

NEW YORK COMMERCIAL LEASE AGREEMENT

THIS COMMERCIAL LEASE AGREEMENT hereinafter known as the "Lease" is entered into this 9th day of August, 2023, ("Effective Date") by and between

Removed with mailing address of 98 Foxhall Ave / Kingston NY
hereinafter referred to as the "Tenant,"

And

Removed with mailing address of 99 Harding Avenue, Kingston, NY 12401, hereinafter referred to as the "Landlord," collectively referred to herein as "the Parties."

WHEREAS, the Tenant desires to lease the Premises defined herein from the Landlord under the terms and conditions as set forth herein; and

WHEREAS, the Landlord desires to lease the Premises defined herein to the Tenant under the terms and conditions set forth herein.

NOW THEREFORE, for and in consideration of the covenants and obligations set forth herein and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. THE PREMISES. In accordance with the terms and conditions of this Lease, the Landlord hereby agrees to lease to the Tenant the property described below together with all the improvements thereto:

Address: 100 Foxhall Avenue, Kingston, NY 12401

Hereinafter known as the "Premises".

The Tenant hereby leases and takes from the Landlord the Premises and confirms that the floor numbers and/or unit numbers of the Premises referred to above are designated by The Landlord.

2. PERMITTED USE. Tenant agrees to continuously and at all times use and occupy the Premises during the Lease Term solely for the Permitted Use(s) as specified below ("Permitted Use"):

Operation of existing delicatessen/sandwich shop and storefront

No other use is permitted without prior written approval of Landlord, which approval Landlord may grant or withhold.

3. **LEASE TERM.** The term of this Lease shall commence on 1st day of August 2023 and shall subsist for a period of Ten (10) years, and expire on the last day of the Lease term, the 8 day of August, 2033. ("Lease Term")

4. **RENEWAL.** (Check One)

~~At the discretion of the Landlord, the Tenant will have right to renew the lease for the additional term of _____ years and _____ months (the "Renewal Term") by giving the Landlord a Notice of Renewal not later than sixty (60) days but no earlier than ninety (90) days, prior to the expiration of the Lease Term ("Renewal Period"). The Renewal Term shall commence immediately upon the expiration of the Lease Term. In the event of the renewal of this Lease, the terms and conditions of this Lease shall remain in full and effect for the duration of the Renewal Term unless otherwise agreed to in writing by the Parties.~~

The Rent for the Renewal term shall: (Choose one.)

☐ be equal to the Rent payable during the Lease Term.

☐ shall be based on the then current market rates for comparable premises provided that the Rent upon the Renewal Term shall not increase by more than 20% above the Rent payable in the immediately preceding year.

5. **RENT.** The Tenant shall pay the net amount of \$1,500.00 for every month for the first twenty-four (24) months of the Lease Term (herein after referred to as "Rent"). After twenty-four (24) months the Landlord shall have the option of increasing the monthly rental amount however, under no circumstances shall the increase be greater than 20% of the current rental amount. The rent shall be payable every 1st day of the month ("Due Date"), every month for the duration of the lease notwithstanding that the Due Date falls on a weekend or public holiday.

6. **EXPENSES.** The Parties agree that the responsibility for the expenses in relation to this Lease shall be borne as follows:

a. **Utilities.**

The Utilities including: electricity, communications, telephone and data charges and gas, shall be borne and paid by the Tenant .

b. **Maintenance.**

The Maintenance of the Premises including the following shall be borne and paid by the Tenant :

- Janitorial and pest control services
- Garbage removal
- Grease traps, drainage and pipes maintenance
- Inspections of hoods, fire safety, health department, and other inspections and maintenance incurred in the operation of a food establishment
- Repairs of deli equipment (coolers, walk-ins, hoods, etc.)

- Interior day-to-day maintenance/cleaning of deli including but not limited to hoods, floors, coolers, walk-ins, etc.
- Interior plumbing and electric repairs up to \$500 per incident. If the Tenant causes the need for repair due to Tenant's neglect or abuse, Tenant shall be responsible for the entire cost of repair.

