

## COMMERCIAL LEASE AGREEMENT

THIS AGREEMENT made and entered into this \_\_01\_\_ day of February 2025, by and between HILLIARY DEVELOPMENT, INC. (hereinafter referred to as "Landlord") and The City of LAWTON, (hereinafter referred to as "Tenant"), WITNESSETH:

This agreement repeals and replaces any previously signed version of the Agreement and shall remain in full force and effect unless otherwise agreed upon by the parties in writing.

For and in consideration of the Rent (as defined below) herein reserved, and of the covenants, conditions, agreements, and stipulations of the Tenant hereinafter expressed, the parties agree as follows:

1. **LEASED PREMISES.** The Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the following described premises located in Comanche, Oklahoma:

**All of Lot Eleven (11), and a portion of Lot Seven (7), and Lot Eight (8), RIDLING SUB-DIVISION, Comanche County Oklahoma, according to the recorded plat thereof; more particularly describing the portion of Lot 7 and Lot 8 as follows:**

**Beginning at the Southeast Corner of Lot 7; THENCE North 177.06 feet; THENCE Northwesterly on a curve to the right, having a radius of 5,854.6 feet, a distance of 55 feet; THENCE West parallel to the Section line, a distance of 11 feet; THENCE South 208.71 feet; THENCE East 56 feet, to the point of beginning; AND Beginning at the Southeast Corner of Lot 8; THENCE North 36.5 feet; THENCE Northwesterly 251.8 feet; THENCE South 177.06 feet; THENCE East 208.71 feet, to the point of beginning.**

together with all improvements thereon and the appurtenances thereunto belonging.

See also Exhibit A hereto (the "Leased Premises").

2. **TERM.**

- a. Possession Date. Landlord shall deliver possession of the Leased Premises to Tenant on the day the lease is signed by all parties. (the "Possession Date"). Tenant shall be provided with reasonable opportunities to enter the Leased Premises prior to the Possession Date to take measurements and to perform customary work to prepare for the Possession Date so long as Tenant does not unreasonably disturb or interfere with the use of the existing occupant or the work of the Landlord. From and after the Possession Date, all of Tenant's obligations under this Lease, other than the obligation to pay Rent in the event the Possession Date precedes the Commencement Date, shall be in full force and effect.
- b. Failure of Landlord to Deliver Possession. In the event Landlord fails to deliver possession of the Leased Premises within thirty 30 days of the Possession Date, Tenant may elect to terminate this Lease by giving Landlord written notice of termination. Upon

the date that is fifteen (15) days following receipt of such notice by Landlord, this Lease shall terminate and be of no further force and effect, the Landlord shall return all amounts previously paid by Tenant to Landlord (except the application fee, if any) and the parties shall have no further liability to the other except for those liabilities that expressly survive termination of this Lease). Notwithstanding the foregoing, if Landlord delivers possession of the Leased Premises within the fifteen (15) day period following its receipt of Tenant's notice of termination, Tenant's notice shall be void and of no further force or effect and this Lease shall not terminate.

- c. Commencement Date and Term. The term of this Lease shall be for One (1) year (the "Term") commencing on the day the lease is signed by all parties (the "Commencement Date"). Following the initial term, the lease may be extended an additional two (2) additional periods of one year each.

3. **RENT**. Beginning on the Commencement Date and continuing throughout the Term, Tenant hereby covenants and agrees to pay Rent (as defined below) for the Leased Premises to the Landlord at PO Box 105, Lawton, Oklahoma 73501, or by such other means or at such other place as the Landlord may from time to time designate in writing. Rent for the first year of this Lease shall be due on or before January 1, 2025.

