



Chartered 1708

City of Annapolis
160 Duke of Gloucester Street
Annapolis, MD 21401

MARKET HOUSE LEASE AGREEMENT WITH NEW MARKET HOUSE, LLC

1
2 **THIS MARKET HOUSE LEASE AGREEMENT** (this "Lease") is made as of the ____ day
3 of ____, 2025 by and between **CITY OF ANNAPOLIS**, a municipal corporation of the State of
4 Maryland (the "City") and **NEW MARKET HOUSE, LLC**, a Maryland limited liability company, its
5 successors and permitted assigns ("Tenant").

6
7 **WHEREAS**, the City is the fee simple owner of the property known and described as 25
8 Market Space, Annapolis, Maryland 21401 (the "Property"), which is improved by the "Market
9 House" (the "Building"), all as depicted on **Attachment A** attached hereto and incorporated
10 herein; and

11
12 **WHEREAS**, Tenant previously leased the Building from the City pursuant to a City of
13 Annapolis Market House Lease Agreement dated March 6, 2018, as amended; and

14
15 **WHEREAS**, Tenant desires to continue leasing the entirety of the Building containing
16 approximately and collectively five thousand three hundred twenty-six (5,326) square feet, along
17 with its common areas, including, but not limited to, restrooms, hallways, doorways, public
18 conveniences, service areas, entrance ways and interior walkways (collectively, the "Premises"),
19 together with a right to use, in common with others, adjoining sidewalks extending to edge of curb
20 on the three (3) sides of the Building abutting Market Space, and extending a distance of six (6)
21 feet beyond the edge of the eave along the side of the Building adjoining Hopkins Plaza (as
22 defined herein), and including an outdoor seating area on the sidewalk adjacent to the Building
23 (collectively, the "Adjoining Areas"), but excluding parking meters, bollards and chains and
24 parking and traffic control signage; and

25
26 **WHEREAS**, Tenant wishes to lease the Premises from the City, and the City desires to
27 lease the Premises to Tenant, for the purpose of operation of a market house as described in
28 Chapter 7.28 of the Annapolis City Code; and

29
30 **WHEREAS**, the parties desire to enter into this Lease that defines the rights, duties, and
31 liabilities of the parties.

32
33 **NOW, THEREFORE**, in consideration of the mutual promises and covenants of this
34 Lease, and other good and valuable consideration, the receipt and sufficiency of which are hereby
35 acknowledged, the City and Tenant agree as follows:

36
37 **1. Demise of Premises.**

38
39 The City hereby demises and lets to Tenant and Tenant hereby rents and leases from the
40 City, the Premises, subject to the terms and conditions of this Lease.
41

2. **Term.**

(a) *Initial Term.* This Lease shall be for an initial term (the "Initial Term") commencing on July 1, 2033 (the "Effective Date") and expiring on June 30, 2038, unless renewed or sooner terminated as otherwise provided by this Lease. For purposes of this Lease, a "year" of the Lease is the twelve (12) month period ending on June 30th.

(b) *First Renewal Term.* Notwithstanding any other provision in this Lease, Tenant shall have the right in its sole discretion to elect to extend this Lease for an additional five (5) year renewal term beyond June 30, 2038 (the "Initial Renewal Term") (i.e. through June 30, 2043) only if all of the following requirements (the "Extension Requirements") are complied with no later than June 15, 2038 to the reasonable satisfaction of the City:

(i) During the Initial Term, Tenant shall be obligated to expend not less than One Hundred Thousand Dollars and No Cents (\$100,000.00) on improvements to the Premises pursuant to Sections 10 and 11 of this Lease (collectively, the "Initial Term Improvements").

(ii) The Initial Term Improvements shall include, but shall not be limited to, architectural and related design fees, structural renovation costs, mechanical repair and replacement costs, chattel repair costs, chattel replacement costs, all other improvement costs for the Premises, and those specifically enumerated improvements pursuant to Sections 10 and 11 of this Lease. Subject to any restrictions in Section 6(c) of this Lease, Expenditures made by Tenant and approved subtenants (per Section 18) pursuant to Sections 10 and 11 of this Lease shall be considered as qualifying expenses for the purposes of satisfying the spending obligation for the Initial Term Improvements. Expressly subject to the requirements and approvals specified in Sections 10 and 11 of this Lease, Tenant shall make the final determination as to Initial Term Improvements for the purposes of this section. All such Initial Term Improvements contemplated by Section 2(b)(i) shall be initiated on or before the expiration of the Initial Term. If an improvement is initiated by Tenant prior to the expiration date of the Initial Term of this Lease, it shall be deemed as part of the Initial Term Improvements, and included in Tenant's spending obligation for the Initial Term Improvements.

If the Tenant fails to comply with all of the Extension Requirements to the reasonable satisfaction of the City, then the Lease shall automatically expire at the end of the Initial Term.

(~~b~~c) *Additional Renewal Terms.* Provided that Tenant is not otherwise in default hereunder as defined in Section 17, and further provided that Tenant complied with all of the Extension Requirements and elected to extend through the Initial Renewal Term, and Tenant still wishes to continue to occupy the Premises, Tenant shall have the right in its sole discretion to the parties may mutually agree to renew this Lease for ~~three~~ two (23) successive renewal terms of five (5) years each upon the same terms and conditions herein (each a "Renewal Term"). ~~only if all of the following terms are complied with no later than six (6) months prior to the end of the Initial Term or applicable Renewal Term.~~

~~_____ (i) Came into compliance for any and all City and Anne Arundel County infractions received against the Premises during the Initial Term or applicable prior Renewal Term, or timely filled a legal appeal or requested a trial for any and all such City and Anne Arundel County infractions; and~~

~~_____ (ii) Came into compliance for any and all civil and/or criminal violations received against the Premises during the Initial Term or applicable prior Renewal Term, or timely filled a legal appeal or requested a trial for any and all such violations.~~

~~c.~~(d) *Automatic Non-Renewal.* If Tenant fails to comply with all of these terms prior to each and any Renewal Term, then the Lease shall automatically expire at the end of the Initial Term or then current Renewal Term.

~~d.~~(e) *Notice to Renew.* Not less than six (6) months before the end of the Initial Term, and each applicable Renewal Term, Tenant shall tender Notice to the City of its intention not to renew this Lease, or submit a request in writing ~~to exercise its right~~ to renew this Lease.

1 e-(f) *Term.* The Initial Renewal Term and any other applicable Renewal Terms shall be
2 collectively referred to as the "Renewal Terms" for purposes of this Lease. The Initial Term and
3 all applicable Renewal Term(s) shall collectively be referred to as the "Term" for purposes of this
4 Lease.