The following maintenance of the Premises shall be borne and paid by the Landlord:

- Snow removal; mowing of grass; removal of leaves
- HVAC Maintenance
- Building repairs (structural and roof) other than Minor Repairs as defined herein
- Real property and school taxes.

c. **Insurance.** Comprehensive General Liability Insurance. The Tenant shall procure and maintain a valid Comprehensive General Liability Insurance indemnifying the Landlord for all loss caused by Tenant including but not limited to loss of rents and with a minimum coverage of \$1,000,000.00 for personal injury and \$500,000.00 for damage to property.

d. **Taxes.**

The Tenant shall bear all Taxes and fees that are payable under Laws in connection with the operation of the Tenant's business located at the premises.

The Landlord shall pay all Real Property Taxes and fees payable in connection with this Agreement under Laws to the extent that such Real Property Taxes and fees are payable under the applicable Laws by owners of buildings that are of a similar nature to the Premises, or by sub-Tenants of land use rights (for example, real property, real estate and/or personal property taxes).

7. COMMON AREAS. The Landlord shall at all times have exclusive management and control of the Common Areas for any purpose or in any manner that it deems necessary or appropriate. The Landlord reserves the right to remove, relocate or otherwise change or carry out any alteration or addition or other works to the Common Areas. The Landlord shall not be liable to Tenant for any damage incidental to the exercise of its rights under this section, provided that such damage is not accompanied by any fault, negligence or bad faith on the part of the Landlord or his agents. The Tenant shall abide by the Landlord's rules and management of the Common Areas.

"Common Areas" refers to those portions of the structure in which the Premises are located and areas surrounding the Premises including the driveways, entrances and exits, pedestrian passageways, walkways, loading docks, landscaped and streetscaped areas, any on-site parking areas, facilities (such as escalators, and lifts), installations (such as doors, windows, electrical installations and wiring), water and drainage pipes, gas pipes, fire systems, security and air-conditioning facilities, and all other areas or improvements which may be provided by Landlord from time to time for the general use of tenants of the structure in which the Premises are

located and areas surrounding the Premises and their respective employees, guests, patrons, suppliers, licensees and other invitees.

8. **SECURITY DEPOSIT.** Tenant shall deposit with Landlord the amount of \$3,000.00 to secure the faithful performance of the terms and conditions of this Lease (the "**Security Deposit**") on or before the execution of this Lease. The Security Deposit shall be held by Landlord in escrow in an interest-bearing account with interest accruing to the Tenant and to be delivered to the Tenant upon the return of the Security Deposit.

Except in the event that the same has been forfeited by the Tenant, the Security Deposit shall be returned to the Tenant within thirty (30) days after the termination of the Lease.

9. **ALTERATIONS AND IMPROVEMENTS.** No alterations to or improvements on the Premises shall be made by the Tenant without prior express consent of the Landlord to the same in writing. The Landlord agrees to not unreasonably withhold consent to reasonably necessary alterations or improvements. The Tenant shall ensure compliance with any and all applicable laws, rules, ordinances and codes when undertaking any alteration or improvement to the Premises.

- A. **Unauthorized Alterations or Improvements.** In the event that the Tenant shall undertake alterations or improvements relating to the Premises in violation of this section the same shall be considered a material breach of this Lease and shall put the Tenant in default. The Landlord may, upon the Landlord's discretion, require the Tenant to undo the alterations or improvements and restore the Premises to the its condition prior to any unauthorized alteration or improvement at the sole expense of the Tenant.
- B. **Ownership of Alterations and Improvements.** In all cases of alterations, improvements, changes, accessories and the like that cannot be removed from the Premises without destroying or otherwise deteriorating the Premises or any surface thereof shall, upon creation, become the Landlord's property without need for any further transfer, delivery or assignment thereof.

10. **COMPLIANCE WITH LAW.** The Tenant undertakes to comply with and abide by, at its sole expense, any and all Federal or New York state laws, municipal or county ordinances, rules, regulations, codes and all other issuances from authorized government authorities respecting the Premises and the Landlord's occupation and use thereof, including but not limited to obtaining all pertinent licenses and permits and maintaining copies thereof in the Premises.

