

2022-28

LEASE

THIS INDENTURE OF LEASE is entered into by and between Mark X Company, an Indiana Corporation, whose address is P.O. Box 396, Plainfield, IN 46168, (hereinafter referred to as "Landlord") and Hendricks County Board of Commissioners, whose address is 355 South Washington St. Suite G20, Danville, In. 46122 (hereinafter referred to as "Tenant").

WITNESSETH

Basic Lease Provisions:

- | | | |
|----|--|---|
| A. | Leased Premises Address: | 170 Old Farm Rd.
Danville, In 46122 |
| B. | Gross Leasable Area: | +/- 6,960 Square Feet |
| C. | Leased Premises Percentage: | 10.8 % |
| D. | Lease Commencement Date: | April 1, 2022 |
| E. | Possession Date: | Lease Commencement Date |
| F. | Rent Commencement Date: | 120 days after lease commencement date. |
| G. | Lease Term: | 7 years and four months |
| H. | Minimum Annual Rent: | As defined in Section 3 (a), below. |
| I. | Permissible Use: | Government offices / Probation offices |
| J. | Security Deposit (includes CAM) : | Security Deposit - \$ 4,930.00 |
| | First Month's Rent including CAM: | First Month's Rent - \$ 4,930.00 |
| | Total at Lease Commencement: | Total \$ 9,860.00 |
| K. | Landlord: | Mark X Company |
| L. | Address for Payments: | Mark X Company
PO Box 396
Plainfield, IN 46168
Email: tlee5775@gmail.com
Phone: 317-440-4823 |
| M. | Tenant: | Hendricks County Board of Commissioners
355 South Washington St., Suite G20
Danville, In 46112
Email:kcavanaugh@co.hendricks.in.us
Phone: O: 317-745-9236
D : 317-718-6123 |

N. **Guarantors:**

Phyllis A. Palmer- President
Bob Gentry- Vice President
Dennis W. Dawes - Member

In consideration of the mutual promises, covenants, and conditions contained herein, the parties agree as follows:

(1) LEASED PREMISES. Landlord hereby leases to Tenant and Tenant hereby rents from Landlord, approximately +/- 6,960 rentable square feet, in the, Old Farm Shopping Center ("Leased Premises"). The Leased Premises are specifically shown on the site plan attached hereto as Exhibit "A", which is attached hereto and is incorporated herein by this reference. The "Shopping Center" is defined as the overall improvements shown on Exhibit A, including the parking areas, driveways, ingress and egress to roadways, and sidewalks being used in common with the other tenants ("Common Area(s).") Landlord expressly reserves the right to change or modify the plans and facilities of the Shopping Center without the consent of Tenant. Landlord reserves the right to add other land and/or buildings to the Shopping Center on either a permanent or long-or-short-term temporary basis. In the event of a permanent addition, the term "Shopping Center" shall include the same.

Landlord grants to Tenant, its customers, guests, invitees and the general public, together with and subject to the rights granted, from time to time, by Landlord to other tenants of the Shopping Center, the non-exclusive right to use the Parking and Common Areas of the Shopping Center. The Common Area shall at all times be subject to the exclusive control and management of Landlord, and Landlord shall have the right from time to time to establish, modify and enforce rules and regulations; to cause its concessionaires and suppliers, officers, agents, employees and independent contractors so to abide and conform; and to use reasonable efforts to cause Tenant's customers, invitees and licensees so to abide and conform. Such rules and regulations shall be enforced in a uniform manner. Landlord shall operate and maintain the Common Area in such manner as Landlord, in its sole discretion, shall determine from time to time, such discretion to include, without limiting the generality of the foregoing, the full right and authority of Landlord to employ all personnel and to make all rules and regulations pertaining to and necessary for the proper operation and maintenance of the Common Area, including but not limited to the designation of employee parking areas. Tenant shall be permitted to use the Common Area under a non-exclusive revocable license, and if the amount of the Common Area be diminished, Landlord shall not be subject to any liability and Tenant shall not be entitled to any compensation or diminution or abatement of Rent, except as otherwise specifically provided elsewhere herein, and such diminution of the Common Area shall not be deemed or construed constructive or actual eviction.

The provisions of this Lease respecting the common areas, as well as the entire Shopping Center, shall apply to the common area and Shopping Center as they may be changed by Landlord from time to time, including, but without limiting the generality thereof, any increases, decreases or additional improvements thereof.

Tenant's employees shall park in those areas, which Landlord may from time to time designate, for employee parking.

(2) TERM AND RENEWALS. The Original Term of this Lease shall be a period of Seven (7) Years and 4 months and shall commence on April 1, 2022 (the "Lease Commencement Date") and will expire on July 31, 2029 (the "Original Term"). Provided that Tenant has not been late in the payment of any Rent (as defined in Section 3(d) of this Lease) and is not then in default in the performance of any

of its obligations under this Lease, that the Lease has not ever been assigned, and that Tenant remains in full compliance with the Lease, Tenant is hereby granted **Seven (7) year** option to renew this Lease, commencing with the expiration of the Original Term hereof (each a "Renewal Term" and together with the Original Term, the "Term"). If the foregoing conditions are met, a Renewal Term will automatically take effect and the Lease will be automatically renewed, unless Tenant or Landlord provides written notice as provided herein at least Ninety (90) days prior to the expiration date of the Original Term or the then current Renewal Term, as the case may be, that Tenant or Landlord does not want to renew the Lease. Absent such notification, upon automatic renewal as contemplated by this Section 2, all of the terms and conditions contained herein shall apply during any Renewal Term, including the adjustments in Minimum Rent, as provided in Paragraph (3) below.