<u>Year</u>	<u>Rent</u>
1	\$21,000.00 per year

4. **REAL ESTATE TAXES**. Landlord shall be responsible for payment of all Real Estate Taxes. "Real Estate Taxes" shall be defined as including the following items: (i) real estate taxes, (ii) assessments levied, assessed, or imposed against such land and/or buildings or the rents or profits therefrom to the extent that the same shall be in lieu of all or any portion of any items hereinabove set forth, and (iii) all water and sewer rents, charges, taxes, and frontage assessed or imposed. If due to a change in the method of taxation, any franchise, income, profit, or other tax, however designated, shall be levied against Landlord's interest in the property in whole or in part for or in lieu of any tax which would otherwise constitute Real Estate Taxes, such taxes shall be included in the term Real Estate Taxes for purposes hereof.

5. **PROPERTY INSURANCE**. "Property Insurance" shall be defined as insurance coverage necessary to insure: (i) the building and improvements on the Leased Premises against loss or damage by fire or other casualty insurable under standard fire and extended coverage insurance (including, if necessary, flood insurance) in an amount equal to the full current replacement cost of said building and improvements, and (ii) for all claims, demands, or actions made by or on behalf of any person or entity arising from, related to, or connected with the Leased Premises or any act or omission of the Landlord or Tenant, for injury to or death of any person and for damage to property.



6. **USE OF LEASED PREMISES.** The Tenant shall use said Leased Premises for the administrative offices and management of local lake operations and for no other purpose whatsoever (the "Permitted Use"). Tenant shall comply with all present and future laws or ordinances applicable to the Leased Premises and shall not commit or suffer waste on the Leased Premises or use or permit anything on the Leased Premises which may be illegal, or constitute a private or public nuisance, or conflict with or invalidate or increase the cost of any of Landlord's fire and extended coverage insurance, or which may be dangerous to persons or the property of the Landlord or other tenants of Landlord's building, their agents, servants, employees, and customers.

7. **MAINTENANCE AND REPAIRS.**

a. Tenant's Duty to Maintain, Repair and Replace. Tenant shall, at Tenant's own cost, maintain and make all necessary repairs and replacements (with material of the same or better quality as that to be repaired or replaced) to the following:

i. The interior of the Leased Premises, including lights, windows, window glass, plate glass, doors, store fronts, lifts, floor surface and coverings, carpeting, interior walls, wall coverings, partitions and finish work, ceilings, dock bumpers, levelers, truck and rail doors, bathrooms, kitchens, and fixtures in the Leased Premises or used in connection therewith.

ii. The down spouts, fire sprinkler heads (if any), foam sprinkler system (if any), and in-rack sprinklers (if any) in the Leased Premises or used in connection therewith.

iii. All lawn and landscaping maintenance, including but not limited to keeping the lawn and landscaping adequately watered, the yard mowed, and the shrubbery trimmed.

iv. All other items in the Leased Premises or used in connection therewith that Landlord is not expressly obligated to maintain, repair, or replace pursuant to the terms of this Lease, including but not limited to:

1. Smoke detectors. Tenant acknowledges that Leased Premises is equipped with smoke detector(s) in good working order and repair. Tenant agrees to be solely responsible to check smoke detectors every thirty (30) days and notify Landlord immediately if smoke detectors are not functioning properly. Tenant shall replace batteries in smoke detectors as needed to insure they operate properly.
2. HVAC filters. Tenant is responsible for changing HVAC filters regularly (at least every three months), and shall be responsible for any HVAC servicing fees if excessively dirty HVAC filters

are present at any time. Tenant shall also be responsible for damage to HVAC systems caused by dirty or missing HVAC filters.

