenant. The Tenant shall have no authority to encumber the City's interest in the Building or

1 the Premises, and nothing in this Lease shall be deemed or construed to make the Tenant the  
2 agent of the City for the purpose of performing work in or upon, or ordering materials for, the  
3 Building or the Premises.  
4

5 **13. Representations of Tenant.**  
6

7 The Tenant hereby represents and warrants to the City that as of the Effective Date, the  
8 Tenant is a limited liability company of the State of Maryland; this Lease constitutes the legal,  
9 valid and binding obligation of the Tenant enforceable in accordance with its terms; the Tenant  
10 has full power and authority to enter into and perform the terms and conditions of this Lease; the  
11 Tenant has obtained all necessary approvals and consents to lease the Premises from the City  
12 as contemplated by this Lease; the persons executing this Lease on behalf of the Tenant is fully  
13 and duly empowered and authorized to so act; and this Lease has been duly executed and  
14 delivered.  
15

16 **14. Release.**  
17

18 The Tenant hereby waives, releases and irrevocably relinquishes any and all claims,  
19 liability and causes of action, known or unknown, against the City or the City's contractors,  
20 employees, agents, licensees or invitees arising during the Term in connection with any damage  
21 or destruction to the property of the Tenant or of any other person or entity and/or for injury or  
22 death to the person of the Tenant or of any other person or entity directly or indirectly due to any  
23 cause whatsoever other than the willful misconduct or gross negligence of the City or of the  
24 City's contractors, employees, agents, licensees or invitees.  
25

26 **15. Inspection and Entry.**  
27

28 (a) The City or its agents shall have, upon giving the Tenant at least twenty-four (24)  
29 hours advance Notice (which Notice, in addition to the means set forth in Section 27, may be  
30 given by telephone or orally in person) the right at all reasonable times to enter the Premises to  
31 examine same and to show them, and for such other purposes as shall be necessary in the  
32 reasonable exercise of the discretion of the City. The City shall not be required to give any  
33 Notice to the Tenant before entering the Premises in the event of an emergency. In addition, if  
34 the Tenant shall fail to make any repairs, restorations, replacements or otherwise comply with  
35 the provisions of this Lease within the time specified in Section 17, then the City shall have the  
36 right, but shall not be required to enter the Premises during normal business hours (or otherwise  
37 in the event of an emergency) to make required repairs, restorations, replacements or fulfill the  
38 other requirements hereunder and in the event the City does so act, such repairs, restorations,  
39 replacements or fulfillment of other requirements shall be made by the City at the sole cost and  
40 expense of the Tenant, and any costs or expenses incurred by the City shall be collectible as  
41 Additional Rent and shall be paid by the Tenant after the City delivers to the Tenant a statement  
42 therefor with appropriate documentation including third party invoices and receipts.

43 (b) The Tenant shall not change any locks or passwords necessary to access the  
44 Building or the Premises without first providing the City with such new keys or passwords as are  
45 necessary for the City to obtain such access.  
46

47 **16. Tenant's Failure to Perform.**  
48

49 If the Tenant shall fail, within fifteen (15) business days after the City gives the Tenant  
50 Notice thereof, to keep the Premises in the state of condition and repair required by this Lease;

1 to do any act; make any payment; or perform any term or covenant on the Tenant's part  
2 required under this Lease, the City may (at its option, but without being required to do so)  
3 immediately, or at any time thereafter and without Notice, perform the same for the account of  
4 the Tenant (including, but not limited to, entering upon the Premises at any time to make  
5 repairs). Any costs incurred by the City in so performing the Tenant's obligations shall be  
6 deemed Additional Rent. The City shall provide to the Tenant reasonable evidence of the costs  
7 City incurred. All rights given to the City in this Section 16 shall be in addition to any other right  
8 or remedy of the City herein contained.  
9