5 (g) *Written Documentation.* Any renewal and/or other material change to this Lease
6 Agreement pursuant to this Section 2 shall be documented in writing and signed by the authorized
7 representatives of each of the parties hereto.
8

9 **3. Condition of Premises.**

10
11 Within ten (10) calendar days after the Effective Date, Tenant shall inspect the Premises
12 and provide the City with Notice of any conditions in the Premises that Tenant reasonably finds
13 objectionable. The City shall have no further obligation to install or perform any improvements to
14 the Premises after the Effective Date, except as the City and Tenant agree as a result of Tenant's
15 inspection. If the City does not agree to any reasonable improvements requested by Tenant, then
16 Tenant, within ten (10) calendar days after receiving the City's response, may terminate this
17 Lease without further obligation and any deposit monies paid shall be returned to Tenant. Except
18 for any improvements agreed to by the City, the Premises shall be delivered to Tenant in "AS IS,
19 WHERE IS" condition. Tenant acknowledges that it has inspected the Premises, and that Tenant's
20 continued occupancy of the Premises shall constitute acceptance thereof as complying with all
21 obligations of the City with respect to the condition, order and repair thereof except for
22 improvements that the City agreed to make as a result of Tenant's inspection. Tenant, at its sole
23 cost and expense, shall perform any additional work necessary to prepare the Premises for
24 Tenant's continued use and occupancy as provided by Sections 10 and 11.
25

26 **4. Permitted Use.**

27
28 (a) *Purpose; Use.* Tenant shall use and occupy the Premises for the purpose of
29 operation of a public market house as described in Chapter 7.28 of the Annapolis City Code or
30 successor code, and for no other inconsistent purposes, and in accordance with Tenant's
31 "Business Summary", attached hereto and incorporated herein as **Attachment B**. The Business
32 Summary shall only be modified in a manner consist with Chapter 7.28 of the Annapolis City
33 Code, and through a written amendment to this Lease. Tenant shall be entitled to use the Alfred
34 A. Hopkins Plaza (the "Hopkins Plaza") adjacent to the Property, on a non-exclusive basis for
35 purposes of conducting an Open Air Market as described in Chapter 7.28 of the Annapolis City
36 Code, with the prior written Approval of the City, which Approval may be altered or revoked at any
37 time. Tenant shall not block public access to the Kunta Kinte Memorial situated in Hopkins Plaza.
38 Blocking such public access may result in revocation of Tenant's right to use Hopkins Plaza.

39 (b) *No Violation of Applicable Laws through Use.* Tenant shall not use or occupy the
40 Premises or the Property, or exercise its rights under this Lease, in any manner which would
41 violate, or cause the City to violate, the Deed of Preservation Easement dated December 17,
42 2015, attached to this Lease as **Attachment C**, or any applicable law, including but not limited to
43 the Americans With Disabilities Act and any Environmental Regulations (defined in Section 4(e)),
44 or in a manner which may constitute a nuisance or a potential fire hazard as determined by the
45 City Fire Marshal's Office.

46 (c) *No Representation as to Fitness.* The City makes no representation as to the
47 fitness of the Premises or satisfaction of zoning, historic district, historic preservation and all other
48 government regulations and requirements with regard to Tenant's proposed use of the Premises
49 as contemplated herein.

50 (d) *No Waste or Nuisance; Compliance with Applicable Laws.* Tenant shall not
51 commit or suffer to be committed any waste or nuisance upon the Premises. Tenant, at Tenant's

sole cost and expense, shall comply with and observe (i) all ordinances, rules, regulations and requirements of all City, county, state, federal and other applicable governmental authorities hereafter in force pertaining to the Premises and the use thereof, including but not limited to any Environmental Regulations, City Fire Marshal's Office requirements, and all applicable permitting and licensing requirements (collectively, "Applicable Laws"); and (ii) all requirements and rules and regulations of any applicable insurance rating agency. Nothing in this sub-section shall require Tenant to comply with any City law or regulation enacted after the Effective Date that unconstitutionally impairs Tenant's contractual rights under this Lease

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

(f) *Business Summary.* Tenant shall continuously, actively and diligently operate the Market House throughout the whole of the Premises in accordance with the Business Summary.

(g) *Bollards, Chains, Parking Meters, Signage.* Notwithstanding anything else in this Lease, the City reserves the right to maintain, repair, replace and relocate the City's bollards, chains, parking meters and signage located on or in the sidewalks located on the Property.

5. Tenant's Responsibilities for Management of the Premises and the Building.

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

(i) Oversight of all operations at the Premises.
(ii) Quality assurance for all aspects of the Premises' common areas, and the interior of the Building.

(iii) Procurement at Tenant's expense, except as otherwise provided in this Lease, of all Building service contracts, including, but not limited to, custodial, interior and exterior window washing/cleaning, refuse and recycling collection and disposal, music system, grease collection, grease trap cleaning, pest control contracts, and utilities maintenance contracts,

including for the Geothermal System (as defined herein) in coordination with and Approval of the City as may be required in Sections 10 and 11.

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

(v) Development and assurance of proper security procedures for the Premises.

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

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

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

6. Security Deposit; Rent.

(a) *Security Deposit*. No later than the Effective Date, Tenant shall deposit with the City's Finance Director, 160 Duke of Gloucester Street, Annapolis MD, 21401, the amount of ~~Ten~~ Fifteen Thousand Dollars and No Cents (~~\$4015~~,000.00) (the "Security Deposit"). The City shall have no obligation to pay any interest on the Security Deposit, and may commingle it in an account with other funds. The City, at its option, may apply any part of the Security Deposit towards the payment of outstanding amounts due under this Lease, provided always that Tenant's liability under this Lease shall not thereby be discharged. Upon any uncured monetary default, the City may request, and Tenant shall be obligated to deposit, additional security to secure Tenant's performance under this Lease within ten (10) business days to restore the Security Deposit to its original amount. If not used, the Security Deposit shall be returned to Tenant within thirty (30) calendar days after Tenant vacates the Premises in accordance with Section 22.

(b) *Basic Rent*. Commencing on July 1, 2033 and continuing through June 30, 2038, Tenant shall pay to the City "Basic Rent" in equal monthly installments of ~~Ten-Eleven~~ Thousand Dollars and No Cents (~~\$4011~~,000.00). At the beginning of any Renewal Term (including the Initial Renewal Term), the next Renewal Term's monthly Basic Rent shall be calculated at an amount equal to the previous term's monthly Basic Rent multiplied by 1.~~05~~10, so that each subsequent Renewal Term's Basic Rent increases by ~~five-ten~~ percent (510%).

(c) *Performance Rent*. In addition to Basic Rent, Tenant shall pay to the City annually "Performance Rent" based upon a percentage of Tenant's annual gross revenues during the Lease year. "Performance Rent" shall mean one percent (1%) of cumulative annual gross revenues (exclusive of sales taxes) over ~~One-Two Million Five Hundred Thousand~~ Dollars and No Cents (~~\$1,500,000~~2,000,000.00) received during each Lease year by Tenant and all approved subtenants. For purposes of this Lease, the \$2,000,000.00, as escalated throughout the Term, shall be referred to as the "Performance Rent Baseline". At the beginning of any Renewal Term (including the Initial Renewal Term), the next Renewal Term's Performance Rent Baseline shall be calculated at an amount equal to the previous term's Performance Rent Baseline multiplied by

1 1.05, so that each subsequent Renewal Term's Performance Rent Baseline increases by five
2 percent (5%). Tenant agrees to pay each year's Performance Rent, no later than thirty (30)
3 calendar days from City annual invoice, without deduction, recoupment or set-off. Tenant shall
4 submit with each payment of Performance Rent such supporting tax return documentation as the
5 City reasonably shall require to document gross sales by Tenant and any subtenants and the
6 computation of the payment. Tenant shall implement procedures reasonably satisfactory to the
7 City to ensure timely and proper recording and accounting of all sales by Tenant and subtenants.
8 ***Notwithstanding the requirements of this subsection, the parties may mutually agree***
9 ***through a written amendment to this Lease to allow the Tenant to use some or all of any***
10 ***year's Performance Rent to make specifically agreed upon improvements to the Premises,***
11 ***in accordance with Sections 10 and 11, instead of paying such monies to the City as***
12 ***Performance Rent. The \$100,000.00 investment by Tenant for the Initial Term***
13 ***Improvements pursuant to Section 2(b)(ii) of this Lease shall not be deducted from the***
14 ***Performance Rent unless tied to City-agreed upon capital expenditures.***

15 (d) ***Basic Rent Payment.*** Basic Rent shall be payable in monthly installments, no later
16 than thirty (30) calendar days from City monthly invoice, without deduction, recoupment or set-off
17 (except as otherwise provided by this Lease). All payments shall be made payable to the "City
18 of Annapolis" and shall be sent or delivered to the Finance Director, Finance Department, City
19 Hall, 160 Duke of Gloucester Street, Annapolis, Maryland 21401. Tenant shall not use the City
20 Hall lockbox for any payments pursuant to this Lease.