(a) Special Termination Clause

Landlord and Tenant both recognize that, per the Town of Danville's Zoning Ordinance, Tenant's ability to occupy and use the Leased Premise is subject to approval of a Special Exception for use of the Leased Space as an "Office Use" by the Town of Danville's Board of Zoning Appeals (BZA). With this mutual understanding, Landlord and Tenant agree that this Lease Agreement shall be immediately declared null and void should the Special Exception not be granted by the BZA. Tenant agrees to diligently pursue approval of the Special Exception within Sixty (60) Days of the Possession Date. Tenant further agrees to pay Landlord any amounts of Rent and Additional Rent due upon such termination for any time Tenant has had rights to the Leased Premise after the Possession Date according to the other pertinent provisions of the Lease. Tenant further agrees to make any such payment within Ten (10) Days of the termination date.

(3) RENTAL.

(a) Minimum Rent. Tenant shall pay Landlord a "Minimum Rent" in accordance with the following schedule:

<u>Original Term</u>	<u>Annually</u>	<u>Monthly Rent</u>	<u>Per Square Foot</u>
Years 1	\$ 48,720.00	\$4,060.00	\$7.00
Year 2	\$ 48,720.00	\$ 4,060.00	\$7.00
Year 3	\$ 50,460.00	\$ 4,205.00	\$7.25
Year 4	\$ 52,200.00	\$ 4,350.00	\$7.50
Year 5	\$ 52,200.00	\$ 4,350.00	\$7.50
Year 6	\$ 53,940.00	\$ 4,495.00	\$7.75
Year 7	\$ 55,680.00	\$ 4,640.00	\$8.00

* Option to Renew will be at Current Market Rates

SECURITY DEPOSIT AND FIRST MONTH'S RENT. Tenant has deposited with Landlord the sum of Nine Thousand Eight Hundred and Sixty Dollars (\$9,860.00) Security Deposit- \$4,930.00 and First Month's Rent - \$4,930.00 (includes NNN)

(b) Possession Date. Estimated delivery of possession shall occur on or before **April 1, 2022** (the "Possession Date"). If for any reason Landlord does not deliver possession of the Leased Premises to Tenant on the Possession Date, and such failure is not caused by an act or omission of Tenant, the Original Term shall be extended by the number of days the Possession Date has been delayed and the validity of this Lease shall not be impaired, nor shall Landlord be subject to any liability for such failure; but Minimum Rent shall be abated until delivery of possession.

(c) **Payment of Minimum Rent.** Minimum Rent payments hereunder shall commence when Tenant opens for business, but no later than August 1, 2022 (the "Rent Commencement Date"). Minimum Rent shall be paid in equal monthly installments, as provided above. Each monthly Minimum Rent payment is due, in advance, on the first day of each calendar month during the Lease Term. All Minimum Rent payments shall be submitted in such a manner so that the payment is actually received by Landlord on or before the due date. In the event any Minimum Rent payment is not received by Landlord within ten (10) days after the due date, then such payment shall be deemed to be late, and Tenant shall be assessed a late charge of One Hundred Dollars (\$100.00) or 5% of the Minimum Rent payment due, whichever is greater. In addition, Landlord shall also be entitled to all remedies provided in Section 16 of this Lease.

(d) **Additional Rent.** "Additional Rent" shall include charges for taxes and insurance, as contemplated by paragraph (i) below, charges for Common Area Maintenance or "CAM", as contemplated by paragraph (ii) below, and any additional charges payable by Tenant under this Lease other than Minimum Rent ("Additional Rent" and "Minimum Rent" are sometimes referred to herein collectively as the "Rent"). Additional Rent is currently estimated at \$1.50 square foot .

(i) **Taxes and Insurance.** Landlord shall pay all taxes, assessments and levies charged or assessed by any governmental authority upon all property and improvements constituting the Shopping Center (hereinafter collectively referred to as "Taxes"). Landlord shall also obtain and maintain fire and extended coverage insurance and public liability insurance on Common Areas and/or buildings of the Shopping Center. Tenant shall pay, as a portion of Additional Rent, without relief from valuation or appraisal laws, Tenant's "Proportionate Share" of all such taxes and insurance costs. "Tenant's Proportionate Share" shall be the fraction or ratio of the rentable floor area and drive through areas, if any, of the Leased Premises divided by the total rentable floor area and drive-through areas, if any, of the Shopping Center. Tenant's Proportionate Share of the Taxes and insurance is in addition to the Minimum Rent.

(ii) **Common Area Maintenance – (CAM)** Tenant agrees to pay as a portion of Additional Rent Tenant's Proportionate Share of the cost of operations of the Shopping Center. Such costs shall be reasonable and include, but not be limited to, all the costs and expenses of protecting, operating, repairing, resurfacing, lighting, cleaning, painting, insuring, removal of snow, ice and debris, roof repairs or replacements, security, repairing of needed equipment used in the operation of the Common Area, the cost of any expense of landscaping and shrubbery, lawn care, expenses of utilities, management fees, administrative fees and overhead costs pertaining to the Leased Premises and/or the Common Area.

(iii) **Payment of Additional Rent.** Tenant shall pay the Additional Rent monthly in advance, commencing on the Rent Commencement Date, based upon a reasonable estimate of the costs to be incurred, the initial estimate of which is set forth in paragraph J above, and Tenant agrees to pay such estimated amounts subject to an annual adjustment when the exact costs are computed. In the event any Additional Rent payment is not received by Landlord within ten (10) days after the due date, then such payment shall be deemed to be late, and Tenant shall be assessed a late charge of One Hundred Dollars (\$100.00) or 5% of the Additional Rent payment due, whichever is greater. In addition, Landlord shall also be entitled to all remedies provided in Section 16 of this Lease.

(d) **Application of Payments.** Each payment received by Landlord shall be applied to Tenant's obligations in the order determined by Landlord in its sole discretion. Tenant expressly understands and

acknowledges that payment of current Minimum Rent only, when other charges are also due, does NOT cure a default under the terms of this Lease.