3. Light bulbs. Tenant is responsible for supplying and changing light bulbs as needed.
- b. Tenant's Obligations, Neglect and Omissions. All maintenance, repairs, and replacements performed by or at the direction of Tenant shall be done in a good and workmanlike manner and in accordance with the terms of this Lease and applicable laws. Notwithstanding anything to the contrary herein, Tenant shall be responsible for any maintenance, repair, or replacement (with material of the same or better quality as that to be repaired or replace) necessitated by the Tenant's neglect or omission and that of Tenant's agents, employees, invitees, licensees, or visitors. If Tenant fails to perform its obligations of maintenance, repair, or replacement hereunder, Landlord is authorized to come onto the Leased Premises, make such repairs, said Tenant shall thereupon reimburse and compensate the Landlord within thirty (30) days after rendition of a statement by the Landlord, for the total cost of such repair. Such cost shall be considered Additional Rent.
- c. Notice of Needed Maintenance and Repairs. All requests for maintenance, repairs, and replacements that are the responsibility of Landlord under the terms of this Lease must be made in writing and delivered to Landlord in accordance with the notice provisions in this Lease. Tenant shall promptly notify Landlord of any work required to be performed by Landlord and Landlord is not responsible for any such work until Tenant notifies Landlord for the need thereof in writing. After receipt of such notice, Landlord will perform the required maintenance, repair, or replacement with reasonable diligence. Landlord's liability for any defects, repairs, replacement, or maintenance for which Landlord is specifically responsible under this Lease shall be limited to the cost of performing the work.

## 8. BUILDING SERVICES.

- a. Party Responsible for Building Services. Tenant shall be responsible for the charges and assessments for all electrical, gas, sanitary and storm sewerage, water, other utilities, sprinkler monitoring devices (if any), and security systems (if any) (the "Building Services") provided for the benefit of the Leased Premises. For those Building Services for which separate metering is available to the Leased Premises, Tenant shall arrange for connection to all such services and pay directly to the appropriate supplier all costs of such services, including but not limited to security deposits, initial connection charges, taxes, penalties, and surcharges.
- b. Party Responsible for Telecommunications Services. Landlord agrees to provide internet services at no cost to the Tenant.



- c. Interruptions. Landlord's failure to furnish, or any interruption or termination of, Building Services or Telecommunications Services or other services due to the application of laws, the failure of any equipment, the performance of repairs, improvements or alterations, or the occurrence of any event or cause beyond the reasonable control of Landlord shall not render Landlord liable to Tenant, constitute a constructive eviction of Tenant, give rise to an abatement of rent, nor relieve Tenant from the obligation to fulfill any covenant or agreement. Notwithstanding the foregoing and anything contained in this Lease to the contrary, if (a) an interruption or curtailment, suspension or stoppage of an Essential Service (as defined below) shall occur as a result of repairs to the Leased Premises or the property of which the Leased Premises forms a part made by Landlord, or the negligence or willful misconduct of Landlord, its agents, contractors, or employees (any such repair, negligence, or willful misconduct, or interruption of an Essential Service being hereinafter referred to as a "Service Interruption"), and (b) such Service Interruption continues for more than three (3) consecutive days after Landlord shall have received written notice thereof from Tenant, and (c) as a result of such Service Interruption, the conduct of Tenant's normal operations in the Leased Premises are adversely affected, then there shall be an abatement of one day's prorated Rent for each day during which such Service Interruption continues after such three (3) day period; provided, however, if Tenant's use of the entire Leased Premises have not been adversely affected by the Service Interruption, the amount of abatement shall be equitably prorated. For purposes hereof, the term "Essential Services" shall mean the following services: water, sewer/septic, electricity, telecommunications, natural gas, air conditioning and heating services.
- d. Use of Sewerage. Tenant shall pay all costs caused by Tenant's introduction of excessive pollutants or solids other than ordinary human waste into the sanitary sewer system, including but not limited to permits, fees and charges levied by any governmental subdivision for any such pollutants or solids. Tenant shall pay all surcharges levied due to Tenant's use of sanitary sewer or waste removal systems.

9. **JANITORIAL SERVICES AND PEST EXTERMINATION.** Tenant agrees to keep all rubbish and garbage in containers while on the Leased Premises and shall dispose of all such rubbish and garbage in the dumpster or other containers located on or in the vicinity of the Leased Premises. The Tenant shall perform and provide for all of Tenant's janitorial services and pest extermination required on the Leased Premises.