21 (e) ***Additional Rent.*** As used in this Lease, "Additional Rent" shall mean all amounts,
22 costs and expenses other than Basic Rent and any Performance Rent which Tenant assumes or
23 agrees to pay to the City as provided by this Lease. In the event of nonpayment of any amount of
24 Additional Rent, the City shall have all of the rights and remedies provided for in the case of
25 nonpayment of Basic Rent. Additional Rent shall include, but not be limited to, bills or invoices
26 resulting from the following: taxes owed by Tenant but billed to the City as discussed in Section
27 7(a); any jointly metered utilities as discussed in Section 9(a); Tenant's failure to make capital
28 repairs as discussed in Section 10(d); Tenant's failure to make repairs as discussed in Section
29 15(a); Tenant's failure to perform as discussed in Section 16; damages from Tenant's default as
30 discussed in Section 17(e); Tenant's abandoned personal property as discussed in Section 22(b);
31 repairs needed at expiration of this Lease as discussed in Section 22(c); and damage to the
32 Premises or City property as discussed in Section 25(d). Tenant shall pay Additional Rent in the
33 same manner as Basic Rent, and Tenant's obligation to pay Additional Rent shall survive the
34 expiration or termination of this Lease. Basic Rent, Performance Rent and Additional Rent are
35 referred to collectively in this Lease as "Rent."

36 (f) ***Payment on Account.*** Any payment by Tenant or acceptance by the City of a
37 lesser amount than is due from Tenant to the City shall be treated as a payment on account. The
38 acceptance by the City of a payment for a lesser amount with an endorsement or statement, or
39 upon any letter accompanying such payment, that such lesser amount is payment in full, shall be
40 given no effect, and the City may accept such payment without prejudice to any other right or
41 remedy which the City may have against Tenant, unless otherwise agreed in writing by both
42 parties, and the City may apply any such payment to any outstanding amount owed by Tenant
43 under this Lease.

44 (g) ***No Rent Abatement, Etc.*** Except as otherwise expressly provided in this Lease,
45 and except as permitted by Section 17 for default by the City, no abatement, refund, offset,
46 counterclaim, recoupment, diminution or any reduction of Rent, charges or other compensation
47 shall be claimed by or allowed to Tenant, or any person claiming under it, under any
48 circumstances, whether for inconvenience, discomfort, interruption of business, interruption of
49 utility services or otherwise, arising from the making of alterations, changes, additions,
50 improvements or repairs to the Building or the Premises, by virtue or because of any present or
51 future governmental laws, ordinances, or for any other cause or reason.

1
2
3 **7. Taxes.**
4

5 (a) *Tenant Payment of Impositions.* Tenant shall pay all impositions including all
6 applicable state, county and City taxes (including real estate, ad valorem, personal property,
7 sales, use, and occupancy taxes), and assessments of any kind and nature whatsoever, including
8 all interest and penalties on them, which shall or may accrue or be incurred during the Term of
9 this Lease. If any such impositions are billed to the City, Tenant shall pay such impositions to the
10 City as Additional Rent within thirty (30) calendar days after the City gives Tenant a statement
11 therefor with supporting documentation. Tenant shall pay all such taxes and assessments before
12 any fine, penalty, interest, or cost may be added for nonpayment, and shall furnish to the City, on
13 request, official receipts or other satisfactory proof evidencing such payment. If any tax or
14 assessment is payable in installments over a period of years, Tenant shall be liable only for
15 payment of those installments falling due and payable during the Term, with appropriate pro-ration
16 in case of fractional years. If Tenant's leasehold estate under this Lease becomes subject to
17 taxation to Tenant, City agrees to modify this Lease to provide a credit against Basic Rent for the
18 amount of City real property taxes paid by Tenant, and the City will work with Tenant to take any
19 appropriate steps to appeal such real property taxation and/or assessment.

20 (b) *Not Included as Impositions.* Taxes, impositions and assessments shall not be
21 deemed to include any municipal, county, state or federal income taxes assessed against the
22 City, or any municipal, county, state or federal capital levy, estate, succession, inheritance or
23 transfer taxes of the City, or any franchise taxes imposed on the City, or any income, profits or
24 revenues tax, assessment or charge imposed on the rent received as such by the City under this
25 Lease.
26

27 **8. Insurance.**
28

29 (a) *Comprehensive General Public Liability Insurance.* At all times during the Term,
30 at Tenant's sole cost and expense, Tenant shall obtain and keep in full force and effect a policy
31 of comprehensive general public liability insurance on an "occurrence" basis, naming the City, its
32 elected officials, appointees, directors, employees, agents, and representatives as additional
33 insureds with respect to the Premises and the business of Tenant in, on, within, from or connected
34 with the Premises, for which the limits of liability shall be not less than Three Million Dollars
35 (\$3,000,000.00) with respect to injuries and/or death to any number of persons arising out of one
36 accident; One Million Dollars (\$1,000,000.00) with respect to injury and/or death of any one
37 person; and in the amount of not less than Three Million Five Hundred Thousand Dollars
38 (\$3,500,000.00) with respect to the destruction of or damage to property, including the Premises.
39 Such insurance policy shall be issued by an insurance company approved by the City through a
40 written Approval. Even though the City, its elected officials, appointees, directors, employees,
41 agents, and representatives are named additional insureds on the policy provided by Tenant,
42 such policy must specifically provide for payment of damage or loss to the City when the damage
43 to the City, to its property or to its agents, contractors or employees is caused by the negligent or
44 other wrongful act of Tenant or its contractors, employees, agents, licensees or invitees. At the
45 City's request, made no more frequently than the commencement of each Renewal Term, Tenant
46 shall increase the amounts of coverages required by this Section 8(a) to amounts reasonably
47 satisfactory to the City taking into account inflation, changes in risks being insured, and changes
48 in commercially reasonable standards for insurance of such types.

49 (b) *Coverage for Contents of Premises.* At all times during the Term, at Tenant's sole
50 cost and expense, Tenant shall insure the contents of the Premises, including, without limitation,
51 alterations, decorations, furnishings, fixtures and equipment used or installed in the Premises by

1 or on behalf of Tenant, and all personal property of Tenant in the Premises, against loss due to
2 fire and other property risks included in standard all risk coverage insurance policies, in an amount
3 equal to the replacement cost thereof and covering loss of income from such property risk. All
4 insurance carried by Tenant hereunder shall be primary and not contributing with any insurance
5 carried by the City.

6 (c) *Workers' Compensation Insurance.* At all times during the Term, Tenant shall
7 maintain, at Tenant's sole cost and expense, workers' compensation insurance in statutory limits.