(4) **ACCEPTANCE OF LEASED PREMISES.** Tenant acknowledges that Landlord has fulfilled all of Landlord's responsibilities in connection with the preparation of the Leased Premises and Tenant accepts the Leased Premises "AS IS," **except as outlined on attached Work Letter.** Any additional items of work shall be at Tenant's own cost and expense. Upon request of Landlord, Tenant shall certify to Landlord or to any Mortgagee or purchaser of the Shopping Center that this Lease is in full force and effect, that all work has been satisfactorily completed, that there are no defaults, offsets or counterclaims (or stating the same) and such other facts as Landlord may reasonably request.

(5) **USE AND OCCUPANCY.** Tenant shall only use the Leased Premises for an **Government offices/Probation offices**, and for no other purpose, without the prior written consent of Landlord. Tenant shall not do or permit anything to be done in or about the Leased Premises, or bring or keep anything therein, which will in any way increase the rate of fire or liability insurance on the Leased Premises or the Shopping Center. Tenant shall comply with all laws, ordinances, orders and regulations affecting the Leased Premises and Shopping Center, and the cleanliness, safety, occupation and use thereof.

Tenant shall not cause or permit any nuisance, injury, waste, or litter to exist, on or about the Leased Premises, or the Shopping Center, and shall, at all times, keep the Premises and all walkways, grading, platform and service areas used by Tenant clean and free of rubbish, dirt, ice and snow. Tenant shall store all trash, refuse and garbage in appropriate receptacles, concealed from public view, within the Leased Premises. Tenant shall not burn any trash or garbage of any kind, within or about the Premises or Shopping Center. Tenant shall keep the Leased Premises appropriately furnished for its authorized use. Tenant shall maintain the floors, floor coverings, walls and all improvements within the Leased Premises and any other portion of the Leased Premises and/or immediately surrounding area which is not maintained by Landlord hereunder to the satisfaction of Landlord. Landlord reserves the right to inspect the Leased Premises, without advance notice to Tenant, for compliance with this covenant. Tenant shall not do or permit anything to be done within or about the Leased Premises which may injure or lower the reputation of Landlord or the Shopping Center; which may be deemed a nuisance by Landlord, which may encourage loitering or any other objectionable or illegal behavior, or which may cause complaints by other tenants, customers, neighbors, the public at large or any governmental entity. Tenant shall not possess, produce or store, on or about the Leased Premises or the Shopping Center, any hazardous substances, hazardous materials, or any other regulated products or materials, and shall carefully and properly dispose of all waste products in full compliance with all City, State and Federal environmental laws and requirements and shall hold Landlord harmless from any expenses or costs, including attorney fees related to the improper disposal of said materials.

In the event Tenant, or Tenant's agents, employees, guests or invitees' use of the Leased Premises results in any damage to the Leased Premises and/or the Shopping Center, Tenant shall be strictly liable for all damages, costs of repair and expenses, including attorney fees. Landlord shall supervise all repair work performed by Tenant and its agents and contractors. In the event Landlord must make the repairs, Tenant shall reimburse Landlord for all costs and expenses within ten (10) days of the completion of the repairs. Any breach thereof shall constitute a default of the Lease and Landlord shall be entitled to all remedies provided for in Section (16) hereunder.

(6) **COMMON AREA USE.** Tenant shall not use the Common Area of the Shopping Center or walks adjacent to the Leased Premises for display or storage of merchandise. Common Areas shall not be used

in any way that would interfere with the use of such areas by the public or others without the express written consent of Landlord.

(7) **SURRENDER.** Tenant covenants and agrees to deliver up and surrender to Landlord possession of the Leased Premises upon the expiration of this Lease or its termination, as herein provided; in as good of condition or better than it was on the Possession Date. All signage shall be removed from the Leased Premises and the facade of the Leased Premises shall be repaired. Tenant shall not hold over beyond the end of any Term for failure of Landlord to give notice to vacate, any such notice being waived by Tenant. In the event Tenant shall wrongfully hold over after termination of this Lease, Tenant shall be liable for additional rents of 200% of the then current Rent, for each month or portion thereof that Tenant remains in holdover possession. No holdover shall prevent or delay the termination of the Lease. Failure to surrender possession of the Leased Premises immediately upon termination of the Lease shall be an event of default hereunder.

(8) **RIGHTS OF LANDLORD TO MORTGAGE PREMISES.** Landlord reserves the right to subject and subordinate this Lease to the lien of any mortgage now existing or hereafter placed upon the Leased Premises or the Shopping Center and Tenant hereby constitutes and appoints Landlord its attorney in fact to execute any subordination agreement which may be required in connection with the negotiation or execution of any such mortgage. Tenant further agrees, upon Landlord's request, to execute a subordination agreement. Landlord shall request any such lender to agree to include a non-disturbance provision.

(9) **MAINTENANCE, REPAIRS AND ALTERATIONS, RISK.**

(a) **Landlord's Responsibility.** Landlord will make a good faith effort to keep in good order, condition and repair, the exterior foundations, roof, exterior walls (except the interior faces thereof) of the Leased Premises, and the plumbing and sewage system outside of the Building of which the Leased Premises form a part. However, Landlord shall not be responsible for any damage caused by Tenant, its agents, employees, guests or invitees, nor shall Landlord be responsible for any damage caused by any person, known or unknown, attempting to gain access to Tenant's premises, which cost for such damage shall be borne solely by Tenant. Landlord agrees to provide a semiannual inspection and service of all HVAC units by a contractor of the Landlord's choosing. Tenant agrees to pay, in the form of additional rent, \$200 per HVAC unit in March and September of each year for these inspections. If, in the sole opinion of the Landlord, any HVAC unit is unserviceable and requires replacement Landlord agrees to replace the unit at Landlord's expense. However, should replacement of HVAC be needed due to damage of neglect of the tenant, in Landlord's opinion, replacement of units shall be sole responsibility of the tenant.

(b) **Tenant's Responsibility.** Except as specifically provided above, Tenant shall keep and maintain the Leased Premises and every part thereof, and the exterior and interior portions of all doors, windows, plate glass and showcases surrounding the Leased Premises and the store front in good order, condition, repair and replacement, as well as the plumbing including broken and/or frozen pipes, sewage facilities, the electrical system and the HVAC system serving the Leased Premises, as well as all fixtures, leasehold improvements, interior walls, floor coverings, ceilings, signs, interior building appliances and similar equipment.