11. **OBLIGATIONS OF THE TENANT:**

- A. The Tenant shall keep the premises in a clean, sanitary, neat and presentable condition.
- B. The Tenant shall be responsible for the repairs, outside of ordinary wear and tear, of any part of the Premises that do not affect the structural parts of the building or structure in which it is located or those that are generally considered as minor repair ("**Minor Repairs**") including but not limited to replacing light bulbs, cleaning or repairs of windows, doors, toilets and similar appurtenances.
- C. The Tenant shall, at its sole expense restore, repair and/or rectify any damage, outside of ordinary wear and tear, to the Premises caused by the Tenant or others that the

Tenant permits into the Premises that are not covered or compensable by any insurance.

12. ASSIGNMENT. The Tenant acknowledges that this Lease is not transferrable and that the Tenant may not assign the Lease, any part of the Lease or any of the rights or obligations herein without the prior express and written consent of the Landlord. The Tenant shall not sublet, sublease or otherwise grant any other party any license or right in relation to the Premises or this Lease without such consent. Any license, assignment, sublease or agreement in violation of this clause shall be null and void with no legal force whatsoever.

13. RIGHT OF ENTRY. The Landlord shall, upon giving one (1) days' notice, be granted by the Tenant access and allowed by the latter to enter the Premises to make necessary inspections, repairs or alterations on the property, or pursuant to any lawful purpose as the Landlord, provided that the time of entry requested is reasonable considering the purpose.

14. DAMAGE TO LEASED PREMISES. If the event that the Premises and/or the structure or building in which it is located is damaged or destroyed by fire or other casualty without the fault or negligence of the Tenant or his agents, the Landlord shall, at its own expense, repair the damaged portion, the Premises, structure and/or building to restore the same to substantially the condition in which it was handed over to Tenant. The Rent shall be abated until such repairs are completed.

In the event such repair cannot be accomplished or of total destruction the Lease shall cease and terminate with no early termination or other liability accruing to either of the Parties.

15. DEFAULT AND POSSESSION. If Rent is not paid within fifteen (15) days of the Due Date, the Rent shall be considered past due and a late fee of \$50.00 shall be applied for every day Rent is late.

In the event that the Tenant fails to pay Rent on the Due date or is in default of any of the terms of this Lease, the Landlord shall promptly provide the Tenant with a notice of such default, informing the Tenant that failure to rectify the same within fifteen (15) days will terminate the Lease and allow the Landlord to recover the premises at the end of such period. Should the Tenant fail to rectify the same within three (3) days after receiving such Notice of Default, the Landlord may terminate this Lease and recover the Premises from the Tenant. In such an event, the Landlord may hold the Tenant's possessions found in the Premises as security until sums owed by the Tenant has been paid.

In the event Tenant defaults in the performance of any of the terms, covenants, agreements or conditions contained in this Lease and Landlord places in the hands of an attorney or collection agency the enforcement of all or part of this Lease, the collection of any Rent due or to become due or recovery of the possession of the Premises, Tenant agrees to pay Landlord's costs of collection and enforcement including reasonable attorneys' fees, whether suit is actually filed or not.

16. SURRENDER OF PREMISES. On or before 11:59 P.M. on the last day of the Lease Term, the Tenant shall deliver up vacant possession of the Premises to Landlord more or less in the condition it was delivered to the Tenant, save ordinary wear and tear, and the Parties shall carry out the inspection of the Premises and shall sign a handover form jointly prepared and signed by Parties to confirm the condition and handover of the Premises. The Tenant shall also return all keys and other devices giving access to any part of the Premises and the building or structure in which it is located.

Without prejudice to the foregoing, the Tenant shall at its expense, at the request of Landlord, immediately make good any deficiencies identified during the handover inspection and remove from the Premises any alterations, fixtures or property of Tenant that Landlord requests to be removed, provided that the same were not existing in the Premises delivered by the Landlord or do not consist of alterations or improvements consented to by the Landlord as provided in Section 9 hereof.