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

14 (e) *Waiver; Subrogation.* Tenant hereby waives all claims for recovery from the City
15 for any loss or damage insured under valid and collectible insurance policies to the extent of any
16 recovery for loss insured thereunder. The policy required to be kept in force by Tenant as provided
17 by Section 8(a) shall contain provisions whereby the insurer waives any right of subrogation
18 against the City and its contractors, agents and employees. Neither the issuance of such policy
19 or the minimum limits of coverage specified in Section 8(a) or elsewhere in this Lease shall limit
20 or restrict, or be deemed to limit or restrict in any way, Tenant's responsibility or liability arising
21 out of its covenants under the provisions of this Lease. The insurance protection afforded by
22 Tenant's insurance policy must be written as primary coverage and not as contributing with or in
23 excess of any coverage which the City may carry.

24 (f) *Certificates of Insurance.* Before Tenant occupies the Premises, Tenant shall
25 deliver to the City one (1) or more original certificates of Tenant's insurance policies required to
26 be maintained by this Section 8, together with true and complete copies of such policies and of
27 receipts or other evidences of the pre-payment of its premiums for not less than one (1) year in
28 advance. Thereafter, during the entire Lease Term, and at least thirty (30) calendar days before
29 each expiration date of each such policy, Tenant will similarly deliver an original certificate of the
30 renewal policy to the City together with true and complete copies of the renewal policies and of
31 receipts or other evidence of the prepayment of the annual premiums. Each certificate of Tenant's
32 insurance policies must be reasonably acceptable to the City in form, substance and detail and
33 contain an agreement by the insurer or Tenant that it will not cancel or amend the policy without
34 giving at least thirty (30) calendar days prior Notice to the City.

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

40 41 **9. Utilities.**

42
43 (a) *Utilities Costs and Expenses.* Tenant shall be solely liable to pay all costs and
44 expenses of electricity, water, sanitary sewer, heating, natural gas, air conditioning, and any other
45 utility service used at the Premises, and for exterior lighting of the Building. Tenant shall pay all
46 such costs and expenses either directly to the providers of such services if the Building is
47 separately metered therefor or, if not separately metered, to the City as Additional Rent, based
48 on the City's reasonable proration of such costs and expenses, within thirty (30) calendar days
49 after the City gives Tenant a statement therefor with supporting documentation. Under no
50 circumstances shall the City be liable to Tenant in damages or otherwise (i) if any utility shall

1 become unavailable from any public utility company, public authority or any other person or entity
2 supplying or distributing such utility, or (ii) for any interruption in service of electricity, water, sewer,
3 gas, heat, ventilation, or air conditioning caused by fire, accidents, strikes, breakdowns,
4 necessary maintenance, alterations, repairs, acts of God or any other causes; and, except as
5 permitted by Section 19, the foregoing shall not constitute a termination of this Lease. Tenant's
6 obligation to pay Basic Rent to the City shall continue and be unabated throughout such
7 interruption or unavailability, but Tenant may obtain business interruption insurance to protect
8 against such interruption or unavailability.

9 (b) *Telecommunication.* Tenant shall be solely liable to pay all costs and expenses
10 for any telephone, internet, cable, and similar services, including any necessary
11 telecommunications build-out of the Premises. Tenant shall not arrange or pay for any build-out
12 of any telecommunications that penetrates the exterior wall of the Building, attaches to the exterior
13 of the Building or impacts the columns in the Building without the prior written Approval of the
14 City.

15 (c) *Housekeeping; Janitorial.* Tenant shall be solely liable to pay all costs and
16 expenses for any operating expenses, housekeeping services and janitorial work that Tenant
17 reasonably deems necessary for the operation of the Premises, including, but not limited to,
18 cleaning any and all bathroom facilities, cleaning windows and floors, and all other general and/or
19 routine janitorial maintenance.

20 21 **10. Repairs and Maintenance; Geothermal System.**

22
23 (a) *Tenant Repairs and Maintenance.* Tenant, at its sole cost and expense, shall
24 maintain, repair and replace as necessary, and keep, in a clean, safe and proper operating
25 condition, the entire interior and, except as otherwise provided in this Section 10, the exterior of
26 the Premises, including but not limited to all windows, doors and glass, all machinery, equipment,
27 lighting, sump pumps, grease traps, controls, mechanical, electrical, plumbing, inventory, the
28 Geothermal System (as defined below), and appurtenances thereof used by or for the benefit of
29 Tenant. Tenant shall keep the Premises in good order and repair, and in a safe and clean
30 condition, free of dirt, trash, pests, and in all respects in such manner as to comply with all
31 Applicable Laws. Tenant shall also maintain and keep, in a clean, safe and proper condition, the
32 Adjoining Areas, and shall arrange for removal of ice and snow from the Adjoining Areas when
33 reasonably necessary. Tenant shall not take any action to interfere with, damage or destroy any
34 of the City's bollards, chains, parking meters or signage located on or in the Adjoining Areas.

35 (b) *Service Contracts.* At Tenant's sole cost and expense, Tenant shall enter into and
36 maintain during the entire Term service contracts with reputable third-party contractors licensed
37 and insured to maintain and monitor all mechanical, electrical, plumbing, HVAC (including
38 specifically HVAC Air Handlers), the Geothermal System, and other systems and equipment at
39 the Premises for which Tenant is responsible as provided by this Section 10; provided, however,
40 that any Tenant costs and expenses related to a service contract for the Geothermal System shall
41 be reimbursable to Tenant within thirty (30) days of the City's receipt of a Notice requesting such
42 reimbursement along with sufficient documentation of such costs and expenses. All such service
43 contracts and contractors must (i) comply with all applicable manufacturer's recommendations,
44 (ii) be terminable without penalty upon thirty (30) calendar days prior Notice, (iii) approved by the
45 City prior to Tenant entering into the service contracts, which Approval shall not be unreasonably
46 withheld and (iv) comply with Chapter 6.08 of the City of Annapolis City Code where applicable.

47 (c) *Flood Measures.* Tenant, at its sole cost and expense, shall take commercially
48 reasonable precautions and measures to protect the Premises, including the Building and any
49 personal property therein, from flooding (collectively, "Flood Measures") prior to an impending
50 weather event reasonably expected to have flooding potential. Tenant shall coordinate with the
51 City and its staff on other protective measures to be taken, except that Tenant may not make any

1 physical alteration to the Building without the prior written Approval of the City, which shall not be
2 unreasonably withheld.

3 (d) *Geothermal System Capacity.* Tenant understands and acknowledges that the
4 heating, cooling and make-up air capacity of the Premises is provided by a geothermal system
5 (the "Geothermal System"); and that the Geothermal System provides approximately forty (40)
6 tons of capacity, consisting of approximately thirty (30) tons of cooling and ten (10) tons of
7 dehumidification, of which five (5) tons can be used as cooling. This consists of approximately
8 twenty-five and one-half (25.5) tons for the Building base load and people load; and the remaining
9 fourteen and one-half (14.5) tons of capacity is available for Tenant's installed-equipment heat
10 load. Tenant further acknowledges that the efficiency and sufficiency of the cooling portion of the
11 Geothermal System is dependent upon Tenant not exceeding the equipment heat load and
12 Tenant keeping all doors to the Building shut except when people are entering or leaving the
13 Premises. Tenant agrees to use and operate the Building and Premises in a manner consistent
14 with this sub-section.