(c) Alterations. Tenant shall have the right, but only with the prior written consent of Landlord, to make changes and alterations to the interior of the Leased Premises so long as the cost thereof is paid by Tenant and so long as such changes are not structural in nature. Any and all such work shall be done in good workmanlike manner and without damage to the structural elements of the Leased Premises and in conformance with the regulations of fire insurance underwriters carrying insurance on the Leased Premises. Any work that involves the interior appearance of the Leased Premises, such as interior painting, wall coverings, carpeting, floor coverings, accent lighting, show rooms, reception areas, and any other areas open to the public or in plain view, as well as any structural change(s) shall be first approved by Landlord or Landlord's architect at Tenant's expense, such approval is the sole discretion of Landlord. In addition, all work shall be done by licensed contractors under a duly recorded no lien contract. Tenant shall be allowed to do his own demo of existing counters, painting of interior walls, drywall work, adding shelving and construction of new smoothie bar with landlord's approval of drawings. Tenant's work shall be completed in professional manner in Landlord's sole opinion. All other work such as, but not limited to, plumbing and electrical shall be completed by licensed contractor.

(d) Signs, Awnings and Store Advertising. Tenant shall not affix to or upon the exterior of the Leased Premises any signs or awnings except with the prior written consent of Landlord. All signs in the Shopping Center shall be of the channel variety with raised letters and shall comply with the Sign Criteria attached in Exhibit B hereto and incorporated herein by this reference, and must be approved by Landlord prior to installation.

Tenant shall not use any advertising media in or about the Leased Premises which shall be deemed objectionable to Landlord or other tenants or the public, including, without limiting the generality thereof, loudspeakers, phonographs, or radio broadcasts in a manner to be heard outside the Leased Premises. Tenant shall not conduct any auction, fire or bankruptcy sale in the Leased Premises, or install any exterior lighting or plumbing fixtures, shades or awnings or any exterior decorations or painting or make any changes in the store front or exterior of the Leased Premises without the prior written consent of Landlord.

(e) Personal Property on Leased Premises - Risk of Damage. Tenant agrees that all personal property of every kind or description which may at any time be in the Leased Premises or the Shopping Center shall be at Tenant's sole risk, or at the risk of those claiming through or under Tenant. Landlord shall not be liable for and shall be held harmless by Tenant against all claims (including subrogation claims by Tenant's insurance carrier) for any damage to said property or loss suffered by the business or property of Tenant or others claiming through Tenant arising for any reason, including but not limited to, bursting, overflowing, freezing or leaking of water pipes or sprinkler systems, ice thawing, steam discharges, gas odors and sewer back-ups.

(f) Trade Fixtures. All improvements to the Leased Premises and all fixtures shall be and become the property of Landlord, except that all trade fixtures installed or used by Tenant shall remain the personal property of Tenant. Tenant shall repair and restore any damage caused by the removal of any such trade fixtures.

(g) Liens. Tenant shall not cause or permit the creation of any lien against the Leased Premises on account of any labor or materials furnished in connection with any maintenance, repairs or alterations undertaken by Tenant. In the event any such lien shall be filed against the Leased Premises or the Shopping Center, Tenant shall cause such lien to be released within ten (10) days after actual notice of the filing thereof or shall furnish to Landlord a bond, satisfactory to Landlord, conditioned to indemnify Landlord against the foreclosure of such lien. Failure to do so constitutes Lease default.

(h) Inspections and Repair by Landlord. In the event of an emergency or other exigent circumstance that warrants immediate action, Landlord may enter upon the Leased Premises, without prior notice to Tenant, provided that Landlord shall promptly advise Tenant of such entry. Landlord shall also have the right to enter upon the Leased Premises for the purpose of inspection, to make improvements, to make repairs or alterations, and to show the Leased Premises to prospective buyers or tenants, provided that Landlord provides Tenant with twenty four (24) hours advance notice. To enable Landlord to enter the Leased Premises for such purposes, Landlord has retained keys to the Leased Premises. For a period commencing ninety (90) days prior to the expiration of this Lease, Landlord may enter the Leased Premises, upon 24 hours notice to Tenant, for the purpose of exhibiting and advertising the Leased Premises as being for rent.

(10) INDEMNITY AND INSURANCE. Within one (1) week after the Possession Date, Tenant shall provide Landlord with a Certificate of Insurance naming Mark X Company as (an) additional insured(s) for any and all insurance required to be obtained by Tenant pursuant to this Lease. Current certificates of insurance shall be provided to Landlord on an annual basis. Tenant agrees to place and maintain, at Tenant's own expense, with insurance companies qualified to do business in the State of Indiana and acceptable to Landlord, public liability insurance with respect to Tenant's use and occupancy of said Leased Premises in amounts of at least Three Million Dollars (\$3,000,000.00) in case of injury or death of one or more persons. Tenant further agrees to maintain in full force and effect throughout the Lease Term fire and extended coverage insurance on its fixtures, equipment, merchandise and other personal property in or upon the Leased Premises for its full insurable value on a replacement costs basis, if obtainable, and if not obtainable, for the full amount of their actual cash value. Landlord shall be named as an additional insured and any insurance proceeds shall be made jointly payable to Landlord and Tenant, and shall be first used to pay Rent during the reconstruction and re-furnishing of the Leased Premises. Tenant shall furnish at its own cost and expense replacement for any cracked or broken glass, including plate glass and interior and exterior windows and doors in the premises.

Subject to Section 11 of this Lease, each party agrees to indemnify and save harmless the other against and from any and all claims by or on behalf of any person, firm or corporation arising from any breach or default in the performance of any covenant or agreement in its part to be performed under this Lease.

