

COMMERCIAL LEASE

This lease agreement (the "Lease") is made and dated as of **XXX**, by and between the Landlord and Tenant named below.

1. **Landlord:** Drakensberg Holdings, LLC
2. **Tenant:** **XXX**
3. **Building:** The Building having an address of 804-806 Forrest Avenue Cocoa, FL 32922 in Brevard County, Florida. The Building and the Land upon which the Building is located are collectively referred to herein as the "Property". The Tenant has agreed to lease a certain part of the Building consisting of 1520 sq. ft. with a physical address of 806 Forrest Avenue Cocoa, FL 32922, which is herein referred to as the "Leased Premises".
4. **Lease Term:** Three (3) Years, commencing on **XXX** and ending on **XXX**. The Term "Commencement Date" referred in Section 5 shall constitute the commencement of the term of this Lease for all purposes, whether or not Tenant has actually taken possession.
5. **Lease Commencement Date:** **XXX**.
6. **Base Rent and Additional Rent:**
 - a. **Base Rent:** The base rent is \$ **XXX**.00 per month, plus applicable sales tax, and as applicable by Law (currently set at 6.5%), plus the Common Area Maintenance fee. The Base Rent shall increase by 3%, every year on the anniversary of the Lease Commencement Date.
 - b. **Common Area Maintenance (CAM):** Tenant agrees to pay, as additional rent, Tenant's Pro Rata Share of the Property's Common Area Maintenance Cost. Such payments shall be based on Landlord's reasonable estimates, subject to adjustment from time to time on actual determination, of the amount of the Property's Common Area Maintenance Cost. Landlord estimates that the Property's Common Area Maintenance Cost for Year 1 of operation of the Property shall be \$140.00 Dollars per month. Tenant's Pro Rata Share of the Property's Common Area Maintenance Cost shall be payable by Tenant on a monthly basis along with the Tenant's payment of Base Rent. The failure of Tenant to pay any portion of Tenant's Pro Rata Share of the Property's Common Area Maintenance Cost, after receipt of Landlord's estimate of such amount, shall constitute default under this Lease and shall be treated for all purposes as a default in the payment of rent. The Property's "Common Area Maintenance Cost" shall be the total Pro Rata Share for costs incurred in exterior lighting, exterior landscaping, parking area, and maintaining the Common Areas and their facilities.
 - c. **Taxes:** The Tenant shall pay all sales, rental, and use taxes from time to time imposed by any governmental authority in connection with rents paid by the Tenant under this Lease. Any such payment of sales, rental, or use tax shall be paid concurrently with the payment of the rent, additional rent, or other charge upon which the tax is based.
7. **Option to Extend:** Tenant shall, provided the Lease is in full force and effect and Tenant is not in default under any of the terms and conditions of the Lease at the time of notification or

commencement, have one (1) option (Optional Extension) to extend this Lease for a term of 3 years as of the date the extension term is to commence, on the same terms and conditions set forth in the Lease, except as modified by the terms, covenants and conditions as set forth below:

- a. If Tenant elects to exercise said option, then Tenant shall provide Landlord with written notice no later than the date which is 6 months prior to the expiration of the term of the Lease. If Tenant fails to provide such notice, Tenant shall have no further or additional right to extend or renew the term of the Lease.
 - b. The Base Rent in for the length of the Optional Extension is \$XXX.00 per month, plus applicable sales tax as applicable by Law (currently set at 6.5%), plus the Common Area Maintenance fee (currently \$XXX.00 per month). The Base Rent shall increase by 3%, every year of the Optional Extension on the anniversary of the Lease Commencement Date.
 - c. This option is not transferable; the parties hereto acknowledge and agree that they intend that the aforesaid option to extend this Lease shall be “personal” to Tenant as set forth above and that in no event will any assignee or sublessee have any rights to exercise the aforesaid option to extend. Tenant shall have no further right to extend the term of the Lease.
8. **Limitations of Warranties:** Landlord and Tenant expressly agree that there are no and shall be no implied warranties of Merchantability, Habitability, or Fitness for a Particular Purpose beyond those expressly set forth in this Lease.
9. **Security Deposit:** The Tenant shall deposit with Landlord upon the signing of the Lease \$2,000.00 Dollars as security for the performance of Tenant’s obligations under this Lease, including without limitation the surrender of possession of the premises to Tenant as provided herein.