15 (e) *Geothermal System Repairs and Maintenance.* The City shall repair, replace, and
16 remotely monitor the Geothermal System, including any supplementation, replacements or
17 upgrades to the Geothermal System installed pursuant to Section 9(f) of this Lease, as and when
18 reasonably required. Provided, however, that the City may request the Tenant to undertake any
19 repairs, replacements, maintenance, and/or monitoring of the Geothermal System at any time
20 and on multiple times, and in the event the City does so make such a request or requests, all
21 costs and expenses for such repairs, replacements, maintenance, and/or monitoring shall be
22 reimbursed to Tenant after Tenant delivers to the City a statement therefor with appropriate
23 documentation including third party invoices and receipts. All requests for maintenance under this
24 section shall comply with Chapter 6.08 of the Annapolis City Code where applicable. Tenant shall
25 be required to perform regular maintenance of the Geothermal System, including heating,
26 ventilating, and air conditioning equipment and appurtenances thereof, including any
27 supplementation, replacements or upgrades to the Geothermal System installed pursuant to
28 Section 9(f) of this Lease, and to include changing filters.

29 (f) *Geothermal System Supplements, Replacements, Upgrades.* If the efficiency and
30 sufficiency of the Geothermal System are not adequate to provide comfortable all-season
31 temperatures and humidity in the Premises for Tenant and its customers, either (i) Tenant may
32 supplement, replace or upgrade the Geothermal System in accordance with Section 11(a) of this
33 Lease, at its sole cost and expense; or (ii) the parties, through a written amendment to this Lease,
34 may mutually agree for Tenant to supplement, replace or upgrade the Geothermal System in
35 accordance with Section 11(a) of this Lease at some or all cost to the City, including, but not
36 limited to use of Performance Rent in accordance with Section 6(c). Any supplementation,
37 replacement or upgrade of the existing Geothermal System shall be subject to prior written
38 Approval by the City, which shall not be unreasonably denied, conditioned or delayed and shall
39 comply with Chapter 6.08 of the City of Annapolis Code of Ordinances where applicable. Any
40 equipment, fixtures, devices, product designs, parts or indispensable accessories replaced,
41 upgraded or otherwise installed pursuant to this sub-section shall, upon the installation thereof,
42 become and be the property of the City and shall remain upon and be surrendered with the
43 Premises at the termination or expiration of this Lease.

44 (g) *City Repairs and Maintenance.* The City shall (i) maintain, repair, replace and
45 renew the roof, foundation, exterior walls, and sprinkler, fire suppression and fire alarm systems
46 (including any approved or required fire systems installed pursuant to Section 11) of the Building,
47 as and when reasonably required; (ii) shall be responsible for the maintenance, repair and
48 replacement of pipes and equipment located below the concrete floor of the Premises, except for
49 grease traps, and unless necessitated by the negligence or willful wrongful act or omission of
50 Tenant, its agents, contractors, invitees or employees; and (iii) shall make all other capital
51 improvements to the Property for which Tenant is not responsible to make pursuant to Section

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

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

11. Alterations, Modifications, or Improvements by Tenant; Fire Protection.

(a) *Alterations, Modifications, or Improvements.* Tenant shall not make any alterations, modifications, or improvements to the Premises during the Term, unless such alterations, modifications, and/or improvements (i) are not structural in nature and do not affect the structural integrity of the Building, (ii) comply with all restrictions and/or requirements of any Maryland Historic Trust easements for the Premises, (iii) are approved by the City's Historic Preservation Commission, (iv) do not adversely affect the qualification of the Building as an historic structure or the historic tax credits available to the City in connection therewith, (v) comply with all Applicable Laws, including any City Fire Marshal's Office requirements, use and occupancy requirements, or other applicable permits, and (vi) are performed after written Approval by the City of Tenant's specific plans and specifications therefor, which Approval shall not be unreasonably withheld. All alterations, modifications and improvements to the Premises shall be done at the sole cost and expense of Tenant in a good and workmanlike manner, using only new or reclaimed materials and in compliance with all Applicable Laws. Such alterations, modifications, and improvements shall, upon the installation thereof, become and be the property of the City and shall remain upon and be surrendered with the Premises at the termination or expiration of this Lease. The City agrees to reasonably cooperate with Tenant to process Tenant's applications for City permits for alterations, modifications, or improvements in a timely manner. Tenant shall provide the City with as-built drawings for all alterations and improvements made to the Premises. Tenant shall be responsible for installing and paying all costs associated with any expansion of the sprinkler, fire suppression and/or fire alarm systems existing as of the Effective Date that are necessitated by any alterations, modifications, or improvements made by Tenant pursuant to this sub-section, as well as any other requirements of the City Fire Marshal's Office.

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

(c) *Life Safety and Fire Protection Requirements.* In accordance with Applicable Laws, the City Fire Department shall have the authority to enter and examine, at all reasonable times,

the Premises for the purpose of making fire safety inspections. The City Fire Department shall have the authority to order any person to remove or remedy conditions that are in violation of Applicable Laws.

(d) *Building Alterations.* All alterations to the Premises shall be permitted through the City Department of Planning & Zoning and the City Fire Marshal's Office in accordance with the International Building Code (IBC) and the National Fire Protection Association "Fire Code" (NFPA 1).

(e) *Fire Protection and Life Safety Systems Required Inspections and Maintenance.* All fire protection and "Life Safety" systems including but not limited to the fire alarm, fire sprinkler, kitchen hoods and ducts, exits, emergency lights, fire extinguishers and exit signs shall be inspected and maintained in accordance with the building and fire codes adopted by the City and the City Fire Department.

12. Mechanics' and Materialmen's Liens and Other Liens.

Tenant shall not do or suffer to be done any act, matter or thing whereby the Premises (or Tenant's interest therein), or any part thereof, may be encumbered by any mechanics' or materialmen's lien or by any other lien or encumbrance. Tenant shall cause to be canceled and discharged of record, by bond approved by the court or as otherwise permitted by such court in which the claim is filed, within ten (10) business days after the date of filing, any mechanics' or materialmen's liens filed against the Premises (or Tenant's interest therein), or any part thereof, purporting to be for work or material furnished or to be furnished to Tenant. Tenant shall have no authority to encumber the City's interest in the Building or the Premises, and nothing in this Lease shall be deemed or construed to make Tenant the agent of the City for the purpose of performing work in or upon, or ordering materials for, the Building or the Premises.

13. Representations of Tenant.

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

14. Release.

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

15. Inspection and Entry.

(a) *Inspection/Entry Rights.* The City or its agents shall have, upon giving Tenant at least twenty-four (24) hours advance Notice (which Notice, in addition to the means set forth in

Section 27, may be given by telephone or orally in person) the right at all reasonable times to enter the Premises to examine same and to show them, and for such other purposes as shall be necessary in the reasonable exercise of the discretion of the City. The City shall not be required to give any Notice to Tenant before entering the Premises in the event of an emergency. In addition, if Tenant shall fail to make any repairs, restorations, replacements or otherwise comply with the provisions of this Lease within the time specified in Section 17, then the City shall have the right, but shall not be required, to enter the Premises during normal business hours (or otherwise in the event of an emergency) to make required repairs, restorations, replacements or fulfill the other requirements hereunder and in the event the City does so act, such repairs, restorations, replacements or fulfillment of other requirements shall be made by the City at the sole cost and expense of Tenant, and any costs or expenses incurred by the City shall be collectible as Additional Rent and shall be paid by Tenant after the City delivers to Tenant a statement therefor with appropriate documentation including third party invoices and receipts.

(b) *Locks; Passwords.* Tenant shall not change any locks or passwords necessary to access the Building or the Premises without first providing the City with such new keys or passwords as are necessary for the City to obtain such access.