Subject to Section 11 of this Lease, Tenant shall indemnify Landlord, its representatives, agents and assigns and save Landlord harmless from and against any and all claims, actions, damages, liability and expense (including without limitation, claims in connection with loss of life, personal injury and/or damage to property) arising from or out of any occurrence in, around, upon or at the Leased Premises, or the occupancy or use by Tenant of the Leased Premises and Common Areas or any part thereof, or occasioned wholly or in part by any act or omission of Tenant, its agents, contractors, subcontractors, employees, invitees, customers, servants, lessees or concessionaires, regardless of whether caused, in whole or in part, by Landlord. In case Landlord shall be made a party to any litigation commenced by or against Tenant, subject to Section 11 of this Lease, Tenant shall protect and hold Landlord harmless and shall pay all costs, expenses and reasonable attorney's fees incurred or paid by Landlord in connection with such litigation. Tenant shall also pay all costs, expenses and reasonable attorney's fees that may be incurred or paid by Landlord in enforcing the covenants and agreements in this Lease, regardless of whether caused by Landlord in whole or in part.

(11) WAIVER OF CLAIMS AND SUBROGATION. INTENTIONALLY DELETED.

(12) CASUALTY. In the event the Leased Premises are partially or totally destroyed or damaged by fire or other casualty, Landlord, in its sole discretion, shall have the option either to rebuild and

restore the Leased Premises or to terminate this Lease, as provided herein. Landlord shall give written notice to Tenant of Landlord's election to rebuild and restore the Leased Premises or to terminate this Lease, as Landlord's election may be, within forty-five (45) days after the occurrence of destruction or damage. If Landlord elects to rebuild and restore the Leased Premises, then Landlord shall proceed with the same as soon as practicable and will complete the rebuilding and restoration process within a reasonable time after notice has been given of Landlord's intent to rebuild and restore the Leased Premises. If the Landlord elects to rebuild and restore the Leased Premises, then the Rent, or a just and proportionate part of the Rent, according to the nature and extent to which the Leased Premises have been rendered unfit for use and occupancy by Tenant, shall be suspended and abated until the Leased Premises are rebuilt and restored by Landlord.

(13) CONDEMNATION. If the Leased Premises are condemned or taken in whole or in part by any public authority under the power of eminent domain, either Landlord or Tenant shall have the right, as of the day that possession is taken by such public authority, to terminate this Lease by notice thereof to the other in writing and Rent shall be paid to the date of such possession or proportionate refund made by Landlord if Rent has been paid in advance. If neither party shall elect to terminate the Lease by reason of such condemnation, the Rent shall be reduced by the proportion of the floor area of the Leased Premises taken by such condemnation and Landlord shall make all necessary repairs or alterations so as to constitute the remaining premises a complete architectural unit.

All damages awarded for such taking, whether for a whole or a part of the Leased Premises shall belong to and be the property of Landlord, whether such damages shall be awarded as compensation for diminution in value to the leasehold or to the fee of the Premises; provided, however, that Landlord shall not be entitled to any award made to Tenant for loss of business, depreciation to and the cost of removal of stock and trade fixtures.

(14) UTILITIES. Tenant agrees to pay for all utilities supplied to the Leased Premises, including, without limiting the generality thereof, electricity, gas, water and sewage, if any charge is made therefore. Tenant further agrees to establish service in the tenant's name with all necessary utility providers by the Possession Date stated in (E.) of the Basic Lease Provisions. Failure of Tenant to pay for or maintain service of these basic utilities shall be considered a breach of this lease. If such utility charges are not separately determined for the Leased Premises, Tenant shall pay its applicable pro rata share of such charges.

(15) SPECIAL COSTS. If the operation of the Leased Premises by Tenant shall require Landlord to incur additional or increased expenses which are not similarly required by other tenants in the Shopping Center, then Tenant shall pay such additional or increased expenses. Examples of such expenses are trash cleanup in the vicinity of the Leased Premises and any additional outside or parking lot lighting required by Tenant's operation of the Leased Premises. Landlord shall have the right to remove any persons from any portion of the Shopping Center at any time without liability to Tenant and to prevent or restrain the use of common areas by unauthorized person, or by persons whose conduct or appearance is objectionable to Landlord.

(16) DEFAULT. Any of the following, or any other violation or event of default of any term or provisions of this Lease shall constitute an "Event of Default":

- (a) The failure of Tenant to pay an installment of Minimum Rent or Additional Rent within ten (10) days after it becomes due;

- (b) The failure to perform any other covenants under this Lease within thirty (30) days after written notice;
- (c) Tenant's vacation or abandonment of the Leased Premises or any failure to continuously maintain Regular Business Hours as provided in Section (5).
- (d) The filing of a mechanic's lien or claim, or the recording of a notice of intention to hold a mechanic's lien, against the Leased Premises or the Shopping Center, and the lien or claim is not released or otherwise provided for by indemnity within ten (10) days after written notice thereof is first given to Tenant;
- (e) The making by Tenant of an assignment for the benefit of its creditors;
- (f) The levying of a writ of execution or attachment on or against Tenant or the business;
- (g) The filing of any voluntary or involuntary proceeding in bankruptcy or the appointment of a receiver and such proceeding is not dismissed or vacated within thirty days of its initiation.
- (h) The suspension or termination of any license required to lawfully conduct Tenant's business.
- (i) The sale of all or a substantial part of Tenant's business assets.
- (j) Any other event by which Landlord can reasonably deem itself insecure.