The Security Deposit shall be held by Landlord without liability for interest and as security for the performance by Tenant of Tenant’s covenants and obligations under this lease, it is expressly understood that the Security Deposit shall not be considered an advance payment of rental or a measure of Landlord’s damages in case of default by Tenant. Unless otherwise provided by mandatory non-waivable law or regulation, Landlord may commingle the Security Deposit with Landlord’s other funds. Landlord may, from time to time, without prejudice to any other remedy, use the Security Deposit to as necessary to make good any arrearages of rent or to satisfy any covenant or obligation of Tenant. Following any such application of the Security Deposit, Tenant shall pay to Landlord on demand the amount so applied in order to restore the Security Deposit to its original amount. If Tenant is not in default at the termination of this Lease, the balance of the Security Deposit remaining after any such application shall be returned by to Tenant. If Landlord transfers its interest in the premises during the term of this Lease, Landlord may assign the Security Deposit and thereafter shall have no further liability for the return of Security Deposit.

10. **Late Payment:** Other remedies for nonpayment of rent notwithstanding, if any monthly rental payment is not received by Landlord before the fifth (5th) day of the month for which the rent is due, a late payment charge of \$100.00 Dollars shall become due and payable in addition to such amounts owed under this Lease. If Tenant chooses to pay the rent by personal or business check, and the same is returned by the bank for any reason, a fee of \$300.00 shall be charged. The Landlord reserves the rights to accept payments by personal or business check. All payments made shall first

be applied to any outstanding balances of any kind, including late charges and/or any other charges due under this lease.

11. **Sign or Advertising:** It is hereby understood and agreed that any signs or advertising to be used, including awnings, in connection with the Lease Premises hereunder shall be first submitted to the Landlord for approval before installation of same, and shall have all government permits, if required. The Tenant shall pay for the sign and the installation.
12. **Payment Required for Move-In and Possession:** The aggregate payment of \$XXX.00 Dollars must be received by Landlord before Tenant moves into the property, which includes first month's rent of \$ XXX.00 Dollars, first month's sales tax of \$ XXX, first month's CAM of \$140.00 Dollars, and the Security Deposit of \$2,000.00 Dollars. All moneys are due and payable before Tenant takes possession of Lease Premises.
13. **Use of Premises:** The Tenant shall use and occupy the Lease Premises for use as XXX. The Lease Premises shall be used for no other purpose, unless expressly agreed upon in writing by the Tenant and Landlord.
14. **Notices:** All notices provided for in this Lease shall be sent or delivered by registered or certified mail to the parties, return receipt requested, at the addresses set forth below or at such other addresses as the parties shall designate to each other in writing:

Landlord:

c/o Roland H. Acosta, Esq
Acosta, Moore & Shrader, PLLC
225 East Robinson Street, Suite 215
Orlando, Florida 32801

Tenant:

XXX

The rent payable by the Tenant hereunder shall be paid to Landlord at the same place where a notice to Landlord is hereby required to be directed, unless other payment instructions are given.

15. **Lien on Property:** Except as herein provided, Tenant shall have no authority to create or place any lien or encumbrance of any kind whatsoever upon the Property or in any manner to bind the interest of the Landlord in the Property, and Tenant covenants and agrees promptly to pay all sums legally due and payable by it on account of any labor performed on the demised premises upon which any lien is or could be asserted upon the Property or the improvements thereon. No permanent work or alteration to the leased premises shall be performed without written consent from the Landlord. A violation of this clause shall be interpreted as a default under the terms of the agreement.
16. **Repairs:** Landlord, during the term of this Lease or any extension or renewal of this Lease, shall, at its expense, make all repairs as shall be reasonably necessary to keep the Lease Premises in good

condition and repair. Tenant agrees that all damage or injury done on the Lease Premises by Tenant or by any person who may be in or upon the premises, except Landlord, Landlord's agents, servants and employees, shall be repaired by Tenant at its expense. Tenant agrees at the expiration of this Lease or upon the earlier termination thereof, to quit and surrender said Property in good condition and repair, reasonable wear and tear excepted, and fully cleaned.