10 **17. Default.**

11  
12 (a) (i) If the Tenant shall fail to pay any installment of Rent within five (5) business  
13 days after the date such installment is due unless otherwise agreed between City and Tenant  
14 on a case by case basis, or (ii) if the Tenant defaults in any of the covenants or agreements  
15 herein contained, including, but not limited to, failing to strictly comply with the Business  
16 Summary, and not otherwise specifically provided for by this Section 17(a), which default shall  
17 not be cured within fifteen (15) business days after the City gives the Tenant Notice thereof, or  
18 (iii) if the Tenant shall be declared bankrupt or insolvent according to law, or shall make an  
19 assignment for the benefit of creditors, or if any petition shall be filed by or against the Tenant  
20 under any of the provisions of the Federal Bankruptcy Act and shall not be vacated within ninety  
21 (90) calendar days thereafter, or (iv) if the Tenant vacates or abandons the Premises (items (i)  
22 through (iv) are each referred to as an "Event of Default"), then the City may lawfully,  
23 immediately or at any time thereafter and without Notice or demand, and without liability for any  
24 damage that may be done to the property of the Tenant, enter into and upon the Premises and  
25 repossess the same and declare this Lease and the tenancy hereby created terminated, and  
26 expel the Tenant and those claiming under the Tenant, and the City shall be entitled to the  
27 benefit of all provisions of the laws of Anne Arundel County and the Public General Laws of  
28 Maryland respecting the speedy recovery of lands and tenements held over by tenants or  
29 proceedings in forcible entry and detainer, and all without prejudice to any remedies which  
30 might otherwise be used by the City for arrears of Rent or for any breach of the Tenant's  
31 covenants herein contained. The Tenant further agrees that notwithstanding such re-entry, the  
32 Tenant shall remain liable for any Rent or damages which may be due or sustained prior  
33 thereto, and the Tenant shall further be liable, at the option of the City, for sums of money as  
34 liquidated damages for the breach of any covenant and for all Rent due during the remainder of  
35 the Term. As an alternative, the City may collect in a lump sum the balance of Rent (including  
36 Additional Rent) which would be due during the remainder of the Term had the Tenant not  
37 defaulted hereunder, which lump sum shall be appropriately discounted to present value using  
38 then prevailing market rates of interest. If the City relets the Premises to another tenant after an  
39 Event of Default, any amounts (net of the costs of such reletting) received from such  
40 subsequent tenant during the Term shall reduce Tenant's damages due to the City hereunder.  
41 THE CITY AND THE TENANT AGREE TO AND THEY HEREBY DO WAIVE TRIAL BY JURY  
42 IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY ANY OF THE PARTIES  
43 HERETO AGAINST THE OTHERS ON ANY MATTERS WHATSOEVER ARISING OUT OF OR  
44 IN ANY WAY CONNECTED WITH THIS LEASE, THE RELATIONSHIP OF THE CITY AND  
45 TENANT, TENANT'S USE OR OCCUPANCY OF THE PREMISES AND/OR ANY CLAIM OR  
46 INJURY OR DAMAGE, AND ANY STATUTORY REMEDY.

47 (b) No assent, expressed or implied, by the City to any breach by the Tenant of any  
48 of the clauses, stipulations or covenants of this Lease shall be deemed or taken to be a waiver  
49 of, or assent to, any succeeding breach of the same clause, or stipulation or covenant, or any  
50 preceding or succeeding breach of any clause, stipulation or covenants. The Tenant hereby

1 waives all rights of redemption to which the Tenant or any person under it may be entitled by  
2 any law now or hereafter in effect.

3 (c) Upon the occurrence of an Event of Default, the City shall have at all times the  
4 right to distraint for Rent and other charges due and shall have a first and valid lien upon all  
5 property of the Tenant, whether or not exempt by law, for payment of the Rent and other  
6 charges herein reserved.

7 (d) All remedies granted hereunder or permitted by law shall be cumulative, and  
8 unless inconsistent, may be exercised separately or concurrently or successively.

9 (e) From and after the occurrence of any Event of Default, the Tenant shall pay to  
10 the City as Additional Rent, and the City shall be entitled to collect from the Tenant, all fees,  
11 costs and expenses (including but not limited to the fees and disbursements of the City's  
12 attorneys) incurred by the City in connection with such Event of Default.