In the Event of Default hereunder, Landlord may (i) elect to terminate the Lease, (ii) immediately re-enter the Leased Premises and remove all persons and property from the Leased Premises without such re-entry being deemed to terminate the Lease, and Landlord may store any property recovered at the cost of and for the account of Tenant, or (iii) perform the covenant of Tenant which is in default (entering on the Leased Premises if necessary) and Landlord's performance of such covenant shall neither subject Landlord to liability for any loss, inconvenience, or damage to Tenant nor be construed as a waiver of Tenant's default or of any other right or remedy respecting such default. Should Landlord elect to re-enter as herein provided, take possession pursuant to legal proceedings or pursuant to any notice provided for by law, or terminate Tenant's rights under this Lease, Landlord may, but shall not be obligated to, sublet the Leased Premises or any part thereof for such term or terms (which may be for a term extending beyond the term) and at such rental or rentals and upon such other terms and conditions as Landlord in the exercise of Landlord's sole discretion may deem advisable, with the right to make alterations and repairs to the Leased Premises. Such re-entry, repossession or subletting shall not constitute an acceptance by Landlord of a surrender of the Leased Premises by Tenant. Upon each such subletting (a) Tenant immediately shall be liable for payment to Landlord of any indebtedness of Tenant other than Rent due hereunder, the cost and expense of such subletting (including but not limited to leasing commissions payable to Landlord, or its affiliates, or to independent brokers), and of such alterations and repairs incurred by Landlord, and the amount, if any, by which the Rent reserved in this Lease for the period of such subletting (up to but not beyond the Term) exceeds the amount agreed to be paid as rental for the Leased Premises for such period of such subletting; or (b) at the option of Landlord, rentals received by Landlord from such subletting shall be applied first, to the payment of any indebtedness of Tenant other than Rent due hereunder; second, to the payment of any cost and expense of such subletting and of such alterations and repairs; third, to the payment of Rent due and unpaid hereunder; and the residue, if any, shall be held by Landlord and applied in payment of future Rent as the same may become due and payable hereunder. Notwithstanding any subletting without termination, Landlord may at any time thereafter elect to terminate this Lease for Tenant's previous default.

In addition to any other remedy Landlord may have, Landlord may recover from Tenant all damages Landlord may incur by reason of Tenant's default, including the cost of recovering the Leased Premises, and including the Rent reserved and charged in this Lease for the remainder of the Term, all of which amounts shall be immediately due and payable upon Tenant's default with attorneys' fees from Tenant to Landlord.

(17) RELOCATION OF PREMISES. – INTENTIONALLY DELETED

(18) LANDLORD'S LIEN. Tenant hereby grants to Landlord a security interest in and an express contractual lien upon the Security Deposit, any prepaid Rent, and all of Tenant's equipment, furniture, inventory, chattels and personal property which is located on or brought upon the Leased Premises by Tenant, and all other acquired property later brought upon the Leased Premises by Tenant, replacements for any of the foregoing, and any proceeds from the sale or transfer of any of the foregoing, in accordance with applicable provisions of the Indiana Uniform Commercial Code. Landlord is authorized to prepare and file financing statements. Upon any default under this Lease by Tenant, any or all of Tenant's obligations to Landlord secured hereby shall at Landlord's option, be immediately due and payable without notice or demand. This security agreement and the security interest hereby created shall survive the termination of this Lease if such termination results from Tenant's default. The above described security interest and lien are in addition to and cumulative of Landlord's lien provided by the laws of the State of Indiana.

In addition, Landlord shall have a lien upon the personal property and effects of Tenant within the Leased Premises, and Landlord shall have the right, at Landlord's election, without notice to Tenant, to sell at a commercially reasonable sale all or part of said property and effects for such price as Landlord may deem best and to apply the proceeds of such sale against any amounts due under this Lease from Tenant to Landlord, including the expense of such sale.

(19) ASSIGNMENT AND SUBLETTING BY TENANT. Tenant shall not assign or sublet any portion of the Leased Premises unless the consent in writing of Landlord shall first have been obtained, and then only in the manner and upon the conditions set forth in such consent. The charge for such assignment, subletting, transfer of business, etc, will be a minimum of \$500.00, subject to increase based on the administrative time and attorneys' fees, if any, incurred by Landlord.

(20) NON-WAIVER PROVISIONS. No waiver of any condition or covenant of this Lease or failure to exercise a remedy by either of the parties hereto shall be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant or remedy.

(21) NOTICES. Whenever in this Lease it shall be required or permitted that notice or demand be given or served by either party to this Lease to or on the other, such notices or demand shall be given or served in writing by certified or registered mail to the addresses shown in Paragraph M above. These addresses may be changed from time to time by either party by serving notices as above provided.

(22) GOVERNING LAW and VENUE. This Lease shall be governed by the laws of the State of Indiana and the parties agree and stipulate that venue shall lie in Hendricks County, Indiana.

(23) MEMORANDUM OF LEASE. Landlord and Tenant agree not to place this Lease of record but upon the request of either party agree to execute for recording purposes a Memorandum of Lease indicating the Leased Premises, the Lease Term, and other provisions with respect to which notices to third parties is deemed advisable, but omitting Rent and other terms of this Lease.

(24) INSOLVENCY OR BANKRUPTCY. In the event Tenant shall become a debtor under Chapter 7 of the Federal Bankruptcy Code ("Code") or a petition for reorganization or adjustment of debts is filed concerning Tenant under Chapters 11 or 13 of the Code, or a proceeding is filed under Chapter 7 and is transferred to Chapters 11 or 13, the Trustee or Tenant, as Debtor-in-Possession may not elect to assume this Lease unless, at the time of such assumption, the Trustee, as Debtor-in-Possession has:

(i) Cured or provided Landlord "adequate assurance" (as defined below) that:

(a) Within ten (10) days from the date of such assumption, the Trustee or Debtor-In-Possession will cure all monetary defaults under this Lease; and

(b) Within thirty (30) days from the date of such assumption, the Trustee or Debtor-in-Possession will cure all non-monetary defaults under this Lease.

(ii) For purposes of this Section, Landlord and Tenant acknowledge that, in the context of bankruptcy proceedings of Tenant, at a minimum "adequate assurance" shall mean:

(a) The Trustee or Debtor-in-Possession has and will continue to have sufficient unencumbered assets after the payment of all secured obligations and administrative expenses to assure Landlord that the Trustee or Debtor-in-Possession will have sufficient funds to fulfill the obligations of Tenant under this Lease, and to keep the Leased Premises stocked with merchandise and properly staffed with sufficient employees to conduct a fully-operational, actively promoted business in the Leased Premises; and

(b) The Bankruptcy Court shall have entered an Order segregating sufficient cash payable to Landlord and/or the Trustee or Debtor-in-Possession shall have granted a valid and perfected first lien and security interest and/or mortgage in property of Tenant, the Trustee or Debtor-in-Possession, acceptable as to value and kind to Landlord to secure to Landlord the obligation of the Trustee or Debtor-in-Possession to cure the monetary and/or non-monetary defaults under this Lease with the time periods set forth above.