17. **Maintenance:** Landlord shall be responsible for and shall pay reasonable costs and expenses relating to the structural and exterior maintenance, repair and operation of the Lease Premises including air conditioning equipment, plumbing, and all mechanical equipment. Tenant is responsible for the cosmetic appearance of the Building including the interior of the Leased Premises, signs, door/windows, and replacing bi-monthly all HVAC filters..
18. **Utilities and Services:** Tenant agrees to pay electricity, water, sewage, phone, internet, and all other utilities and operational expenses, whether directly billed to tenant or Landlord.
19. **Theft or Burglary:** Landlord shall not be liable to Tenant for losses to Tenant's property or personal injury caused by criminal acts or entry by any person or persons into the Property.
20. **Damage by Fire or Other Casualty:** If the Property of a portion thereof at any time during the Term of the Lease or any extension thereof, is damaged by fire or other casualty, this Lease shall remain in full force and effect, and Tenant or Tenant's designated representative shall promptly repair such damage at its expense.
21. **Radon Gas:** Radon gas is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risk to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in FL. Additional information on radon and testing may be obtained from the County Public Health Unit.
22. **Insurance:** Tenant hereby covenants and agrees that at all times during the term hereof, at Tenant's own cost and expense, to obtain and maintain and keep in force comprehensive general public liability insurance, adequate to protect against the claims for personal injury, death, or property damage occurring in, on or about the Property or on an occurrence basis with aggregate single limit coverage in an amount no less than **\$300,000.00** for each person injured, **\$300,000.00** for any one accident, and **\$300,000.00** for property damage. Further,
 - a. The full cost and expense of the described insurance shall be paid by the Tenant.
 - b. The insurance policies shall provide and require that the insurers give the Landlord at least twenty (20) days notice prior to cancellation. Tenant shall not violate or permit to be violated any condition of the insurance policies and shall perform and satisfy all requirements of the insurers. A violation of this clause shall be interpreted as a default under the contract terms.
 - c. If the Lease Premises or any other part of the Building is damaged by fire or other casualty resulting from any act or negligence of Tenant or any of Tenant's agents, employees or invitees, rent shall not be diminished or abated while such damages are under repair, and Tenant, shall be responsible for the cost of repairs not covered by the insurance.

- d. Landlord shall maintain fire and extended coverage insurance on the building and the Leased Premises in such amounts as Landlord shall deem appropriate. Tenant shall be responsible, at its own expense, for fire and extended coverage insurance on all personal property, including removable fixtures, located in the Leased Premises.
23. **Indemnification:** Landlord shall not be liable to Tenant for any injury or damage to any person or property in or about the Leased Property from any cause whatsoever, and the Tenant will indemnify and save harmless the Landlord and its agents from and against any and all liability, claims, demands, damages, expenses, fees, fines, penalties, suits, proceedings, actions and costs of actions of any kind and nature, including attorneys' fees, for injury (including deaths) to persons or damage to property or property rights:
- a. Occurring in, on or about the Property or any part thereof, or
 - b. Occurring in, on or about the Property, or any part thereof (including without limiting the generality of the foregoing: passageways, driveways, and parking areas), when any such injury or damage shall be caused or result in whole or in part by any act, negligence, or fault of omission of any duty by the Tenant, its agents, servants, employees, or licensees or invites, or by any person under the control or direction of the Tenant.

The Tenant will further indemnify and save harmless the Landlord for all liability, claims and other items above mentioned, arising or growing out of or connected with any breach, violation, nonperformance, or failure to abide by any covenant, condition, agreement or provision contained in this Lease on the part of Tenant to be kept, performed, complied with or abide by.

24. **Bankruptcy:** If the Tenant shall become insolvent or if Bankruptcy Proceedings shall be begun by or against the Tenant, before the end of the term, the Tenant is hereby irrevocably authorized, at his option, to forthwith cancel this Lease, as for a default. Landlord may elect to accept rent from such receiver, trustee, or other judicial officer during the term of their occupancy in their fiduciary capacity without affecting Tenant's right as contained in the Agreement, but no receiver, trustee or other judicial officer shall ever have any right, title or interest in or to the above described property by virtue of this Agreement.
25. **Compliance with Laws:** Tenant will promptly comply with all applicable and valid laws, ordinance and regulations of Federal, State, County, Municipal or other lawful authority pertaining to the use and occupancy of the Property.
26. **Attorney's Fees:** If suit is brought to enforce any covenant of this Lease or for the breach of any covenant or condition herein contained, the parties hereto agree that the losing party shall reimburse the prevailing party all attorney's fees, which shall be fixed by the Court, and Court costs.
27. **Remedies Cumulative:** All rights and remedies of Landlord herein or existing at law or in equity are cumulative and the exercise of one or more rights or remedies shall not be taken to exclude or waive the right to the exercise of any other.
28. **Act of God:** Landlord shall not be required to perform any covenant or obligation in this Lease, or be liable in damages to Tenant, so long as the performance or nonperformance of the covenant or obligation is delayed, caused or prevented by an act of God or by the Tenant.