13 (f) The City and the Tenant agree that this is a lease of property to be used  
14 exclusively for a business, commercial or mercantile purpose as distinguished from residence  
15 purposes as provided in Real Property Article, Section 8-110 of the Annotated Code of  
16 Maryland and that this Lease and the Rent herein reserved are not subject to redemption.

17  
18 **18. Assignment and Subletting.**

19  
20 (a) The Tenant shall not assign this Lease without the prior written approval of the  
21 City Council, which the Council may refuse in the Council's sole and absolute subjective  
22 discretion. As part of any approval of an assignment, the Council may impose any terms or  
23 conditions that the Council deems appropriate. Unless otherwise expressly provided by the  
24 Council, approval of an assignment does not relieve Tenant of any obligation or liability to be  
25 performed by Tenant under this Lease at any time, and Tenant shall continue to be liable as  
26 principal, and not as guarantor or surety, to the same extent as if no assignment had been  
27 made

28 (b) The Tenant may sublease the Premises, or a portion of the Premises, for a term,  
29 including renewal terms of not more than the Term of this Lease, after first obtaining in each  
30 such instance prior written consent of the City, which consent may not be unreasonably  
31 withheld, conditioned or delayed. A proposed sublease shall be deemed approved if the City  
32 does not respond to a request for approval within ten business days after the City's receipt of  
33 Tenant's request. Any sublease must be consistent with Tenant's approved Business  
34 Summary. The Tenant shall provide the City with copies of all subleases in a timely manner.

35 (c) In case of any subletting or assignment, whether with or without the City's  
36 consent, the Tenant shall remain fully liable under this Lease. Consent in any one instance by  
37 the City shall not be deemed a waiver of the requirement that the City's consent be obtained as  
38 to all subsequent assignments and subleases.

39 (d) Any assignment or sublease by Tenant in violation of this Lease shall be null and  
40 void and the City shall not be obligated to recognize the assignee or sublessee claims unless  
41 the City agrees otherwise in writing.

42 (e) The City may at any time make an assignment of its interest in this Lease and, in  
43 the event of such an assignment, the City shall be released from any and all liability accruing  
44 under this Lease after the date of the assignment, except that the City may deliver any security  
45 deposit to the assignee and the City shall be released from any further liability regarding the  
46 security deposit. Tenant may terminate this Lease upon 30 days written notice upon being  
47 notified that the City has assigned its interest in this Lease.

48  
49 **19. Fire or Other Casualty.**

1 (a) In the event of partial or total damage or destruction to the Premises by fire, other  
2 casualty, or any other cause whatsoever (except condemnation), that is not the responsibility of  
3 the Tenant to repair or reconstruct, (i) the Tenant promptly shall give Notice thereof to the City;  
4 (ii) this Lease shall continue in full force and effect, except as otherwise provided by this Section  
5 19; and (iii) the City, to the extent that funds are available to the City therefor, shall thereupon  
6 cause such damage or destruction to the Premises to be repaired with reasonable speed at the  
7 expense of the City, due allowance being made for reasonable delay which may arise by reason  
8 of adjustment of loss under insurance policies on the part of the Tenant, and for reasonable  
9 delay on account of "labor troubles" or any other cause beyond the City's control. To the extent  
10 that the Premises, in whole or in part, is rendered untenable for more than five (5)  
11 consecutive days, the Rent shall proportionately abate based upon the portion of the Premises  
12 that are untenable until the Premises, or portion of the Premises, are restored to a condition  
13 substantially similar to the condition as existed immediately prior to the damage or destruction. If  
14 the damage or destruction shall be so extensive to the Building as to render it uneconomical, in  
15 the City's or Tenant's reasonable opinion, to restore the Premises for the use of the Tenant as  
16 specified herein or the City shall decide not to repair or rebuild the Building within a reasonable  
17 period of time, this Lease, at the option of either party, shall be terminated upon Notice thereof  
18 to the other party and the Rent shall, in such event, be paid to or adjusted as of the date of such  
19 damage, and this Lease shall terminate upon the third (3<sup>rd</sup>) business day after such Notice is  
20 given. The Tenant shall thereupon vacate the Premises and surrender the same to the City in  
21 accordance with Section 22, but no such termination shall release the Tenant from any liability  
22 to the City arising from such damage or from any of the obligations or duties imposed on the  
23 Tenant hereunder prior to such termination.