If the Trustee or Debtor-in-Possession has assumed the Lease pursuant to the provisions of this Section for the purpose of assigning Tenant's interest hereunder to any other person or entity, such interest may be assigned only after the Trustee, Debtor-in-Possession or the proposed assignee have complied with all of the terms, covenants and conditions of this Section (25) and Section (19) of this Lease, with Landlord and Tenant acknowledging that such terms, covenants and conditions are commercially reasonable in the context of a bankruptcy proceeding of Tenant. When, pursuant to the code, the Trustee or Debtor-In-Possession shall be obligated to pay reasonable use and occupancy charges for the use of the Leased Premises or any portion thereof, such charges shall not be less than the Rent payable by Tenant hereunder, or in the event Tenant has ceased doing business in the Leased Premises, the reasonable use and occupancy charge shall be equal to the then reasonable rental value of the Leased Premises. The rights, remedies and liabilities of Landlord and Tenant set forth in this Section shall be in addition to those which may now or hereafter be accorded, or imposed upon, Landlord and Tenant by the Code.

(25) TENANT'S ENVIRONMENTAL REPRESENTATIONS. Definitions and Tenant's Obligations and Indemnification. As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material, or waste, or pollutant or contaminant which is or becomes regulated by any local governmental authority, the State of Indiana or the United States Government. Tenant shall not cause, allow, or permit any Hazardous Material to be brought upon, generated, manufactured, stored, handled,

disposed of, or used at, on, about, or beneath the Leased Premises or any portion of the Leased Premises by Tenant, its agents, employees, contractors, invitees, or licensees without the prior written consent of Landlord. Tenant represents and warrants to Landlord that Tenant shall comply fully with all federal, state, and local environmental, health, or safety statutes, rules, regulations, or ordinances. If Tenant breaches the obligations stated in this Article XIV, or if the presence of Hazardous Material on the Leased Premises or the Shopping Center caused or permitted by Tenant results in contamination of the Leased Premises or the Shopping Center, or if contamination of the Leased Premises or the Shopping Center by Hazardous Material otherwise occurs for which Tenant is legally liable to Landlord for damages resulting there from, then Tenant shall indemnify, defend by counsel acceptable to Landlord and hold harmless Landlord, its subsidiaries, affiliates, successors, and assigns from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including, without limitation, diminution in value of the Leased Premises or the Shopping Center, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Leased Premises or the Shopping Center, damages arising from any adverse impact on marketing of space, and sums paid in settlement of claims, attorneys' fees, consultant fees, and expert fees) which arise during or after the Term as a result of such contamination. The provisions of this Article shall survive, and remain in full force and effect after, the date hereof and termination of the Term.

(26) **Default of Landlord.** Landlord shall in no event be charged with default in the performance of its obligations under this Lease unless and until Landlord shall have received written notice from Tenant specifying wherein Landlord has failed to perform any obligation hereunder, and Landlord shall have failed to perform such obligation, or remedy such default, within thirty (30) days (or such additional time as is reasonably required to correct any such default) after receipt of such notice from Tenant.

(27) **Status of Landlord.** Notwithstanding any other provision of this Lease, Tenant agrees that no officer, director, agent, partner, member, owner, or employee of Landlord or any subsequent owners of the Shopping Center shall be responsible or liable for the performance or non-performance of any agreement, covenant, or obligation of Landlord in this Lease in his or her individual or personal capacity, and Tenant agrees to look solely to the Shopping Center as the sole asset for the payment and satisfaction of all obligations and liabilities of Landlord or any subsequent owners of the Shopping Center hereunder.

(28) **BROKER'S COMMISSION.** 21 Commercial is acting solely as an agent for Landlord in this transaction and there is no acting agent for Tenant. Landlord is responsible for payment of all brokerage fees related to the execution of the Lease Agreement; the terms and fees of which shall be outlined in a separate agreement.

(29) **RELATIONSHIP OF PARTIES.** Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent, or of partnership, or of joint venture, between the parties hereto.

(30) **REMEDIES CUMULATIVE.** The remedies of Landlord shall be cumulative, and no one of them shall be construed as exclusive of any other or of any remedy provided by law.

(31) **FORCE MAJEURE.** In the event that Landlord or Tenant shall be delayed or hindered in or prevented from doing or performing any act or thing required in this Lease by reason of fire, flood, earthquake or any other casualty, including Acts of God, other than the Payment of Rent, then such party shall not be liable or responsible for any such delays and the doing or performing of such act or thing shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

(32) **COMPLETE AGREEMENT.** This Lease contains a complete expression of the agreement between the parties and there are no promises, representations, or inducements except such as are herein provided.

(33) **SUCCESSORS IN INTEREST.** The covenants, agreements, terms, conditions and warranties of this Lease shall be binding upon and inure to the benefit of Landlord and Tenant and their respective heirs, executors, administrators, successors and assigns, but shall create no rights in any other person except as may be specifically provided for herein.

(34) **SUBMISSION OF LEASE and ELECTRONIC SIGNATURE.** Submission of this Lease to Tenant does not constitute an offer to lease. This Lease shall become effective only upon execution and delivery thereof by Landlord and Tenant. Upon execution of this Lease by Tenant, Landlord is granted an irrevocable option for thirty (30) days to execute this Lease within said period and thereafter return a fully executed copy to Tenant. The execution date of this Lease shall be the date filled in on page 1 hereof by Landlord, which shall be the date of execution by the last of the parties to execute this Lease. This Lease may be signed, and transmitted electronically. Electronic signatures shall be deemed binding on the signing party.

