



Mayor Jordan and City Council Members -

Fifteen years ago, when John Lewis offered me the opportunity to purchase the former Fayetteville Train Depot site, he did so because he knew of my interest in and proven record of Historical Preservation. The Depot and adjacent buildings had fallen into an extreme state of disrepair. None of the buildings had been used since 1964. The surrounding acreage was essentially an abandoned rail yard. We completely renovated the buildings and revitalized the property. We pulled up rail lines, paved the entire unimproved portion of the ground and established paid parking as an interim plan.

The long-term plan was to construct a large mixed-use facility utilizing the then existing zoning entitlement of 12 stories for a significant portion of the project. The severe recession of 2008 interfered with our plans.

The building which Arsaga's at the Depot occupies was initially slated for demolition to accommodate the large infill development. The lease agreement with the Arsagas (see attached) contemplated this possibility and includes buyout provisions if this eventuality occurred. Please note that there are no restrictions on our ability to develop any of the remainder of the property. The Arsagas have known, from day one of our relationship, that the Depot site was slated for a large development project that could occur at any time.

When Mayor Jordan approached me about the possibility of replacing the current Walton Arts Center parking spaces by building a deck on a portion of our property, we began discussing options with the Arsagas. We anticipated the probable need for the area their business occupies and the impact construction of a large parking structure would have on their business. In an effort to reach an amicable agreement we offered to literally move the existing structure to the south side of Dickson so that Arsaga's business could be part of the Cultural Arts Center Park. That offer was rejected. We have since offered a plan to retain the existing structure, as is, after the completion of the parking deck. And, we offered to compensate the Arsagas for any lost profits incurred during construction. This offer has been rejected.

During the examination of the Depot site as an alternative for replacement parking there has been much discussion regarding the issue of whether we might develop the site regardless. As stated earlier, this has always been our plan but it is distinctly possible that if our property alone is developed to its maximum capacity, by whomever, the historic structures could very well be demolished.

The fact the Bank of Fayetteville has so graciously agreed to participate in the planning of replacement parking for the Cultural Arts District has opened up the possibility of a combining our parcels in a fashion that would preserve these historic structures while simultaneously developing a central piece of downtown property to its highest and best use. To that end, we are attempting to formulate a plan that enables us to save all of the current Depot structures which can be approached via a north/south pedestrian corridor. (See plan attached) To be successful we will need the cooperation and participation of both the City and Bank of Fayetteville. It should be noted that in my almost 40 years of development in Fayetteville I have renovated over 30 structures downtown without tearing down a single building (with the exception of one dilapidated home off south College). In addition to the historic Depot structures some of these buildings include The Bakery Building on Dickson (Wasabi and Farrell's), The Dickson Street Inn, The Laundry Building (Hammontrees), 330 West (Z330), numerous office buildings on Spring and Center Streets and The Three Sisters.

My interest in the proposed "public/private" venture currently before you is also motivated by my belief that construction of a public deck on a portion of our site will act as a catalyst for this much grander infill mixed use project. The commitment to a deck would help jump start this process. As part of this development it is my intention to attract a high-end boutique hotel chain as an anchor to the project. We envision shops, restaurants, office space and perhaps an entertainment venue. We do not plan on building condominiums as their use is often sporadic. The goal is to bring a variety of patrons to the entertainment district making it more vibrant, while preserving the historic nature of the site.

Respectfully,



Greg House
January 14, 2020

217 N East Ave Fayetteville AR 72701

COMMERCIAL
LEASE CONTRACT

Date: August 4, 2011

IT IS UNDERSTOOD, COVENANTED AND AGREED that in consideration of the promises contained herein, the rent herein reserved, and of the covenants herein contained by said Lessee to be performed, the Lessor hereby leases to the Lessee, and the Lessee hereby agrees to lease from the Lessor the building at: 548 West Dickson St., Fayetteville, AR 72701, which is approximately 2400 sq ft, hereafter the Leased Premises, according to the following terms and conditions:

1. **PARTIES:** This Lease is between Arsaga's, Inc., (Lessee), and Houses Incorporated, agent for owner, with offices at 217 North East Avenue, Fayetteville, AR 72701 (Lessor).
2. **LEASE TERM:** The Initial term of the Lease shall be 5 Years and shall begin on February 1, 2012, and shall end on January 31, 2017 or upon opening of Lessee's business whichever first occurs.
3. **RENT:** Lessee will pay as rent \$186,000 for the Initial term, payable in installments of \$3,100 per month. The monthly rent shall be payable, without demand, at Lessor's office at 217 North East Avenue, Fayetteville, AR 72701, on or before the first (1st) day of each month. If all rent is not paid on or before the fifth (5th) of the month, Lessee agrees to pay a late charge of 5% of amount due plus \$50 per day thereafter until paid. Rent unpaid after the seventh (7th) day of the month is delinquent and will authorize all remedies in the Lease. Lessee agrees to pay a \$25 charge per check for any returned checks.
4. **OPTION TO RENEW:** Provided that this Lease is then in full force and effect and has not been terminated by Lessor or Lessee, Lessee shall have the option to renew this Lease for three additional periods of sixty (60) months each ("First, Second, & Third Renewal Terms" respectively). The renewal options granted to Lessee hereunder are exercisable only upon written notice given to Lessor no later than one hundred twenty (120) days prior to the expiration of the Previous Term. Lessor agrees to provide Lessee notice of the impending 120 day option election deadline not less than 60 days ahead of said deadline. CPI, as stated herein, shall be defined as the Consumer Price Index for all Urban Consumers for the U.S. City Average for all Items. Any CPI Rate increase to be capped at 3% per annum.

The First Renewal Term shall commence upon the expiration of the Initial Term. Rent for the First Renewal Term shall be the cumulative increase in the CPI from the first month of the Initial Term to the end of such term or \$3565 per month, whichever is least (for example, if the CPI for the 5 years of the Initial Term only increased by 2% per year then the rent for the First Renewal Term would start at \$3410 per month reflecting the cumulative CPI increase for the period for 10%).

In the event that Lessee timely elects to renew the Lease for a Second or Third Renewal Term pursuant to the foregoing for each renewal term, Lessee and Lessor agree to negotiate a new Base Rent at then current fair market rental rates. If Lessor and Lessee are unable to agree on the current market rental rate, the Lessee may terminate this Lease. If Lessee does not exercise its right of termination, the issue of the current fair market rental rate shall be referred to two (2) independent third party appraisers, one appointed by each party and then those appraisers shall appoint a third appraiser also qualified in the field of commercial real estate rental rates. These three (3) appraisals shall then be averaged together and the resulting amount shall be deemed the Base Rent. Base Rent for years 3 and 4 of the Second or Third Renewal Term shall be adjusted at the beginning of year 3 of the current Renewal Term by a percentage equal to any cumulative percentage increase in the CPI for years 1 and 2 of the current Renewal Term. Rent for the final year of the operative Renewal Term shall be adjusted by any cumulative increase in the CPI for years 3 and 4 of the operative renewal term.

Lessee's option for a Second or Third Renewal Term is subject to Lessor's Future Development Plans for the Leased Premises. If, during the Second or Third Renewal Term, Lessor develops and implements a plan that will alter the Leased Premises in a fashion deemed to effect Lessee's use, in Lessee's sole discretion, Lessee shall be permitted to terminate its agreement upon 90 days written notice to Lessor. Lessor must provide one year notice of its intent to alter the Leased Premises. Lessee shall have the 1st Right of Refusal to lease space of a comparable size in any Future Development of the Depot site.

If, during the Second Renewal Term, Lessee so chooses to terminate this lease due to Lessor's alteration of the Leased Premises, Lessor agrees to buyout Lessee's rights during the Second Renewal Term according a sliding scale as determined by the date the aforementioned alteration begins. The buyout amount starts at \$60,000.00 if lessor exercises its right at the end of the First Renewal Term and the buyout amount declines by \$1000/month for the remainder of the Second Renewal Term.

5. **SECURITY DEPOSIT:** Lessee will deposit with Lessor the sum of \$3,000. Said deposit shall be held by Lessor as security for the faithful performance by Lessee of all the terms, covenants, and conditions of this Lease. If at any time during or after the term of this Lease, any of the rent or other moneys due hereunder shall be overdue and unpaid, or any other sum payable to Lessee to Lessor

hereunder shall be overdue and unpaid, Lessor may, at the option of Lessor (but Lessor shall not be required to), appropriate and apply any portion of said deposit to said sums. Lessor and Lessee acknowledge and agree that the aforementioned deposit and rights of Lessor to appropriate same are not Lessor's sole remedy against Lessee for the performance of Lessee's obligation hereunder. Such remedy and the remedies set forth in the remainder of this paragraph shall not be deemed to be the exclusive remedies for Lessee's breach of this Lease but shall be in addition to all other remedies available at law or equity to Lessor. Should Lessee comply with all of the terms, covenants and conditions and promptly pay all of the rental herein provided as due, and all other sums payable to Lessee to Lessor hereunder, the said deposit shall be returned in full to Lessee at the end of the term of this Lease.