10. **SUBLETTING AND ASSIGNING.**

- a. Sublet or Assignment by Tenant. The Tenant shall not sublet any portion of the Leased Premises nor assign this Lease in whole or in part without the written consent of the Landlord as to both the terms of such assignment or sublease and the identity of such assignee or sublessee. In the event of a subletting so approved by Landlord, Tenant shall nevertheless remain obligated to Landlord under the terms of this Lease Agreement. Further, consent by Landlord to one subletting or assignment shall not operate as a consent to any subsequent subletting or assignment.



- b. Transfer or Assignment by Landlord. The Landlord is entitled to sell, transfer or assign, in whole or in part, its rights and obligations under this Lease and in the Leased Premises. Any such sale, transfer or assignment shall release Landlord from all liabilities arising after the date of such sale, assignment or transfer, and Tenant agrees to look solely to the successor in interest of the Landlord for the performance of such obligations.

11. **PARKING**. Landlord will provide reasonable, non-exclusive parking to accommodate Tenant's Permitted Use of the Leased Premises during the Term. Tenant shall not allow its agents, employees, or invitees or visitors to utilize parking areas or adjacent street parking, if any, in a manner that exceeds the reasonable and customary parking needs associated with the Tenant's Permitted Use of the Leased Premises or that unreasonably interferes with the reasonable parking needs of other properties in the Leased Premises. Landlord agrees to remove all brick parking barricades from property and allow Tenant to gravel more parking area from the garage door, northerly to the existing gravel pad.

12. **LAWS**. Tenant, at its own cost, shall comply with all zoning requirements, restrictive covenants and encumbrances of record affecting the Leased Premises and all laws, ordinances, orders, rules and regulations now in effect or enacted subsequent to the date hereof by state, federal, municipal or other agencies and bodies having jurisdiction over Tenant or the use, condition and occupancy of the Leased Premises and all matters of record and any regulations pursuant thereto affecting the Leased Premises.

13. **SIGNS, AWNINGS, CANOPIES, ETC.** The Tenant shall not install nor maintain any sign (whether neon, translucent, plastic, or otherwise), awning, or canopy anywhere on the property containing the Leased Premises and will not place nor maintain on any exterior door, wall or window of the property containing the Leased Premises any decoration, lettering or advertising matter unless plans and specifications shall first be approved by Landlord in writing. Further, Tenant agrees to maintain such sign, awning, canopy, decoration, lettering, or advertising matter as may be approved by Landlord in good condition and repair at all times. Any approved sign, awning, canopy, decoration, lettering, or advertising matter shall comply with all terms and conditions of the requirements set forth in the Rules and Regulations and Landlord may, at Tenant's cost, remove any item installed or maintained in violation of the terms of this Lease after providing Tenant written notice and ten (10) days to remedy the violation.

14. **CONDITION OF THE PREMISES, CHANGES, AND IMPROVEMENTS.**

- a. Condition of Leased Premises. Prior to occupying the Premises, Tenant is responsible for inspecting the Premises for cleanliness and existing damage. If the Premises needs any cleaning or repairs, Tenant must notify Landlord in writing prior to occupying the Premises, but in no event later than twenty-four (24) hours after the Possession Date. Landlord warrants that, as of the Possession Date, the existing electrical, plumbing, fire sprinklers (if any), lighting, heating, ventilation and air conditioning systems, sump pumps (if any) and all other such systems servicing the Leased Premises shall be in good operating condition and structural elements of the roof, bearing walls, and foundation of



the Leased Premises are free of material defects. Subject to the foregoing, Tenant acknowledges that Tenant has inspected the Leased Premises and hereby accepts same in "as is" condition and that Landlord has made no warranties and/or representations regarding the condition of the Leased Premises other than that to Landlord's knowledge (i) the Leased Premises are not subject to any restrictive covenants or restrictions, easements or declarations that would adversely affect the Tenant's Permitted Use; (ii) the Landlord is the fee owner of the Leased Premises; (iii) the Leased Premises are in compliance with all applicable laws, rules, codes and ordinances; and (iv) there is no pending or threatened litigation or enacted, pending or proposed condemnation proceedings or other governmental action that would adversely affect Tenant's rights to engage in the Permitted Use and use and enjoy the Leased Premises as provided in this Lease.