29. **Offset of Rent:** Tenant shall not have the right to withhold or to offset rent or terminate Lease, except as expressly provided herein. Tenant waives and releases any and all statutory liens and offset right.
30. **Interpretation:** The captions appearing in the Lease are for convenience only and in no way define, limit, construct or describe the scope or intent of any Section. Grammatical changes required to make the provision of this Lease apply 1) in the plural sense where there is more than one tenant and (2) either corporations, associations, partnerships or individuals, males or females, shall in all instances be assumed as through in each case fully expressed. The laws of the State of Florida shall govern the validity, performance and enforcement of this Lease. This Lease shall not be construed more or less favorably with respect to either party as a consequence of the Lease or various provision hereof having been drafted by one of the parties hereto.
31. **Waiver:** Failure of the Landlord to declare an event of default immediately upon its occurrence, or delay in taking any action against any event of default, shall not constitute a waiver of the default, but Landlord shall have the right to declare the default at any time and take such action as is lawful or authorized under this Lease. Failure by Landlord to enforce one or more of the remedies provided hereunder or at law, upon any event of default, shall not be deemed or construed to constitute a waiver of the default or of any other violation or breach of any of the provisions and covenants in this Lease. Landlord may collect and receive rent due from Tenant without waiving or affecting any rights that Landlord may have at law or equity or by virtue of this Lease at the time of payments.
32. **Landlord's Access to Property:** Landlord or its representative, successors or assigns, shall have reasonable rights of access to the Property for the purpose of inspecting the condition thereof from time to time throughout the term of this Lease and any renewal thereof. Landlord shall also have the right during the last three (3) months of the Lease term or any renewal thereof to show the Property to any prospective tenant at a reasonable time during business hours and to place upon the Property any usual "to Let" or "For Lease" or "For Sale" signs.
33. **Holding Over:** If Tenant does not vacate the Property upon the expiration or earlier termination of this Lease, Tenant shall be a tenant at sufferance for the holdover period and all of the terms and provisions of this Lease shall be applicable during that period, except that Tenant shall pay Landlord (in addition to additional rent payable under Section 6 and any other sum payable under this Lease) as base rental for the period of such holdover an amount equal to 50% the base rent which would have been payable by Tenant had the holdover period been a part of the original term of this lease (without waiver of Landlord's right to recover damages). Upon the expiration or earlier termination of this Lease, Tenant agrees to vacate and deliver the Property, and all keys thereto, to Landlord upon delivery to Tenant to notice from Landlord to vacate. The rent payable during the holdover period shall be payable to Landlord on demand. No holding over by Tenant, whether with or without the consent of Landlord, shall operate to extend the term of this Lease. Tenant shall indemnify Landlord against all claims made by any Tenant against Landlord resulting from delay by Landlord in delivering possession of the Property to such other tenant or prospective tenant.
34. **Sublease and Assignment:** Tenant shall have the right to assign this Lease to a corporation with which Tenant may merge or consolidate, to any subsidiary of Tenant, to any corporation under common control with Tenant, or to purchaser of substantially all of Tenant's assets. Except as set forth above, Tenant shall not sublease all or any part of the Leased Premises, or assign this Lease in whole or in part without Landlord's consent. The Tenant to whom the Property is sub-let shall be

subject to all of the conditions of this Lease.

35. **Severability:** If any provision of this Lease or the application thereof to any person or circumstances shall be invalid or unenforceable to any extent, the remainder of this Lease and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law. Each covenant and agreement contained in this Lease shall be construed to be a separate and independent covenant and agreement, and the breach of any such covenant or agreement by Landlord shall not discharge or relieve Tenant from Tenant's obligation to perform each and every covenant and agreement of this Lease that is to be performed by Tenant.
36. **Invalidity Provision:** If any term, covenant, condition or provision of this Lease or the application thereof to any person or circumstance shall, at any time, or to any extent, be invalid or unenforceable, the remainder of this Lease or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.
37. **Time is of Essence:** It is understood and agreed between the parties hereto that time is of the essence of this Lease and this applies to all terms and conditions contained herein.
38. **Cumulative Remedies:** All of the rights, power and privileges conferred by this Lease upon the parties should be cumulative and in addition to those otherwise provided by law and shall not be deemed to preclude those rights and remedies provided by law.
39. **Entire Agreement and Modification:** This Lease contains the entire agreement of the parties, supersedes all prior agreements including letters of intent, and no representations, inducements, promises or agreements, oral or otherwise between the parties not embodied in this instrument shall be of any force or effect. No amendment, modification or variation of this Lease or any of its terms or provisions shall be effectual, binding or valid unless and until the same is reduced to writing and executed by the parties. No failure of the Landlord to exercise any power given the Landlord by this instrument, or to insist upon strict compliance by the Tenant of any obligation hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of the Landlord's right to demand exact compliance with the terms of this Lease.
40. **No Estate In Land:** This Lease creates the relationship of Landlord and Tenant. No estate shall pass out of the Landlord and the Tenant relationship. The Tenant has only a right of use.
41. **Parking:** The parking lot is common and shared area for the use by the Tenant, Tenant's patrons and by Landlord's other Tenants. Tenant shall share parking lot usage reasonably.
42. **Condemnation:** If any legally, constituted authority condemns the Building or such part thereof which shall make the Leased Premises unsuitable for leasing, this Lease shall cease when the public authority takes possession, and Landlord and Tenant shall account for rental as of that date. Such termination shall be without prejudice to the rights of either party to recover compensation from the condemning authority for any loss or damage caused by the condemnation. Neither party shall have any rights in or to any award made to the other by the condemning party.