16. Tenant's Failure to Perform.

If Tenant shall fail, within fifteen (15) business days after the City gives Tenant Notice thereof, to keep the Premises in the state of condition and repair required by this Lease; to do any act; make any payment; or perform any term or covenant on Tenant's part required under this Lease, the City may (at its option, but without being required to do so) immediately, or at any time thereafter and without Notice, perform the same for the account of Tenant (including, but not limited to, entering upon the Premises at any time to make repairs). Any costs incurred by the City in so performing Tenant's obligations shall be deemed Additional Rent. The City shall provide to Tenant reasonable evidence of the costs City incurred. All rights given to the City in this Section 16 shall be in addition to any other right or remedy of the City herein contained.

17. Default; Termination.

(a) *Event of Tenant Default.* (i) If Tenant shall fail to pay any installment of Rent within five (5) business days after the date such installment is due unless otherwise agreed between City and Tenant on a case by case basis, or (ii) if Tenant defaults in any of the covenants or agreements herein contained, including, but not limited to, failing to substantially comply with the Business Summary, which default shall not be cured within fifteen (15) business days after the City gives Tenant Notice thereof, or (iii) if Tenant shall be declared bankrupt or insolvent according to law, or shall make an assignment for the benefit of creditors, or if any petition shall be filed by or against Tenant under any of the provisions of the Federal Bankruptcy Act and shall not be vacated within ninety (90) calendar days thereafter, or (iv) if Tenant vacates or abandons the Premises (items (i) through (iv) are each referred to as an "Event of Tenant Default"), then the City may lawfully, immediately or at any time thereafter and without Notice or demand, and without liability for any damage that may be done to the property of Tenant, enter into and upon the Premises and repossess the same and declare this Lease and the tenancy hereby created terminated, and expel Tenant and those claiming under Tenant, and the City shall be entitled to the benefit of all provisions of the laws of Anne Arundel County and the Public General Laws of Maryland respecting the speedy recovery of lands and tenements held over by tenants or proceedings in forcible entry and detainer, and all without prejudice to any remedies which might otherwise be used by the City for arrears of Rent or for any breach of Tenant's covenants herein contained. Tenant further agrees that notwithstanding such re-entry, Tenant shall remain liable for any Rent or damages which may be due or sustained prior thereto, and Tenant shall further

1 be liable, at the option of the City, for sums of money as liquidated damages for the breach of any
2 covenant and for all Rent due during the remainder of the Term. As an alternative, the City may
3 collect in a lump sum the balance of Rent (including Additional Rent) which would be due during
4 the remainder of the Term had Tenant not defaulted hereunder, which lump sum shall be
5 appropriately discounted to present value using then prevailing market rates of interest. If the
6 City relets the Premises to another tenant after an Event of Tenant Default, any amounts (net of
7 the costs of such reletting) received from such subsequent tenant during the Term shall reduce
8 Tenant's damages due to the City hereunder.

9 (b) *No City Waiver or Assent of Preceding or Succeeding Default.* No assent,
10 expressed or implied, by the City to any breach by Tenant of any of the clauses, stipulations or
11 covenants of this Lease shall be deemed or taken to be a waiver of, or assent to, any succeeding
12 breach of the same clause, or stipulation or covenant, or any preceding or succeeding breach of
13 any clause, stipulation or covenants. Tenant hereby waives all rights of redemption to which
14 Tenant or any person under it may be entitled by any law now or hereafter in effect.

15 (c) *City Right to Distrain.* Upon the occurrence of an Event of Tenant Default, the City
16 shall have at all times the right to distrain for Rent and other charges due and shall have a first
17 and valid lien upon all property of Tenant, whether or not exempt by law, for payment of the Rent
18 and other charges herein reserved.

19 (d) *Cumulative Remedies.* All remedies granted hereunder or permitted by law shall
20 be cumulative, and unless inconsistent, may be exercised separately or concurrently or
21 successively.

22 (e) *Tenant Default Costs and Expenses.* From and after the occurrence of any Event
23 of Tenant Default, Tenant shall pay to the City as Additional Rent, and the City shall be entitled
24 to collect from Tenant, all fees, costs and expenses (including but not limited to the fees and
25 disbursements of the City's attorneys) incurred by the City in connection with such Event of Tenant
26 Default.

27 (f) *City Default.* If the City materially defaults in any of the covenants or agreements
28 herein contained, which default shall not be cured within twenty (20) business days after Tenant
29 gives the City Notice thereof (each referred to as an "Event of City Default"), then Tenant may
30 either (i) terminate this Lease with Notice to the City of such termination for cause, or (ii) receive
31 a deduction, abatement, recoupment or set-off of Basic Rent through a Notice to the City, which
32 Notice includes sufficient documentation evidencing damages that justify such a deduction,
33 abatement, recoupment or set-off of Basic Rent.

34 (g) *Waiver of Jury Trial.* THE CITY AND TENANT AGREE TO AND THEY HEREBY
35 DO WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT
36 BY ANY OF THE PARTIES HERETO AGAINST THE OTHERS ON ANY MATTERS
37 WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE, THE
38 RELATIONSHIP OF THE CITY AND TENANT, TENANT'S USE OR OCCUPANCY OF THE
39 PREMISES AND/OR ANY CLAIM OR INJURY OR DAMAGE, AND ANY STATUTORY REMEDY.

40 (h) *Not Subject to Redemption.* The City and Tenant agree that this is a lease of
41 property to be used exclusively for a business, commercial or mercantile purpose as distinguished
42 from residence purposes as provided in Real Property Article, Section 8-110 of the Annotated
43 Code of Maryland and that this Lease and the Rent herein reserved are not subject to redemption.

44 (i) *Limit on Damages.* Subject to all other requirements of this Lease, and regardless
45 of how this Lease expires or terminates, including but not limited to, for either party's default, or
46 pursuant to any court order or other settlement, in no event shall Tenant be entitled to damages
47 or other consideration in excess of the amount of Rent remaining for the Term.

48
49 **18. Assignment and Subletting.**
50

1 (a) *Tenant Assignment.* Tenant shall not assign this Lease without the prior written
2 Approval of the City, including an additional approval from the City Council, which Approval the
3 City Council may refuse in the City Council's sole and absolute subjective discretion. As part of
4 any Approval of an assignment, the City Council may impose any terms or conditions that the City
5 Council deems appropriate. Unless otherwise expressly provided by the City Council, Approval
6 of an assignment does not relieve Tenant of any obligation or liability to be performed by Tenant
7 under this Lease at any time, and Tenant shall continue to be liable as principal, and not as
8 guarantor or surety, to the same extent as if no assignment had been made

9 (b) *Tenant Subleasing.* Tenant may sublease one or more portions of the Premises,
10 for a term not more than the Term of this Lease, after first obtaining in each such instance prior
11 written Approval from the City, which Approval may not be unreasonably withheld, conditioned or
12 delayed. Any sublease must be consistent with Tenant's Business Summary and Chapter 7.28 of
13 the Annapolis City Code. Tenant shall provide the City with copies of all subleases as part of
14 such Approval. As part of any sublease Approval, Tenant shall be required to comply, or ensure
15 the compliance of any subtenant, with all Applicable Laws. The City and the Tenant may also
16 agree through a signed amendment to both **Attachments A and B** of this Lease to permanently
17 reserve a certain portion of the Premises for rotating subleases/subtenants, provided that the
18 Tenant provides Notice to the City each time that a sublease/subtenant changes, and ensures
19 that each sublease/subtenants complies with all Applicable Laws.