- b. Landlord Not Obligated to Make Improvements or Alterations. Landlord shall have no obligation to make any improvements or alterations in or to the Leased Premises, nor shall Landlord be obligated to pay Tenant any allowance for such improvements or alterations.
- c. Tenant Alterations. Tenant shall not make any changes, alteration, additions, or improvements to the Leased Premises without the written consent of the Landlord, which may be withheld in Landlord's sole discretion. Provided, however, Tenant may, at Tenant's own cost, erect such shelves, bins, machinery, trade fixtures and other free-standing structures (collectively, "Trade Fixtures") in the ordinary course of Tenant's business so long as the Trade Fixtures do not alter the basic character of the Leased premises, do not damage the Leased Premises, do not affect any structural components, the roof, or the electrical, plumbing, or mechanical systems of the Leased Premises. Further, such Trade Fixtures must be removable from the Leased Premises without damage to the Leased Premises and the construction, erection, and installation of the Trade Fixtures must comply with all terms of this Lease and applicable laws. The only exception is ADA entrance/exit requirements.
- d. Landlord's Approval of Tenant Alterations. In the event Landlord provides written consent to Tenant to make any alterations or physical additions in or to the Leased Premises (the "Tenant Alterations"), Landlord's review and approval of plans and specifications and monitoring of construction shall be solely for Landlord's benefit and shall not impose any duty or obligation on Landlord to confirm that the plans and specifications and construction comply with all terms of this Lease and applicable laws. Any Tenant Alterations shall be made or performed at Tenant's own cost in compliance with all terms of this Lease. All Tenant Alterations must be made or performed in a good and workmanlike manner. All Tenant Alterations become the property of the Landlord upon completion and must, at the option of the Landlord, be surrendered to Landlord upon termination of this Lease without credit to Tenant; provided, however, Landlord, at Landlord's option, may require Tenant, at Tenant's own cost, to remove any Tenant Alterations prior to vacating the Leased Premises and to restore the Leased Premises to the condition existing as of the Possession Date. Upon completion of any Tenant



Alterations, Tenant shall provide Landlord with “as built” plans, copies of all contracts concerning work on the Tenant Alterations, and proof of payment for all labor and materials, including but not limited to lien waivers.

- e. Landlord’s Right to Make Changes and Alterations. Landlord reserves the right at any time to make changes, alterations, or additions in or on the property in which the Leased Premises are contained, provided that any such changes, alterations, or additions shall not in any material manner limit, reduce, or otherwise adversely affect Tenant’s rights under this Lease or Tenant’s ability to use and quietly enjoy the Leased Premises in accordance with the terms of this Lease.

**15. LIMIT OF LANDLORD’S LIABILITY.** Neither the Landlord nor its employees, directors, officers, or agents will be liable in damages, by abatement in Rent or otherwise, for any loss or damage to any property of the Tenant on the Leased Premises, nor any property of Tenant’s agents, employees, invitees, or visitors whether by theft or from any other cause whatsoever. Neither the Landlord nor its employees, directors, officers, or agents will be liable for any injury or damage to persons or property on the Leased Premises; nor will the Landlord or its employees, officers, director, or agents be liable for any damage caused by operations in construction of any private or public or quasi-public work. None of the limitations of the liability provided for in this paragraph shall apply if such loss, injury, or damages are proximately caused by the gross negligence or breach of the Landlord.