6. **MAINTENANCE BY LESSEE AND/OR LESSOR:** Lessee shall make and pay for all cleaning and maintenance of the interior area of the Leased Premises, including equipment therein with exception of that stated below, interior and exterior window cleaning. The following maintenance, replacement or repair shall also be the Lessor's responsibility:

- a. All maintenance, replacement and repair to the roof, outer walls exclusive of plate glass, and structural portion of the buildings which shall be necessary to maintain the building in a safe, dry and tenable condition; and,
- b. All maintenance of the heating, ventilation and air-condition system; and,
- c. All grounds and parking lot maintenance.

7. **REAL ESTATE TAXES, INSURANCE AND OTHER ASSESSMENTS:** Lessor will pay all real estate taxes and property damage insurance, and other assessments which are assessed or imposed upon the Leased Premises or any part thereof, and due and/or payable during the term of this Lease.

8. **INSURANCE:** Lessee and/or its permitted assigns under this agreement shall procure and maintain at all times during the Term, at its sole expense, a policy or policies of comprehensive general business insurance, public liability insurance, liquor liability (DRAM) if applicable to Lessee's and/or assign's use and fire, extended coverage property damage insurance naming both Lessor and Lessee as insured and which will indemnify Lessor and Lessee against liability for loss, damage, or injury to property or person. Such insurance shall be in an amount of at least \$1,000,000 for general business, public liability and liquor liability, and \$500,000 per occurrence of damage to property or person. All insurance shall be procured from insurance companies authorized to do business in Arkansas and approved by Lessor, such approval shall not be unreasonably withheld. Lessee shall, within three (3) business days of the delivery of notice that the space is ready for occupancy, and thereafter upon request, provide Lessor with proof of its or assignee's procurement or maintenance of any insurance. Each such insurance policy shall not be cancelable without 10 days prior written notice to Lessor. If Lessee fails to procure or maintain any insurance required hereunder, Lessor may procure or maintain reasonable insurance and charge Lessee with the actual expense thereof with interest at the highest lawful rate.

9. **UTILITIES:** Lessee shall be solely responsible for and promptly pay all its utilities, including its prorata share for trash dumpster service based on total sq footage of use.

10. **OCCUPANTS:** The premises will be occupied by Lessee and/or such officers, directors, agents, employees, guests, invitees or customers of Lessee as would be normal in the ordinary course of Lessee's business. No other occupants are permitted. It is agreed that breach of this section constitutes a default, which cannot be cured, and at the option of the Lessor, will provide cause for immediate termination of the tenancy. Whether or not the Lessor makes the election to terminate the tenancy, Lessee and/or his co-obligors or successors, agree to pay as liquidated damages an amount equal to 1/10th of the monthly rental rate then in effect, per person, per day, for each day Lessee is in violation of the sub-section. Said liquidated damages shall be in addition to any other remedies Lessor may have at law or equity, or pursuant to this Lease Agreement.

11. **PURPOSE:** Said premises shall be used and occupied by Lessee for the operation of a restaurant and bar and for no other purpose or purposes without written consent of Lessor, such consent not to be unreasonably withheld.

12. **PROPER USE OF PREMISES:** Lessee shall not perform any acts or carry on any practice which may injure the building or be a nuisance or menace to others, and shall keep the Premises under its control, clean and free from rubbish and dirt of all kinds. Lessee agrees to use diligence in keeping trash and litter picked up in the area around the premises, to keep Premises clear and free from rodents, bugs and vermin, and to bear the expense of general extermination. The Lessee shall not use or permit the use of any portion of said Premises for sleeping apartments, lodging room, or for any immoral or unlawful purpose or purposes.

If Lessee fails to maintain the Premises in a neat, clean and orderly manner, Lessor may give Lessee written notice to do so, stating with particularity the deficiencies, and if Lessee fails or refuses to remedy the situation set forth in the written notice for a period of ten (10) days, Lessor may have such deficiencies corrected at the expense of the Lessee.