20 (c) *Tenant Liability for Assignments & Subleases.* ***In case of any subletting or***
21 ***assignment, whether with or without the City's Approval, Tenant shall remain fully liable***
22 ***under this Lease.*** Approval in any one instance by the City shall not be deemed a waiver of the
23 requirement that the City's Approval be obtained as to all subsequent assignments and
24 subleases.

25 (d) *Tenant Assignment/Sublease Null and Void.* Any assignment or sublease by
26 Tenant in violation of this Lease shall be null and void and the City shall not be obligated to
27 recognize the assignee or sublessee claims unless the City Approval is obtained.

28 (e) *City Assignment.* The City may at any time make an assignment of its interest in
29 this Lease and, in the event of such an assignment, the City shall be released from any and all
30 liability accruing under this Lease after the date of the assignment, except that the City may deliver
31 any security deposit to the assignee and the City shall be released from any further liability
32 regarding the security deposit. Tenant may terminate this Lease upon thirty (30) calendar days'
33 Notice upon being notified that the City has assigned its interest in this Lease.

34
35 **19. Fire or Other Casualty.**

36
37 (a) *Damage or Destruction to Premises.* In the event of partial or total damage or
38 destruction to the Premises by fire, other casualty, or any other cause whatsoever (except
39 condemnation), that is not the responsibility of Tenant to repair or reconstruct, (i) Tenant promptly
40 shall give Notice thereof to the City; (ii) this Lease shall continue in full force and effect, except as
41 otherwise provided by this Section 19; and (iii) the City, to the extent that funds are available to
42 the City therefor, shall thereupon cause such damage or destruction to the Premises to be
43 repaired with reasonable speed at the expense of the City, due allowance being made for
44 reasonable delay which may arise by reason of adjustment of loss under insurance policies on
45 the part of Tenant, and for reasonable delay on account of "labor troubles" or any other cause
46 beyond the City's control. To the extent that the Premises, in whole or in part, is rendered
47 untenantable for more than five (5) consecutive days, the Rent shall proportionately abate based
48 upon the portion of the Premises that are untenantable until the Premises, or portion of the
49 Premises, are restored to a condition substantially similar to the condition as existed immediately
50 prior to the damage or destruction. If the damage or destruction shall be so extensive to the
51 Building as to render it uneconomical, in the City's or Tenant's reasonable opinion, to restore the

Premises for the use of Tenant as specified herein or the City shall decide not to repair or rebuild the Building within a reasonable period of time, this Lease, at the option of either party, shall be terminated upon Notice thereof to the other party and the Rent shall, in such event, be paid to or adjusted as of the date of such damage, and this Lease shall terminate upon the third (3rd) business day after such Notice is given. Tenant shall thereupon vacate the Premises and surrender the same to the City in accordance with Section 22, but no such termination shall release Tenant from any liability to the City arising from such damage or from any of the obligations or duties imposed on Tenant hereunder prior to such termination.

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

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

20. Eminent Domain.

If the entire Premises is condemned or taken (either temporarily or permanently) for public purposes by a government entity other than the City, or if the City shall convey the Premises to any public authority in settlement of a threat of such condemnation or taking by a government entity other than the City, the Rent shall be adjusted to the date of such taking or conveyance, and this Lease shall thereupon terminate. If only a portion of the Premises shall be so taken or condemned and, as a result of such partial taking, Tenant is reasonably able to use the remainder of the Premises for the purposes intended by this Lease, then this Lease shall not terminate but, effective as of the date of such taking or condemnation, the Rent shall be abated in an amount thereof proportionate to the area of the Premises so taken or condemned. If, following such partial taking, Tenant shall not be reasonably able to use the remainder of the Premises for the purposes intended by this Lease, then this Lease shall terminate as if the entire Premises had been taken or condemned. In the event of a taking or condemnation as described in this Section 20, whether or not there is a termination of this Lease, Tenant shall have no claim against the City, other than an adjustment of Rent to the date of taking or condemnation, and Tenant shall not be entitled to any portion of any amount that may be awarded as damages or paid as a result or in settlement of such proceedings or threat.

21. Signs.

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

1
2 **22. Holding Over; Surrender of Premises.**
3

4 (a) *Holding Over.* If Tenant holds possession of the Premises after the expiration or
5 termination of this Lease without the City's written Approval, Tenant shall become a tenant from
6 month to month upon all terms, other than Basic Rent, herein specified and shall continue to be
7 such tenant from month to month until such tenancy shall be terminated by either party giving the
8 other Notice thereof at least thirty (30) calendar days prior to terminating such tenancy. During
9 such month to month tenancy, Tenant shall pay rent at the amount of the Basic Rent due during
10 the last month of the Lease's Initial Term or any applicable Renewal Term, except that if the hold-
11 over tenancy is over the objection of the City, Tenant shall pay Basic Rent at twice the amount of
12 Basic Rent due during the last month of the Lease's Initial Term or any applicable Renewal Term.
13 Nothing contained in this Lease shall be construed as an Approval by the City to the occupancy
14 or possession of the Premises by Tenant after the expiration or termination of this Lease. Upon
15 the expiration or termination of this Lease, the City shall be entitled to the benefit of all public
16 general or public local laws relating to the speedy recovery of the possession of lands and
17 tenements held over by tenants, that may now or hereafter be in force.

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

26 (c) *Tour of Premises.* Within ten (10) calendar days of vacating, the City shall tour the
27 Premises, with Tenant present if possible, to determine the condition of the Premises and the
28 condition of personal property in the Premises. Any items determined to be in need of correction
29 or repair may be corrected or repaired by the City, and shall be invoiced by the City and paid by
30 Tenant as Additional Rent.

31
32 **23. Security; Liability of the City.**
33

34 (a) *Security.* Tenant acknowledges that the rents reserved in this Lease do not include
35 the cost of private security guards or other private security measures, and that the City has no
36 obligations to provide such private security services. Tenant assumes all risks associated with the
37 security of the Premises. Tenant shall police, light and maintain the Premises in a clean, safe and
38 secure manner.

39 (b) *Trespass Notices.* Tenant shall not under any circumstances issue any no
40 trespass notices, whether oral or written, or exclude any individual from the Premises or the
41 Property for any reason, except to prevent a crime from being committed on the Premises or the
42 Property, and except in the case of an emergency or unsafe condition. If Tenant desires to issue
43 any no trespass notices or exclude any individual from the Premises and/or the Property, except
44 to prevent a crime from being committed on the Premises or the Property, and except in the case
45 of an emergency or unsafe condition, Tenant shall send a written request to the City, and the City
46 shall make the ultimate decision how and if to act on this request.

47 (c) *No City Liability.* The City, its elected officials, appointees, directors, employees,
48 agents, and representatives shall not be liable for any damage to property of Tenant or of others
49 located on the Premises or entrusted to its or their employees nor for the loss of any property by
50 theft or otherwise, nor for any injury or damage to persons or property resulting from theft,

casualty, acts of God, fire of every nature and type, the accumulation of snow or ice, explosion, falling plaster, steam, gas, electricity, wind, water, rain or snow which may overflow or leak or be discharged from any part of the Premises, the Property, and/or the Building, or from the pipes, appliances or plumbing works of the same or from the street or subsurface or from any other place, or from dampness, or from any other cause whatsoever; nor shall the City be liable for any such damage caused by other persons in the Premises, the Property, and/or the Building, or for damage caused by operations in construction of any public or quasi-public works. All property of Tenant kept or stored on the Premises shall be so kept at the risk of Tenant only and Tenant shall indemnify, defend and hold the City, its elected officials, appointees, directors, employees, agents, and representatives harmless from any claims arising out of damage to the same, including subrogation claims by Tenant's insurance carrier.