24 (b) In no event shall the City be liable for interruption to the Tenant's business or for  
25 damage to or replacement or repair of the Tenant's personal property, including inventory, trade  
26 fixtures, floor coverings, furniture and other property removable by the Tenant under the  
27 provisions of this Lease, unless such interruption or damage is caused by fire or other casualty,  
28 or the the gross negligence or willful misconduct of the City or the City's contractors, employees,  
29 agents, licensees or invitees.

30 (c) If the Premises are substantially damaged, in the City's reasonable opinion,  
31 during the last two (2) years of the Term, then in any such events, the City may terminate this  
32 Lease by giving the Tenant Notice thereof within ninety (90) calendar days after the occurrence  
33 of such event. Rent and other charges shall be adjusted as of the date of such damage.  
34

## 35 **20. Eminent Domain.**

36  
37 If the entire Premises is condemned or taken (either temporarily or permanently) for  
38 public purposes by a government entity other than the City, or if the City shall convey the  
39 Premises to any public authority in settlement of a threat of such condemnation or taking by a  
40 government entity other than the City, the Rent shall be adjusted to the date of such taking or  
41 conveyance, and this Lease shall thereupon terminate. If only a portion of the Premises shall be  
42 so taken or condemned and, as a result of such partial taking, the Tenant is reasonably able to  
43 use the remainder of the Premises for the purposes intended by this Lease, then this Lease  
44 shall not terminate but, effective as of the date of such taking or condemnation, the Rent shall  
45 be abated in an amount thereof proportionate to the area of the Premises so taken or  
46 condemned. If, following such partial taking, the Tenant shall not be reasonably able to use the  
47 remainder of the Premises for the purposes intended by this Lease, then this Lease shall  
48 terminate as if the entire Premises had been taken or condemned. In the event of a taking or  
49 condemnation as described in this Section 20, whether or not there is a termination of this  
50 Lease, the Tenant shall have no claim against the City, other than an adjustment of Rent to the  
51 date of taking or condemnation, and the Tenant shall not be entitled to any portion of any

1 amount that may be awarded as damages or paid as a result or in settlement of such  
2 proceedings or threat. **[JOE GORMLEY'S PROPOSED LANGUAGE INCORPORATED]**  
3

4 **21. Signs.**  
5

6 The Tenant shall not place or maintain any sign, billboard, marquee, awning, decoration,  
7 placard, lettering, advertising matter or other thing of any kind, whether permanent or  
8 temporary, on the exterior of the Premises or the Building, or on the glass or any window or  
9 door of the Premises or the Building, without first obtaining the City's written consent and, as  
10 applicable, approval by the Maryland Historic Trust and the City's Historic Preservation  
11 Commission. The Tenant shall maintain any Tenant-posted approved sign, billboard, marquee,  
12 awning, decoration, placard, lettering or advertising matter or other thing of any kind, and shall  
13 repair and replace the same when necessary to keep it in good condition and repair at all times.  
14

15 **22. Holding Over; Surrender of Premises.**  
16

17 (a) If the Tenant holds possession of the Premises after the expiration or termination  
18 of this Lease without the City's written consent, the Tenant shall become a tenant from month  
19 to month upon all terms, other than Basic Rent, herein specified and shall continue to be such  
20 tenant from month to month until such tenancy shall be terminated by either party giving the  
21 other Notice thereof at least thirty (30) calendar days prior to terminating such tenancy. During  
22 such month to month tenancy Tenant shall pay rent at the amount of the Basic Rent due during  
23 the last month of the Lease Term, except that if the hold-over tenancy is over the objection of  
24 the City, Tenant shall pay Basic Rent at twice the amount of Basic Rent due during the last  
25 month of the Lease Term. Nothing contained in this Lease shall be construed as a consent by  
26 the City to the occupancy or possession of the Premises by the Tenant after the expiration or  
27 termination of this Lease. Upon the expiration or termination of this Lease, the City shall be  
28 entitled to the benefit of all public general or public local laws relating to the speedy recovery of  
29 the possession of lands and tenements held over by tenants, that may now or hereafter be in  
30 force.