13. ENVIRONMENTAL REPRESENTATIONS, WARRANTIES AND COVENANTS:

- a. During the term of this Lease, Lessee shall:
- (1) not knowingly store, dispose of, release, or allow the disposal or release of any Hazardous Materials on the Premises (except in compliance with all laws, ordinances, and regulations pertaining thereto);
 - (2) neither directly nor indirectly transport or arrange for the transport of any Hazardous Materials on or from the Premises (except in compliance with all laws, ordinances, and regulations pertaining thereto);
 - (3) if during, the term of this Agreement, any release or disposal of Hazardous Materials shall occur on the Premises in violation of law, Lessee shall cause the prompt containment and removal of such Hazardous Materials and remediation of the Premises in full compliance with all Environmental Laws and other applicable laws and regulations.
- b. Lessee covenants and agrees promptly to provide Lessor with written notice: (i) upon Lessee's obtaining knowledge of any violation of any Environmental Law regarding the Premises or Lessee's operations; (ii) upon Lessee's obtaining knowledge of any potential or known release or disposal, or threat of release or disposal, of any Hazardous Materials at, from, or into the Premises which it reports in writing or is reportable by it in writing to any governmental authority or which could affect the value of the Premises; (iii) upon Lessee's receipt of any notice of violation of any Environmental Laws or of any release or disposal or threatened release of disposal of Hazardous Materials, including a notice or claim of liability or potential responsibility from any third party (including without limitation ant federal, state or local governmental officials) and including notice of any formal inquiry, proceeding, demand, investigation or other action with regard to (A) Lessee's or any person's operation of the Premises, (B) contamination on, from or into the Premises, or (C) investigation or remediation of offsite locations at which Lessee or its predecessors are alleged to have directly or indirectly Disposed of Hazardous Materials; or (D) upon Lessee's obtaining knowledge that any expense or loss has been incurred by such governmental authority in connection with the assessment, containment, removal or remediation of any Hazardous Materials with respect to which Lessee may be liable or for which a lien may be imposed on the Premises.
- c. Lessee covenants and agrees that it shall pay, indemnify and hold harmless the Indemnified Parties (as defined herein) for, from and against, and shall promptly reimburse the Indemnified Parties for, any and all claims, damages, liabilities, losses, costs and expenses (including reasonable attorneys' and consultant fees and expenses, investigation and laboratory fees, removal, remedial response and corrective action costs, and amounts paid in settlement) incurred, paid or sustained by the Indemnified Parties as a result of or relating to (i) any release or disposal or threatened release or disposal of Hazardous Materials on the Premises arising during the Term of the Agreement or from Lessee's use or occupancy of the Premises, (ii) any violation of any Environmental Laws with respect to conditions at the Premises or the operations conducted thereon arising during the Term of this Agreement or from Lessee's use or occupancy of the Premises, or (iii) the investigation of remediation of offsite locations at which Lessee is alleged to have directly or indirectly Disposed of Hazardous Materials. This indemnity shall survive the expiration or other termination of this Agreement. As used herein, the term "Indemnified Parties" shall mean Lessor, its successors, assigns, officers, directors, agents and representatives.
- d. The term "release" shall have the meaning specified in CERCLA; provided, in the event CERCLA is amended so as to broaden the meaning of any term defined thereby, such broader meaning shall apply as of the effective date of such amendment and provided further, to the extent that the laws of the State of Arkansas establish a meaning for "release" that is broader than specified in CERCLA, such broader meaning shall apply. The term "disposal" or "disposed" shall have the meaning specified in RCRA and regulations promulgated thereunder; provided, in the event RCRA is amended so as to broaden the meaning of any term defined thereby, such broader meaning shall apply as of the effective date of such amendment and provided further, to the extent that state law establishes a meaning for "disposal" that is broader than specified in RCRA, such broader meaning shall apply.

14. SUBLETTING, ASSIGNMENT: The Leased Premises may not be sublet nor can Lessee assign this Lease without the prior written consent of Lessor, which Lessor will not unreasonably withhold.