43. **Subordination:** Tenant accepts this Lease subject and subordinate to any mortgage, deed of trust or other lien presently existing or hereafter arising upon the Leased Premises, or upon the Building and to any renewals, refinancing and extensions thereof, but Tenant agrees that any such mortgage shall have the right at any time to subordinate such mortgage, deed of trust or other lien to this Lease on such terms and subject to such conditions as such mortgagee may deem appropriate in its discretion. Landlord is hereby irrevocably vested with full power and authority to subordinate this Lease to any mortgage, deed of trust or other lien now existing or hereafter placed upon the Leased Premises of the Building, and Tenant agrees upon demand to execute such further instruments subordinating this Lease or attorning to the holder of any such liens as Landlord may request. In the event that Tenant should fail to execute any instrument of subordination herein required to be executed by tenant promptly as requested, Tenant hereby irrevocably constitutes Landlord as its attorney-in-fact to execute such instrument in Tenant's name, place and stead, it being agreed that such power is one coupled with an interest.

44. **Successors:** The provisions of this Lease shall extend to and be binding upon Landlord and Tenant and their respective legal representatives, successors and assigns.

This Lease consisting of eight (8) pages was signed by the Landlord and Tenant in the presence of the undersigned witnesses on the _____ day of _____, 2020.

LANDLORD: Drakensberg Holdings, LLC

By: Waterkant Asset Management, LLC

Print Name: Christian Bock
Title: Authorized Representative
Address: 225 E. Robinson Street, Ste 215
Orlando, Florida 32801

WITNESS

WITNESS

TENANT: XXX

By: XXX

Print Name: XXX
Title: XXX
Address: XXX

By: XXX

Print Name: XXX
Title: XXX
Address: XXX

WITNESS

WITNESS

AGREEMENT OF GUARANTY

XXX ("Guarantor"), as a material inducement to **Drakensberg Holdings, LLC** ("Landlord") to amend, renew and extend into a lease agreement with XXX ("Tenant"), and for good and valuable consideration (including but not limited to the financial benefits that would inure to Guarantors from the business success of Tenant), the receipt and sufficiency of which are hereby acknowledged, hereby guarantees the prompt and full payment and performance of all obligations of Tenant under the Lease Agreement of even date herewith (the "Lease"). Guarantors further agree that in any action to recover any sums due hereunder, or to enforce any of the terms hereof, Landlord shall also be entitled to collect and recover from Guarantors reasonable costs and reasonable attorneys' fees, specifically including reasonable attorneys' fees incurred in connection with all appeals and bankruptcy proceedings, whether or not taxable as such by law. Guarantors hereby agree that their liability to Landlord under this paragraph is direct, absolute and unconditional, and not secondary, indirect or contingent, and may be enforced by Landlord and its assigns directly against Guarantors, without reference to payment or performance or the lack thereof by or from Tenant and without requiring Landlord or its assigns to first proceed against Tenant or to exercise any other right or remedy or to resort to or realize upon any other security. Guarantors further expressly waives notice of default to Guarantors or any other party with respect to the Lease and all other notices to which Guarantors might otherwise be entitled, including, without limitation, demand for payment or performance under this Guaranty. Guarantors further agree that any and all of the provisions of the Lease may be modified, amended or waived, and that any party liable under the Lease may be granted indulgences or released, all without notice to or further assent by Guarantors, who shall remain bound hereon, notwithstanding any such action. This Agreement of Guaranty shall be binding upon Guarantors.

“Guarantor”

Witness

Guarantor Signature

Witness

Guarantor Print Name