24. Quiet Enjoyment.

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

25. Indemnification.

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

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

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

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

(e) *Insurance Coverage.* Tenant shall ensure that the policies of insurance carried by Tenant under Section 8 of this Lease provide coverage for Tenant's indemnification obligations under this Section.

26. Reporting: City Council Meeting or Work Session.

No later than thirty (30) calendar days prior to the end of then-current Lease year, the Director of Central Services shall request that Tenant provide to the City's Mayor and City Manager, c/o the Director of Central Services, 25 Shaw Street, Annapolis, MD 21401, a written annual report (each an "Annual Report" and collectively the "Annual Reports"). Each Annual Report shall detail the Tenant's general progress on the Extension Requirements and any other improvements pursuant to Sections 10 and 11 of this Lease for the preceding Lease year; explain

1 any set-backs or other obstacles encountered in trying to achieve the Extension Requirements,
2 as applicable; describe any changes or improvements to the Premises; describe any other
3 successes related to the Premises or the Extension Requirements; and address any citizen,
4 stakeholder, or City concerns related to this Lease. The Tenant's authorized agent or
5 representative shall sign each Annual Report. If requested by the City, the Tenant shall present
6 such Annual Reports at a meeting or work session of the City Council.

7 ~~For the purpose of keeping the Mayor and City Council of Annapolis apprised of any changes to~~
8 ~~the Premises or Tenant's use of the Premises, after the end of the first (1st) year of the Term and~~
9 ~~each year thereafter throughout the Term, Tenant shall, if requested by the City in writing fourteen~~
10 ~~(14) calendar days prior thereto, attend a City Council meeting or work session to report on any~~
11 ~~such changes.~~

12
13 **27. Miscellaneous.**

14
15 (a) *Non-Discrimination.*

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

22 (ii) Tenant shall accept Temporary Aide to Needy Families ("TANF"),
23 commonly referred to as Temporary Cash Assistance ("TCA"), and Supplemental Nutritional
24 Assistance Payments ("SNAP") benefits, commonly referred to as "food stamps", as forms of
25 payment. Tenant may impose any reasonable restrictions imposed by the United States
26 Department of Agriculture and the Anne Arundel County Department of Social Services.

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

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

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

51 (e) *Remedies Cumulative and Concurrent.* No remedy provided by this Lease or

reserved to the City is intended to be exclusive of any other remedies provided for in this Lease, and each such remedy shall be cumulative, and shall be in addition to every other remedy given under this Lease, or now or hereafter existing at law or in equity or by statute. Every right, power and remedy given to the City shall be concurrent and may be pursued separately, successively or together against Tenant, and every right, power and remedy given to the City may be exercised from time to time as often as may be deemed expedient by the City.

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

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

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

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

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

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

(l) *City Authorization.* This Lease is authorized by the City Council pursuant to O-33-25.

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

(n) *Terminology.*

(i) Where this Lease provides for an act to be undertaken or performed by the "City", the act shall be undertaken by the City Director of Central Services.

(ii) Where this Lease provides for an act to be undertaken or performed by the City Council, the act shall be performed by a simple majority of the City Council.

(iii) Where this Lease provides for an act to be undertaken or performed in a certain number of "business days", business days shall mean Monday through Friday.

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

(p) *Business Summary.* Any reference to and/or discussion of activities, actions, obligations and/or decisions in the Business Summary shall be consistent with the applicable Lease requirements, including, but not limited to, obtaining the proper Approval from the City or City Council. In the event of a discrepancy between details in the Business Summary, and this Lease, this Lease prevails.

(q) *Notice; Approvals.* Any notice required to be delivered (each a "Notice"), or City approval to be obtained (each an "Approval"), shall be deemed to have been received when the Notice or Approval has been sent by certified mail, return receipt, overnight carrier, or hand delivered with signed receipt to the following address and individual or such other address and/or such other individual as a party may identify in writing to the other party:

To the City: Director of Central Services
 45-25 Shaw Street
 Annapolis, Maryland 21401

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

To Tenant: New Market House, LLC
25 Market Space
Annapolis, Maryland 21401

IN WITNESS WHEREOF, it is the intent of the parties that Tenant has signed this Lease under seal and, further, that the parties have executed this Lease the day and year first written above.

NEW MARKET HOUSE, LLC

By: _____
Michele Bouchard
Member

By: _____
Joseph Lyon
Member

By: _____
Joseph Danek
Member

ATTEST:

CITY OF ANNAPOLIS

Regina C. Watkins-Eldridge, MMC,
City Clerk

By: _____

APPROVED FOR SUFFICIENT APPROPRIATIONS
AND AVAILABILITY OF FUNDS:

Brittany Moran, Director
Finance Department
Source of Funds: _____

1 APPROVED FOR FORM AND LEGAL SUFFICIENCY:
2
3

4 _____
5 Office of Law

6 D. Michael Lyles, City Attorney
7

ATTACHMENT A
DEPICTION OF MARKET HOUSE AND PREMISES

[See following page.]

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**ATTACHMENT B
BUSINESS SUMMARY**

**New Market House, LLC
Business Summary - July 28, 2025**

Our Mission:

- Be a catalyst for the revitalization of City Dock, and the greater Downtown area.
- Be a good neighbor to the residents of Annapolis.
- Be a good steward of this important historic landmark and restore it to its position as a vibrant center of commerce and meeting place for locals and visitors alike.
- We will engage the community and surrounding businesses in order to make the Market House, the City's Market House.
- We want the Market House to not only be the gateway to the City of Annapolis, but also to create a market that is relevant to and will attract people who live here, and that will proudly display the bounty of Annapolis, Anne Arundel County, Maryland and the world.
- We look forward to a long, successful partnership with the City of Annapolis, the local community, and its many visitors.

The New Market House Concept:

We will operate a modern, public market house that will offer made to order food, fresh prepared items, beer, wine, and retail items that will be available for on-site consumption, and take out. Items will be offered from one or more vendors operating the various stall locations. Vendors will offer seasonally variable goods with an emphasis on local and regional products in accordance with consumer demand. Items sold will reflect the demands and needs of a combination of customers including Residents, Visitors, Boaters, etc.

The setting will include interior tables that will offer space for Market House customers to consume items purchased, and share in the beauty of the Market House public space and the surrounding areas. We will help the City keep the surrounding sidewalks and Hopkins Plaza clean of debris, to enable Market House customers and city visitors to enjoy a pleasant outdoor experience.

Our targeted hours of operation are:

Mon-Thu - 6am to 10pm

Fri-Sat - 6am to 12am

Sun - 7am-10pm Sun.

Our desire is to maintain this schedule throughout the year, but our operating hours may vary with the season and with consumer demand.

With proper City Approval, and to the extent various groups provide support, we would also like to offer expanded "Market Days", in Market Space and surrounding areas, which would add many

1 more items for sale, from many local establishments, farmers, craftspeople and artisans. We may
2 also choose to offer seasonal and holiday specific events. The frequency and duration of these
3 events is to be determined by us in accordance with consumer demand.

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5 We will maintain a 12am beer and wine license, as allowed under 7.12.100.B1.
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ATTACHMENT C
DEED OF PRESERVATION EASEMENT

[See following page.]