**16. HAZARDOUS SUBSTANCES.**

- a. Definition of Hazardous Substances. The term “Hazardous Substances” means dangerous waste, hazardous waste or hazardous substances that are regulated as toxic or otherwise hazardous to human health or the environment under any applicable law. Hazardous Substances includes, but is not limited to, any hazardous waste or hazardous substance as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601 *et seq.*), the Resource Conservation and Recovery Act as amended (42 U.S.C. § 6901 *et seq.*), or any analogous state or local law.
- b. Hazardous Substance Use. All use, storage, release, handling, transportation, treatment, or storage by Tenant of Hazardous Substances on the Leased Premises shall be carried out in compliance with applicable federal, state, and local laws, ordinances, and regulations. Tenant shall not dispose of Hazardous Substances on the Leased Premises.
- c. Landlord’s Representation. Landlord represents and warrants that to the best of Landlord’s knowledge, Landlord having no obligation to have made any independent study or investigation, that (i) there have been no releases of Hazardous Substances on the Leased Premises, (ii) no Hazardous Substances have been used, generated, treated, stored or disposed of on the Leased Premises, and (iii) no claim of liability relating to the presence of adverse environmental conditions on the Leased Premises has been made or has threatened to be made.



17. **INSURANCE.**

- a. Tenant's Insurance. Tenant, at Tenant's own expense, shall procure and maintain in full force and effect throughout the term of this Lease, insurance coverage applicable to the Leased Premises, its appurtenances, and the Tenant's activities covering loss or damage to real property. Coverage limit of such insurance must be no less than full replacement cost. Additionally, the Tenant shall self-insure against bodily injury occurring on the Leased Premises, in accordance with the provisions of the Oklahoma Governmental Tort Claims Act.
- b. Landlord's Insurance. Landlord has no obligation to insure Tenant or any of Tenant's property. Further, Tenant shall have no right in or claim to the proceeds of any policy of insurance maintained by Landlord.

18. **LIENS AND ENCUMBRANCES.**

- a. Encumbering Title. Tenant shall not do any act which shall in any way encumber the title of Landlord in and to the Leased Premises, nor shall the interest or estate of Landlord in the Leased Premises be in any way subject to any claim by way of lien or encumbrance, whether by operation of law or by virtue of any express or implied contract by Tenant. Any claim to, or lien upon, the Leased Premises arising from any act or omission of Tenant shall accrue only against the leasehold estate of Tenant and shall be subject and subordinate to the paramount title and rights of Landlord in and to the Leased Premises.
- b. Liens and Right to Contest. Tenant shall not permit the Leased Premises to become subject to any mechanics', laborers', or materialmen's lien on account of labor or material furnished to Tenant or claimed to have been furnished to Tenant in connection with work of any character performed or claimed to have been performed on the Leased Premises by, or at the direction or sufferance of, Tenant; provided, however, that Tenant shall have the right to contest in good faith and with reasonable diligence the validity of any such lien or claimed lien, if Tenant shall give to Landlord such security as may be deemed satisfactory to Landlord to insure payment thereof and to prevent any sale, foreclosure, or forfeiture of the Leased Premises by reason of non-payment thereof; provided further, however, that on final determination of the lien or claim for lien, Tenant shall immediately pay any judgment rendered, with all proper costs and charges, and shall have the lien released and any judgment satisfied.

19. **ESTOPPEL CERTIFICATE STATEMENT, ATTORNMENT, SUBORDINATION, AND EXECUTION OF DOCUMENTS.**

- a. Estoppel Certificates.

i. Tenant agrees that at any time and from time to time at reasonable intervals, within five (5) business days after written request by Landlord, Tenant will execute, acknowledge, and deliver to Landlord, Landlord's mortgagee, or others designated by Landlord, a certificate in such form as may from time to time be provided to Tenant, ratifying this Lease, and certifying:

1. that this Lease is in full force and effect, and has not been assigned, modified, supplemented, or amended in any way, or, if there has been any assignment, modification, supplement, or amendment, identifying the same;
2. that this Lease represents the entire agreement between Landlord and Tenant as to the subject matter hereof any assignment, modification, supplement, or amendment, identifying the same.
3. the Commencement Date and Termination Date;
4. that all conditions under this Lease to be performed by Landlord have been satisfied (and if not, what conditions remain unperformed);
5. that to the knowledge of the signer of such writing, no default exists in the enforcement of this Lease by Landlord or specifying each default, defense, or offset of which the signer may have knowledge;
6. that no rental has been paid in advance other than for the month in which such certificate is signed by Tenant;
7. the amount of the security deposited with Landlord; and
8. the date to which all rentals due hereunder have been paid under this Lease.

ii. Tenant's failure to deliver such certificate, in addition to being a default under this Lease, will (1) be deemed to establish conclusively items (a)(1) through (a)(8) above. Any note and cure provisions set for in any other part of this Lease do not apply to a default of this subsection (a).