(35) **PARTIAL INVALIDITY.** If any lease provision is invalid or unenforceable to any extent, then that provision shall be deemed modified to the extent necessary to render that provision enforceable and the remainder of the Lease shall continue in effect and be enforceable to the fullest extent permitted by law.

(36) **TENANT IMPROVEMENT ALLOWANCE.** N/A

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Indenture of Lease on the 8th day of March, 2022.

LANDLORD:

By: _____

Hendricks County

TENANT: **Board of Commissioners**

By: Phyllis A. Palmer

Printed: Phyllis A. Palmer

Its: President

PERSONAL GUARANTY

In consideration of the execution of the foregoing Lease by Landlord, the undersigned hereby jointly and severally guarantee(s) to Landlord the payment of all Rent and other charges as well as the performance of all covenants and conditions to be performed by Tenant under the foregoing Lease. The undersigned hereby waive(s) notice of acceptance of this guaranty and of any default of Tenant or action by Landlord and agree(s) to all waivers, extensions or other indulgences granted to Tenant by Landlord. This Personal Guaranty shall remain in full force and effect throughout the entire Term of the Lease, and any extensions or renewals thereof. In addition, the obligations of Guarantor hereunder are primary, and Landlord may proceed directly against Guarantor without exhausting any right or remedy against Tenant or otherwise. This Guaranty shall be binding upon Guarantor and his respective heirs, beneficiaries, successors, assigns and legal representatives and shall inure to the benefit of Landlord and its successors, assigns and legal representatives. Guarantor waives any and all rights of subrogation resulting from any payment to Landlord under this Guaranty. Guarantor shall have no right of contribution with respect to any other guarantor unless and until Landlord shall have received payment in full of all of the indebtedness. Guarantor shall not pursue collection of any indebtedness of Tenant to Guarantor or exercise any right or remedy with respect to any security therefore unless and until Landlord shall have received payment in full of all of the Indebtedness. Guarantor agrees to give prompt written notice to Landlord of any material adverse change in the condition or operation of Guarantor, financial or otherwise. Guarantor also agrees that Guarantor shall not cause or permit any substantial amount of Guarantor's property, business or assets to be sold, terminated, assigned, conveyed, pledged or otherwise transferred or encumbered without fair and adequate consideration. Guarantor represents and warrants to Landlord that (i) the financial statements of Guarantor heretofore delivered to Landlord are true and correct in all material respects and fairly present the financial condition of Guarantor; and (ii) there has been no material adverse change in the financial condition of Guarantor since the date of such statements. Guarantor agrees that any modification, renewal, amendment or addendum, or any other alteration of the Lease does not in any way effect Guarantor's liability on the Personal Guaranty.

Dated: 3-8-22

Phyllis A. Palmer
Guarantor

Phyllis A. Palmer
Printed

Bob Gentry
Guarantor

Bob Gentry Bob Gentry
Printed

Dennis W. Dawes
Guarantor

Dennis W. Dawes
Printed

Nancy D. Marsh
Witness

Nancy Marsh - County Auditor
Printed

Witness

Printed

Witness

Printed

WORK LETTER

LANDLORD'S WORK

- Landlord to provide HVAC, plumbing and electrical in good working order.

TENANT'S WORK

- Tenant will complete all finish work necessary for Tenant's use of the Leased Premises.
- Tenant agrees to take the space in "As Is" condition.
- Landlord will have the right to review and approve all construction plans and specifications prior to construction.

Exhibit A

Site Plan

Old Farm Shopping Center - Danville IN



Exhibit B
SIGN CRITERIA

1. Tenant will not erect any signs except in conformity with the following policy:
2. Wording on large scale signs shall be limited to store or trade name only. Each party's customary signature or logo, hallmark, insignia, or other trade identification will be respected.
3. Signs of the flashing, blinking, rotating, moving, or animated type or audible type signs are not permitted.
4. The size of all Tenant's signs shall be limited. Tenant's signs shall be located within the limits of its storefront less 3' on each side.
5. Painted or printed signs on the exterior surface of any building shall be prohibited, except small-scale signs relative to store name and stating store hours which are neatly lettered on the glass of the storefront but subject to Landlord's approval and in addition, any non-customer door for receiving merchandise may have in two inch (2") block letters that indicate the name of the Tenant and the address of the Leased location.
6. Public safety decals or artwork on glass in minimum sizes to comply with applicable Code, subject to the approval of Landlord, may be used, as required by building codes or other governmental regulations.
7. Paper signs, stickers, banners, flags, and painting upon the inside or outside of plate glass storefronts and doors, except otherwise specified in this criteria, are prohibited. Nothing shall be affixed to any building support pole or signage on the property.
8. No exposed ballast boxes or electrical transformers will be permitted except as required by Code.
9. Sign company names or stamps shall be concealed (Code permitting).
10. Except as otherwise approved in writing by Landlord, only one sign per Tenant will be permitted.
11. Tenant shall not install any roof top signs.
12. No signs will be permitted at the rear of any building, except in the case of stores with customer entrances opening directly onto the parking areas and parking deck.
13. All signs shall be lighted and subject to Landlord's approval.
14. Three (3) complete sets of sign drawings must be submitted to the Landlord for approval before fabrication.
Tenant's sign drawings must include the following:
 - a. Elevation view of storefront showing sign (drawn to accurate scale) with dimensions of height of letters and length of sign.
 - b. Color of sign, trim caps, etc.

15. Tenant shall not install individual pylon signs, however if shopping center has a multi-tenant pylon sign, Tenant will be required to have a sign panel on the pylon subject to availability. Tenant will be responsible for fabricating, installing and maintaining the sign, power of Tenant's signs will be circuited to Tenant's panel. All signs shall be on timer. Signs shall be illuminated from one hour before sunset to one hour prior to sunrise.
16. Upon termination or moving out all signboard fascia must be repaired like new prior.
17. Tenant shall secure all necessary permits and pay all fees associated with the store front sign.