15. SIGNS, AWNINGS, CANOPIES, FIXTURES, ALTERATIONS: Lessee may, at its sole cost and expense, make such non-structural alterations, additions or changes, in and to the Leased Premises as it may desire provided, however, Lessee shall first obtain Lessor's prior written consent for any such non-structural alterations, additions or changes. Lessee shall not make or cause to be made any alterations, additions or improvements or install or cause to be installed any exterior trade fixture, exterior signs, exterior lighting, plumbing fixtures, shades or awnings or make any other changes to the exterior without first obtaining Lessor's written approval and consent. Lessee may make no alterations, additions or changes which, in the opinion of Lessor or its engineers, affect the structural integrity or historical or architectural character of the Leased Premises without Lessor's prior written consent. Lessee shall present to Lessor Plans and Specifications for any work proposed by Lessee at the time approval is sought and Lessor shall not unreasonably withhold such consent.

16. ALTERATIONS, ADDITIONS & EXTENSIONS TO THE BUILDING, COMMON AREAS, OR THE LEASED PREMISES: Lessor hereby expressly reserves the right to make any alterations, additions, or extensions to the building, the premises, and/or common areas, including the parking area that Lessor deems necessary or reasonable in Lessor's sole discretion during the Lease Term. Lessor cannot reasonably interfere with Lessee's enjoyment without consent.

17. **LESSOR ALTERATIONS:** Lessor hereby reserves the right to alter Premises as may be required by any governmental authority or as may be required to reserve, maintain, and/or protect the building or Premises, provided that such alterations shall not interfere with the operation of Lessee's business or in the usefulness of the Premises to Lessee for the herein stated purposes.

18. **OWNERSHIP OF IMPROVEMENTS:** All alterations, additions and improvements which may be made by either of the above parties hereto upon the Premises and which in any manner are permanently attached to the floors, wall or ceilings, shall be considered the property of the Lessor and shall remain with the surrendered Premises as a part thereof without disturbance, molestation or injury at the termination of this Lease.

19. **SECURITY AGREEMENT:** Any rents or other monies due the Lessor by the Lessee that are not paid when due shall bear interest at the rate of ten percent (10%) per annum until paid.

Pursuant to the Arkansas Uniform Commercial Code (Ark. Stat. 85-9-101ff), the Lessee hereby grants to the Lessor a security interest in all goods, wares, merchandise, furniture and equipment in which the Lessee has an interest and placed in or on said Premises to secure rents, other monies and interest due or to become due to the Lessor under this Lease.

It is understood between the parties that such security interest, as it pertains to items of inventory only, shall not be enforceable unless Lessee is in default of its obligations under this Lease and until said items are in possession of Lessor.

Lessor agrees to subordinate its security interest herein to Lessee's purchase money lender.

20. **CONDITION OF PREMISES ON MOVING IN AND MOVING OUT:** Upon taking possession Lessee accepts the premises fixtures, and/or appliances as is, except for conditions materially affecting health or safety of ordinary persons. Lessor makes no implied warranties. Within 1 week after move-in, Lessee shall note any defects or damages in the premises by notifying the Lessor in writing; otherwise, everything will be deemed to be in clean and good condition.

21. **SUBORDINATION:** This lease is subject to all present or future mortgages, deeds of trust or liens, affecting the demised premises and Lessee hereby appoints the Lessor as Lessee's Attorney-in-Fact to execute and deliver any and all necessary documents to subordinate this lease to any present or future mortgages or deeds of trust affecting the demised premises. The Lessor acts as Lessee's Attorney-in-Fact and Fiduciary and will preserve the Lessee's interest in this leasehold and right of occupancy among other rights, in all such mortgages, deeds, trusts, or liens.

22. **CONDEMNATION:** In the event the demised premises, or any part thereof, are taken by condemnation by the United States, the State of Arkansas, or any other governmental agency or authority in such a fashion that Lessee cannot use the premises for its intended purposes, this lease can be terminated at the option of the Lessor or Lessee. If part of the property is condemned, the Lessee may elect to continue under the lease and shall be entitled to equitable abatement of rent. The Lessee shall be entitled to any condemnation award allocable to improvements that the Lessee made to the property.