- b. Attornment. Tenant shall, in the event any proceedings are brought for the foreclosure of, or in the event of exercise of the power of sale under any mortgage covering the Leased Premises, attorn to the purchaser upon any such foreclosure or sale and recognize such purchaser as the Landlord, subject to all of Tenant's duties, obligations, rights, and options under this Lease.



- c. Subordination of Lease. Upon request by the Landlord, Tenant shall subordinate its rights hereunder to the lien of any mortgage or mortgages, or the lien resulting from any other method of financing or refinancing, now or hereafter in force against the land and/or the buildings of which the Leased Premises are a part, or against any buildings hereafter placed upon the land of which the Leased Premises are a part, and to all advances made or hereafter to be made upon the security thereof; provided, however, that a condition precedent to Tenant's requirement to subordinate hereunder shall be that Tenant, upon any default in the terms of such financing by Landlord, shall have the right to pay the Rent due hereunder directly to the mortgagee or other persons to whom Landlord may be obligated under such financing and, as long as Tenant does so pay the Rent as herein provided, this Lease and all Tenant's rights and options hereunder shall remain in full force and effect as to such mortgagee or other financing obligee of Landlord.
- d. Further Instruments or Certificates. The Tenant, upon request of any party in interest, shall execute, within five (5) business days of Tenant's receipt, such instruments or certificates to carry out the intent of this Section as shall be requested by the Landlord. Provided, however, that nothing contained in such instruments or certificates required by Landlord shall be in derogation of any rights granted to Tenant hereunder, nor expand Tenant's obligations hereunder, and if any such instruments or certificates would have the effect of accomplishing one or both of the foregoing, either explicitly or implicitly, then Tenant shall not be obligated to execute the same.

**20. NOTICES:** All notices, requests, instructions, and other communications to be given under this Agreement must be in writing and given by hand delivery in return for a receipt, certified or registered mail (return receipt requested), or by overnight express service, address to the respective party at the following addresses:

**IF TO TENANT:**

City Clerk's Office  
212 SW 9<sup>th</sup> St.  
Lawton, Ok 73501

**IF TO LANDLORD:**

Hilliary Development, Inc  
529 Telephone Park  
Lawton, Oklahoma 73507

or to such other address as one party may hereafter advise the other of by giving notice as set forth above. Any notice is deemed to have been given and received on the date of hand delivery in return for a receipt or, if mailed, on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the express service or postal authorities as non-deliverable, as the case may be. Notices may also be sent via email (and shall be deemed given and received on the date of

receipt) provided that a copy of the same is contemporaneously sent by one of the other methods set forth above.

**21. DEFAULT.**

a. Events of Default.

i. The following events constitute a default by Tenant (an "Event of Tenant Default") under this Lease:

1. If the Tenant shall, at any time, be in default of the payment of either Rent or any payments required of Tenant hereunder, after the same shall be due hereunder, regardless of whether demand has been made therefor;
2. If Tenant shall be in default of any of the covenants and conditions of this Lease to be kept, observed, and performed by Tenant, other than for payment of Rent or any other payments required of Tenant hereunder, for more than ten (10) days after the giving of written notice by the Landlord to the Tenant of such default;
3. If Tenant shall vacate or abandon the Leased Premises, or fail to take possession of the Leased Premises; or
4. If Tenant or any guarantor of this Lease shall be adjudged a bankrupt, or if a receiver or trustee shall be appointed and shall not be discharged within ten (10) days from the date of such appointment.