31 (b) On the last day or earlier termination of this Lease, the Tenant shall vacate the  
32 Premises and leave it in good condition and repair, normal wear and tear excepted, and shall,  
33 dismantle and remove all of its personal property from the Premises. Any personal property that  
34 the Tenant does not remove within thirty (30) calendar days of vacating shall be deemed  
35 abandoned and, at the option of the City, immediately shall become the property of the City. Any  
36 other personal property that the City does not desire to retain shall be removed and disposed of  
37 by the City at Tenant's cost and expense, which shall be invoiced by the City and paid by the  
38 Tenant as Additional Rent.

39 (c) Within ten (10) calendar days of vacating, the City shall tour the Premises, with  
40 the Tenant present if possible, to determine the condition of the Premises and the condition of  
41 personal property in the Premises. Any items determined to be in need of correction or repair  
42 may be corrected or repaired by the City, and shall be invoiced by the City and paid by the  
43 Tenant as Additional Rent.  
44

45 **23. Security; Liability of the City.**  
46

47 (a) The Tenant acknowledges that the rents reserved in this Lease do not include  
48 the cost of private security guards or other private security measures, and that the City has no  
49 obligations to provide such private security services. The Tenant assumes all risks associated

1 with the security of the Premises. The Tenant shall police, light and maintain the Premises in a  
2 clean, safe and secure manner.

3 (b) The Tenant shall not under any circumstances issue any no trespass notices,  
4 whether oral or written, or exclude any individual from the Premises or the Property for any  
5 reason, except to prevent a crime from being committed on the Premises or the Property, and  
6 except in the case of an emergency or unsafe condition. If the Tenant desires to issue any no  
7 trespass notices or exclude any individual from the Premises and/or the Property, except to  
8 prevent a crime from being committed on the Premises or the Property, and except in the case  
9 of an emergency or unsafe condition, the Tenant shall send a written request to the City, and  
10 the City shall make the ultimate decision how and if to act on this request.

11 (c) The City, its elected officials, appointees, directors, employees, agents, and  
12 representatives shall not be liable for any damage to property of the Tenant or of others located  
13 on the Premises or entrusted to its or their employees nor for the loss of any property by theft or  
14 otherwise, nor for any injury or damage to persons or property resulting from theft, casualty,  
15 acts of God, fire of every nature and type, the accumulation of snow or ice, explosion, falling  
16 plaster, steam, gas, electricity, wind, water, rain or snow which may overflow or leak or be  
17 discharged from any part of the Premises, the Property, and/or the Building, or from the pipes,  
18 appliances or plumbing works of the same or from the street or subsurface or from any other  
19 place, or from dampness, or from any other cause whatsoever; nor shall the City be liable for  
20 any such damage caused by other persons in the Premises, the Property, and/or the Building,  
21 or for damage caused by operations in construction of any public or quasi-public works. All  
22 property of the Tenant kept or stored on the Premises shall be so kept at the risk of the Tenant  
23 only and the Tenant shall indemnify, defend and hold the City, its elected officials, appointees,  
24 directors, employees, agents, and representatives harmless from any claims arising out of  
25 damage to the same, including subrogation claims by the Tenant's insurance carrier.

26  
27 **24. Quiet Enjoyment.**

28  
29 If the Tenant timely pays all the Rent herein reserved and is not in default in the  
30 performance and observation of all of the other terms, covenants and conditions of this Lease  
31 on the Tenant's part to be performed and observed hereunder, the Tenant shall, during the  
32 Term, peaceably and quietly have, hold and enjoy the Premises without molestation or  
33 hindrance by the City or any party claiming through or under the City, subject to the provisions  
34 of this Lease.