23. **LIABILITY:** Lessor will not be liable to Lessee, Lessee's agents, employees, guests, invites, customers, or other occupants for any damage or loss to person, entity, or property caused by other persons, including theft, burglary, assault, vandalism, or other crimes. Lessor will not be liable to Lessee, or any of Lessee's agents, employees, guests, invites, customers, or other occupants for personal injury or for damage to or loss of their personal property from fire, flood, water leaks, rain, hail, ice, snow, smoke, lightning, wind, explosions, interruption of utilities or other occurrences unless such injury, loss or damage is caused by negligence of Lessor. Lessor will furnish locks and latches as required by statute. Except as required by statute, Lessor will furnish no additional extra locks and latches, security guards or patrols, security lighting, security gates or fences, or other forms of security. Lessee agrees to exercise due care for the safety and security of Lessee and all persons in Lessee's premises. Lessee is urged to keep doors and windows locked at all times; window screens and screen doors are not to be considered as secure windows and doors, but are furnished for ventilation purposes only. Lessee acknowledges that any security measures provided should not and will not be treated by Lessee as a guarantee against crime, but are provided for the purpose of protecting the physical property of the Lessor and not to guarantee safety of the Lessee. If Lessee is in need of security services, Lessee should contact local law enforcement and/or other private security companies. If Lessor's employees or sub-contractors are requested to render services not contemplated in this Lease, Lessee agrees to hold Lessor harmless from all liability regarding same. It is expressly understood and agreed by the Lessee that if the Lessor shall furnish any automobile parking space, elevators or other "common areas," or any other facilities outside of the premises herein expressly demised to the Lessee same shall be deemed to be gratuitously furnished by the Lessor and that if any person shall use the same, he or she does so at his or her own risk and upon the express understanding and stipulation that the Lessor shall not be liable for any loss of property through theft, casualty, or otherwise, or for any damage or injury whatever any to person or property unless such injury, loss or damage is caused by negligence of Lessor.

24. **REPAIRS AND MALFUNCTION:** Lessee agrees to request all repairs and services in writing to Lessor's designated representative except in an emergency when telephone calls will be accepted. Lessor shall have the right to temporarily turn off equipment and interrupt utilities to avoid damage to property or to perform repairs or maintenance, which require such interruption. In case of malfunction of utilities or damage by fire, water or similar cause, Lessee SHALL NOTIFY LESSOR OR LESSOR'S REPRESENTATIVE IMMEDIATELY. Lessor shall act with diligence in making repairs; and the lease shall continue and the rent shall not abate during such periods unless malfunctions or damages unreasonably restrict Lessee from performing usual daily work. If fire or catastrophe damages in the premises are substantial in the reasonable judgment of Lessor, Lessor may terminate this Lease within a reasonable time by giving written notice to Lessee. If the Lease is so terminated, rent shall be prorated and the balance refunded along with all deposits, less lawful deductions.

25. **REIMBURSEMENTS:** Lessee shall promptly reimburse Lessor for any loss, property damage, or cost of repairs of service caused in the premises or community by negligence or improper use by Lessee or Lessee's agents, employees, invites, customers, or other occupants. Lessor will not be liable for and Lessee shall pay for the following if it occurs during the lease term or renewal period: (a) damage to doors, windows, or screens unless due to negligence of Lessor, (b) repair costs and damages from plumbing stoppages in lines exclusively serving Lessee's premises and (c) damages from windows or doors left open; Lessor's failure or delay in demanding rent, damage reimbursement, late-payment charges, returned check charges, or other sums due by Lessee shall not be deemed a waiver, and Lessor may require payment of same at any time, including deduction from security deposit. Lessor may require advance payment for repairs for which Lessee is liable.

26. **LESSEE INDEMNIFICATION OF LESSOR:** Lessee will indemnify, defend and save harmless Lessor from and against any and all loss, cost, claims, damages, actions, liability and/or expense in connection with loss of life, personal injury and/or damages to property, tangible or intangible, including the Leased Premises, and any personal property brought onto the Leased Premises arising from or out of any occurrence in, upon or at the Leased Premises, or the occupancy or use by Lessee of the Leased Premises or any part thereof, or occasioned wholly or in part by any act or omission of Lessee, Lessee's agents, employees, invites, guests, contractors, sub-leases, concessionaires or customers unless such is caused by negligence of Lessor. In the event Lessor shall, without fault on its part, be made a party to any litigation commenced by or against Lessee, then Lessee shall indemnify, defend and hold Lessor harmless and shall pay all reasonable costs, reasonable expenses and reasonable attorney's fees that may be incurred or paid by Lessor in enforcing the covenants and agreements in this Lease.