Failure of the Tenant to return the Premises to Landlord in accordance with the above, shall entitle the Landlord to enter the Premises and carry out appropriate repair to the Premises and removal of any property of Tenant and any cost so incurred shall be borne by Tenant. All property left in the Premises by Tenant shall be deemed to have been abandoned by Tenant and Landlord shall be entitled to dispose of the same as Landlord deems appropriate.

17. SALE OF PREMISES

A. RIGHT OF FIRST REFUSAL. In the event that the Landlord contemplates the sale of the premises, the Tenant shall be afforded a right of first refusal to purchase the premises at the same sale price and under the same terms as another third party. In the event that Tenant enters into contract to purchase the premises, Landlord shall credit to Tenant ten (10%) percent of collected rent payments towards the purchase price of the premises.

B. THIRD PARTY PURCHASE. In the event that the Tenant declines the Right of First Refusal, Tenant's lease agreement shall be made a part of the sale of the premises to a third party and the terms and conditions of Tenant and Landlord's Lease Agreement shall remain in full force and effect until the expiration of the lease term.

18. INDEMNIFICATION. The Landlord shall not be liable for any injury to the Tenant or any other persons or property entering the Premises occurring within the Premises during the Lease Term. Neither shall the Landlord be liable for any damage to the structure within which the Premises is located or any part thereof. The Tenant hereby agrees to hold the Landlord harmless from and indemnify the Landlord for any and all claims or damage not arising solely from the Tenant's acts, omission, fault or negligence.

19. GOVERNING LAW. This Lease shall be governed by and its terms and conditions be interpreted according to the laws of the State of New York.

20. NOTICE. All notices in relation to this Lease shall be delivered to the following addresses:

To Tenant at the address:

98 Foxhall Ave Kingston NY 12401

and

To the Landlord at the address:

KEVIN C. DIERS, 99 Harding Avenue, Kingston, New York 12401.

21. **SEVERABILITY.** Should any provision of this Lease be found, for whatever reason, invalid or unenforceable, such nullity or unenforceability shall be limited to those provisions. All other provisions herein not affected by such nullity or dependent on such invalid or unenforceable provisions shall remain valid and binding and shall be enforceable to the full extent allowed by law.

22. **BINDING EFFECT.** The terms, obligations, conditions and covenants of this Lease shall be binding on Landlord, the Tenant, their heirs, legal representatives and successors in interest and shall inure to the benefit of the same.

23. **ENTIRE AGREEMENT.** This Lease and, if any, attached documents are the complete agreement between the Tenant and the Landlord concerning the Premises. There are no oral agreements, understandings, promises, or representations between the Tenant and the Landlord affecting this Lease. All prior negotiations and understandings, if any, between the Parties hereto with respect to the Premises shall be of no force or effect and shall not be used to interpret this Lease. No modification or alteration to the terms or conditions of this Lease shall be binding unless expressly agreed to by the Tenant and the Landlord in a written instrument signed by both Parties.

IN WITNESS WHEREOF, the parties hereto set their hands and seal this 9th day of August, 2023.

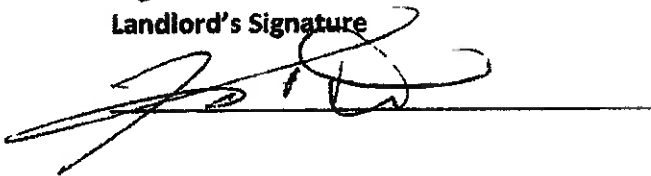
Tenant's Signature



Printed Name

Kevin C. Diers

Landlord's Signature



Printed Name

Kevin C. Diers

STATE OF NEW YORK)
) ss.:
ULSTER COUNTY)

Notary Public

STATE OF NEW YORK }
 } ss.:
ULSTER COUNTY }

ame as their free act and deed.



Notary Public

Robert J. Fisher
Notary Public - State of New York
No. 02FI5055329
Qualified in Ulster County
Commission Expires Feb. 5, 2026