35  
36 **25. Indemnification.**

37  
38 (a) The Tenant shall indemnify, defend and hold the City, its elected officials,  
39 appointees, directors, employees, agents, and representatives harmless from and against all  
40 liability for injuries to persons, including death, and damage to the Premises, the Property, the  
41 Building, or other real and personal property, arising from acts or omissions of the Tenant, its  
42 officers, agents, employees, contractors, patrons, volunteers, guests or invitees.

43 (b) The Tenant's indemnifications include reasonable attorney fees and costs  
44 incurred by the City in defending any claims, complaints, causes of action, lawsuits, or other  
45 such actions. The City, in its sole discretion, may participate in handling its own defense or  
46 exclusively handle its own defense, and select its own attorneys, including the City Attorney.

47 (c) The Tenant indemnification does not limit any immunity which the City, its elected  
48 officials, appointees, directors, employees, agents, and representatives are entitled to assert,  
49 and includes all costs and expenses, including attorney's fees, whether or not related to  
50 administrative or judicial proceedings.

1 (d) The Tenant shall reimburse the City, within thirty (30) calendar days after  
2 invoicing for such reimbursement as Additional Rent, for any damage to the Premises, the  
3 Property and the Building caused by the negligence or willful misconduct of the Tenant, its  
4 officers, agents, employees, contractors, patrons, volunteers, guests or invitees.

5 (e) The Tenant shall ensure that the policies of insurance carried by Tenant under  
6 Section 8 of this Lease provide coverage for Tenant's indemnification obligations under this  
7 Section.  
8

9 **26. City Council Meeting or Work Session.**

10  
11 For the purpose of keeping the Mayor and City Council of Annapolis apprised of any  
12 changes to the Premises or the Tenant's use of the Premises, after the end of the first (1<sup>st</sup>) year  
13 of the Term and each year thereafter during the Term, the Tenant shall, if requested by the City  
14 in writing fourteen (14) calendar days prior thereto, attend a City Council meeting or work  
15 session to report on any such changes.  
16

17 **27. Miscellaneous.**

18  
19 (a) Non-Discrimination. The Tenant shall not discriminate against any person with  
20 regard to membership policies, employment practices, or in the provision of or access to  
21 services based on race, color, religion, national origin, ancestry, sex, age, disability or any other  
22 status or class protected by law. This provision shall not be construed to prevent the Tenant  
23 from rendering services pursuant to this Lease to categories of individuals with specific needs,  
24 provided that such services are not rendered in an unlawfully discriminatory manner.

25 (b) Reservation of Governmental Authority. The City reserves the right at all times to  
26 exercise full governmental control and regulation with respect to all matters arising under or  
27 related to this Lease, provided that such control and regulation does not constitute an  
28 unconstitutional impairment of this Lease.

29 (c) Modification. This Lease sets forth the entire agreement between the parties  
30 relative to the subject matter of this Lease. No representation, promise or condition, whether  
31 oral or written, not incorporated herein shall be binding upon either party to this Lease. This  
32 Lease shall not be waived, amended or modified except in writing and signed by the authorized  
33 representative(s) of both parties. No act by any representative or agent of the City, other than  
34 such a written agreement and acceptance by the City, shall constitute an acceptance thereof.

35 (d) Access to Records. During normal business hours with reasonable prior notice  
36 from the City, and as often as the City may deem necessary, the Tenant shall make available to  
37 and allow inspection and copying by the City, its employees or agents, of all books, records,  
38 accounts, reports, information and documentation of the Tenant related to the subject matter of  
39 this Lease. The Tenant shall maintain all books, records, accounts, reports, information and  
40 documentation required under this Lease for a period of at least three (3) years after the date of  
41 termination of this Lease including any renewals, except in the event of litigation or settlement of  
42 claims arising from the performance of this Lease, in which case the Tenant shall do so until  
43 three (3) years after final adjudication of such litigation or settlement of claims. Tenant shall  
44 mark as "Confidential" any books, records, accounts, reports, information and documentation  
45 that the City inspects and copies and that Tenant desires to maintain as confidential. For  
46 purposes of the Maryland Public Information Act, to the extent practicable the City shall treat as  
47 "Confidential" and not disclose any Tenant books, records, accounts, reports, information and  
48 documentation that Tenant has marked as "Confidential."