27. **HOLD-OVER:** If Lessee holds over without Lessors written permission and fails to move out on or before the exact date required under this Agreement (i.e., the end of the lease term or the end of the month of any renewal or extension term, as set forth in the written notice of termination), Lessee shall be liable to pay double rents for the hold-over period and to indemnify Lessor and/or prospective Lessees for damages incurred, including lost rentals and lodging expenses. Holdover rents shall be immediately due on a daily basis and shall be deemed delinquent without notice or demand.

28. **LESSOR'S COVENANT OF QUIET ENJOYMENT:** Upon payment by the Lessee of the rents herein provided, and upon the observance and performance of all the covenants, terms and conditions on Lessee's part to be observed and performed, Lessee shall peaceably and quietly hold and enjoy the demised premises for the term hereby demised without hindrance or interruption by Lessor or any other person or persons lawfully or equitably claiming by, through or under the Lessor, subject to the terms and conditions of this Lease. However, any repairs or maintenance that are performed, should be performed by the mutual consent of Lessor and Lessee at a time and in a manner which are calculated in exercise of good faith and reasonable business practice to minimize any disruption of Lessee's business.

29. **RIGHT OF ENTRY:** If Lessee or Lessee's employee is present, then repairmen, servicemen or Lessor's representatives may enter the premises during reasonable times for reasonable business purposes. If no one is in the premises, then repairmen, servicemen, Lessor or Lessor's representative may enter at reasonable times by duplicate or master key for the following purposes: responding to Lessee's requests to make repairs; estimating repair or refurbishing costs; emergency safety or fire inspections; avoiding property damage; exercising contractual rights; removing or re-keying authorized locks or latches. Lessor may enter with 24 hour notice for purpose of placing "For Lease" signs on premises or showing the premises to prospective Lessees, (up to 120 days prior to end of lease term, or once notice to vacate has been given), or to allow access to government inspectors, fire marshals, lenders, appraisers, prospective purchasers or insurance agents.

31. **DEFAULT BY LESSEE:** Any one or more of the following events shall constitute an "Event of Default":

a. The filing of a petition proposing the adjudication of Lessee or any guarantor of Lessee's obligations hereunder as a bankrupt or insolvent or the reorganization of the Lessee or any such guarantor or an arrangement by Lessee or any such guarantor with its creditors, whether pursuant to the Federal Bankruptcy Act or any similar federal or state proceeding, unless such petition is filed by a party other than Lessee or any such guarantor and said petition is withdrawn or dismissed within sixty (60) days after the date of its filing; or,

b. The appointment of a receiver or trustee for the business or property of Lessee or any such guarantor, unless such appointment shall be vacated within sixty (60) days of its entry; or,

- c. The making by Lessee or any such guarantor of an assignment for the benefit of its creditors; or,
- d. The failure of Lessee to pay any item of rent, or rent is not paid within seven (7) days after notice of default is received by Lessee, or other sum of money within ten (10) days after notice of default is received by Lessee; or,
- e. Vacating or removing property from the Leased Premises other than in the normal course of business; or,
- f. Failure by Lessee in the performance or observance of any covenant or agreement of this Lease (other than a failure involving the payment of money), which failure is not cured within thirty (30) days of receipt by Lessee of notice of default or,
- g. Violation by Lessee of any applicable Federal, state or local laws as same pertain to this Lease; or,
- h. Lessee abandons the Premises for more than thirty (30) continuous days.

32. **REMEDIES IN EVENT OF DEFAULT:** Upon the occurrence and continuance of an Event of Default, Lessor may, without notice to Lessee (except where notice is expressly required by law), do any one or more of the following:

- a. Perform, on behalf and at the expense of Lessee, any obligation of Lessee under this Lease which Lessee has failed to perform, the cost of which performance by Lessor, together with interest thereon at the highest rate permitted by law from the date of such expenditure, shall be deemed additional rental hereunder and shall be payable by Lessee to Lessor upon demand;
- b. Elect to terminate this Lease and the tenancy created hereby by giving notice of such election to Lessee, and may reenter the Leased Premises, without the necessity of legal proceedings, and may remove Lessee and all other persons (if Lessee is still in possession) and property from the Premises, and may store such property in a public warehouse or elsewhere at the cost of and in the account of Lessee without resort to legal process and without Lessor being deemed guilty of trespass or becoming liable for any loss or damage occasioned thereby;
- c. Lessor may declare immediately due and payable the balance of any rent, Operating Costs and other charges that may otherwise be due and payable over the remainder of the term;
- d. Exercise any other legal or equitable right or remedy it may have; and,
- e. Lessor may report unpaid rents or unpaid damages to local credit agencies for recordation in Lessee's credit record.

Notwithstanding the provisions of clause (b) above and regardless of whether an Event of Default shall have occurred, Lessor may exercise the remedy described in clause (b) without notice to Lessee if Lessor, in its good faith judgment, believes it would be injured by failure to take rapid action or if the unperformed obligation of Lessee constitutes an emergency. Any costs and expenses incurred by Lessor (including, without limitation attorney's fees) in enforcing any of its rights or remedies under this Lease shall be deemed to be additional rental hereunder and shall be repaid to Lessor by Lessee upon demand. Any notice required herein will be deemed delivered if left with the Lessor or Lessor's guarantor or if left or posted at a conspicuous place at the Leased Premises.

33. **LEGAL EXPENSES:** In case suit shall be brought for recovery of possession of the Leased Premises, for the recovery of rent or any other amount due hereunder, or because of the breach of any other covenant herein contained on the part of Lessee to be kept or performed, and a breach shall be established, Lessee shall pay to Lessor all expenses therefor, including Lessor's reasonable attorney's fees. Should a breach be established as to an obligation due by Lessor, then Lessor shall pay all expenses therefor, including Lessee's attorney's fees.

34. **SURRENDER OF PREMISES:** At the expiration of the tenancy hereby created, Lessee shall surrender the Leased Premises in the same condition as the Leased Premises were in upon delivery of possession thereto under this Lease, reasonable wear and tear excepted, and shall surrender all keys for the Leased Premises to Lessor at the place then fixed for the payment of rent, and shall inform Lessor of all combinations on locks, safes, and vaults, if any, in the Leased Premises. Lessee shall remove all its trade fixtures, before surrendering the Leased Premises as foresaid, and shall repair any damage to the Leased Premises caused thereby.

35. **WAIVER:** The waiver by Lessor of any breach of any term, covenant or condition herein contained shall not be deemed to be a continuing waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by Lessor shall not be deemed to be a waiver of any prior breach by Lessee of any term, covenant or condition of this Lease, other than the failure of Lessee to pay the particular rental so accepted, regardless of Lessor's knowledge of such prior breach at the time of acceptance of such rent. No covenant, term or condition of this Lease shall be deemed to have been waived by Lessor, unless such waiver be in writing by Lessor.

36. **COPIES:** This lease has been executed in multiple copies, one for Lessee and one or more for Lessor.

37. **ADDENDUMS:** Any and all addendums attached hereto shall become a part of this lease and shall be considered incorporated herein by reference as if set forth word for word.

38. **AGENCY:** Lessee is aware that Lessor's agent is a licensed attorney and/or Real Estate Broker and/or Real Estate Sales Agent. Lessor's agent represents Lessor only.

39. **SPECIAL CONDITIONS:**

- 1) Lessee shall be responsible for installing its own signage, however signage must be approved by Lessor;
- 2) Parking Lot is paid parking operated by Fayetteville Depot, LLC and will be inaccessible during the Bikes Blues & BBQ Festival;
- 3) Lessee may have immediate possession of lease premises upon execution of this lease;
- 4) Lessor will remove all material and debris from around the rented premises, under the decks and all furniture and equipment from the interior within 2 weeks of execution of this lease;
- 5) A container may be placed at the NW corner of the premises in non-revenue space during construction; and,
- 6) For the first 18 months of this lease, Lessee shall have the right to 8 parking spaces free of charge until 6pm seven days a week and shall have the right to lease up to four employee parking spaces from 6:00pm until 10:00pm at \$45.00/month/ space or until 2:00pm at \$55.00/month/space. Lessee shall be responsible for signage and policing these spaces, and;
- 7.) This lease is contingent upon Lessee obtaining satisfactory financing within 30 days of execution.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed in person thereunto duly authorized and their respective seals to be hereunto affixed, the day and year first hereinabove written.

THIS IS A BINDING LEGAL DOCUMENT - READ CAREFULLY BEFORE SIGNING

LESSOR: HOUSES INCORPORATED
By: [Signature] for
Gregory T. House, President

LESSEE: ARSAGAS, INC.
By: [Signature]
Cary Arsaga
By: [Signature]
Cindy Arsaga