49 (e) Remedies Cumulative and Concurrent. No remedy provided by this Lease or  
50 reserved to the City is intended to be exclusive of any other remedies provided for in this Lease,  
51 and each such remedy shall be cumulative, and shall be in addition to every other remedy given

1 under this Lease, or now or hereafter existing at law or in equity or by statute. Every right,  
2 power and remedy given to the City shall be concurrent and may be pursued separately,  
3 successively or together against the Tenant, and every right, power and remedy given to the  
4 City may be exercised from time to time as often as may be deemed expedient by the City.

5 (f) Independent Contractor Status. Nothing contained in this Lease shall be  
6 construed to constitute the Tenant as an agent, representative or employee of the City, or to  
7 create any relationship between the parties other than landlord and tenant.

8 (g) Binding Effect. The terms of this Lease shall be binding on and enforceable  
9 against the parties and their respective successors and assigns.

10 (h) Governing Law. In all actions arising from this Lease, the laws of the State of  
11 Maryland shall govern, and the venue for all actions initiated pursuant to this Lease shall be  
12 exclusively the Courts of Anne Arundel County, Maryland. The parties waive jury trial in all  
13 actions initiated pursuant to this Lease.

14 (i) Recitals. The recitals (WHEREAS clauses) of this Lease are incorporated into  
15 and are a material part of this Lease.

16 (j) Severability. If any of the provisions of this Lease are declared by a court or  
17 other lawful authority to be unenforceable or invalid for any reason, the remaining provisions  
18 hereof shall not be affected thereby and shall remain enforceable to the full extent permitted by  
19 law.

20 (k) Survival. Those paragraphs in this Lease which by their nature are intended to  
21 survive shall survive the termination of this Lease.

22 (l) Authorization. This Lease is authorized by the City Council pursuant to O-\_\_-\_\_.

23 (m) Availability of Funds. All financial obligations of the City, and the performance of  
24 such obligations, are subject to appropriation and availability of funds.

25 (n) Terminology. Where this Lease provides for an act to be undertaken or  
26 performed by the "City", the act shall be undertaken by the City Manager.

27 (o) Counterparts. This Lease may be executed in any number of counterparts and  
28 by the parties hereto in separate counterparts, each of which when so executed and delivered  
29 shall be deemed to be an original and all of which taken together shall constitute but one and  
30 the same instrument.

31 (p) Notice. Any notice required to be delivered (each a "Notice") shall be deemed to  
32 have been received when the Notice has been sent by certified mail, return receipt, overnight  
33 carrier, or hand delivered with signed receipt to the following address and individual or such  
34 other address and/or such other individual as a party may identify in writing to the other party:

35  
36 To the City: City Manager  
37 160 Duke of Gloucester Street  
38 Annapolis, Maryland 21401

39  
40 With a Copy to: City Attorney  
41 160 Duke of Gloucester Street  
42 Annapolis, Maryland 21401

43  
44 To the Tenant: \_\_\_\_\_  
45 \_\_\_\_\_  
46 \_\_\_\_\_  
47 \_\_\_\_\_



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**ATTACHMENT A-1  
DEPICTION OF MARKET HOUSE AND PREMISES**

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**ATTACHMENT B  
BUSINESS SUMMARY**

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**ATTACHMENT C  
DEED OF PRESERVATION EASEMENT**

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**ATTACHMENT D  
PERFORMANCE RENT**

2% of cumulative annual gross revenues (exclusive of sales taxes) over \$1,500,000.00 (One Million Five Hundred Thousand Dollars and No Cents) received during each Lease year by Tenant and all subtenants.