ii. The following events constitute a default by Landlord (an "Event of Landlord Default") under this Lease:

1. The Landlord fails to perform the obligations required of Landlord by this Lease within ten (10) days after written notice by Tenant to Landlord specifying which obligation(s) Landlord has failed to perform; provided, however, that if the nature of the specified obligation(s) is such that more than ten (10) days are reasonably required for performance, then Landlord shall not be in default if it commences performance within such ten-day (10) period and thereafter diligently prosecutes the same to completion.

b. Remedies.



i. On the occurrence of an Event of Tenant Default, Landlord may re-enter and take possession of the Leased Premises, by picking or changing locks if necessary, and lock out, expel, or remove the Tenant and any other person who may be occupying all or any part of the Leased Premises and may: (1) relet said Leased Premises as the agent of the Tenant, and reserve the Rent therefrom, applying the same first to the payment of Landlord's damages, and then to the payment of the Rent accruing hereunder; but whether the Leased Premises are relet, the Tenant shall remain liable for the equivalent of all Rent and other charges provided for under this Lease; or (2) terminate this Lease, wholly discharged from any obligations under the term of this Lease. Termination of the Lease does not discharge or in any way affect Tenant's obligation to pay Landlord all the Rents or other charges or payments accruing under the Lease up to the date of termination. Notwithstanding anything contained in this Lease to the contrary, this Lease may be terminated by Landlord only by written notice of such termination to Tenant, and no other act or omission of Landlord constitutes a termination of this Lease.

ii. If, on the occurrence of an Event of Tenant Default, Landlord elects to terminate this Lease, Landlord shall be entitled to recover as damages a sum of money equal to the total of (i) the unpaid Rent and any other sums accrued hereunder at the date of termination (including interest at the past due rate if in arrears), (ii) a sum equal to the amount, if any, by which (y) the present value (determined using a discount rate of seven percent (7%) per annum) of the total Rent and other benefits which would have accrued to Landlord under this Lease for the remainder of the term (as the same would have been extended by the exercise by Tenant of any renewal options expressly granted under this Lease), if the terms of this Lease had been fully complied with by Tenant, exceeds (z) the total fair market value (determined using a discount rate of seven percent (7%) per annum) of the Leased Premises for the balance of the term (as the same would have been extended by the exercise by Tenant of any renewal options expressly granted under this Lease), (iii) the amount of any unamortized improvements to the Leased Premises paid for by Landlord, (iv) the amount of any unamortized brokerage commission paid by Landlord in connection with the leasing of the Leased Premises and (v) any other sum of money or damages owed by Tenant to Landlord. Tenant agrees that the calculation of damages set forth in this subsection (b)(ii) constitutes liquidated damages (as exact damages caused by the Event of Tenant Default are difficult to estimate accurately) and are not a penalty or forfeiture.

iii. On the occurrence of an Event of Tenant Default, whether Landlord elects to relet as the agent of the Tenant or to terminate the Lease, the Landlord's damages shall include, without limitation, loss and damage due to the failure of Tenant to maintain and or repair the Leased Premises as required and any expenditures made by Landlord in order to recover and relet the Leased Premises, including, but not limited to, leasing commissions, lease incentives, and remodeling and repair costs.

iv. If Landlord exercises its right to lock out Tenant in accordance with the terms of this Lease, Tenant agrees that no notice is required to be posted by Landlord on any door to the Leased Premises (or elsewhere) disclosing the reason for such action or any other information, and that Landlord is not obligated to provide a key to the changed lock to Tenant unless Tenant has first:

1. brought current all payments due to Landlord under this Lease (unless Landlord has permanently repossessed the Leased Premises or terminated this Lease, in which event payment of all past due amounts will not obligate Landlord to provide a key);
2. fully cured and remedied all other Events of Tenant Default (unless Tenant has abandoned or vacated the Leased Premises, in which event Landlord is not obligated to provide the new key to Tenant under any circumstances); and
3. provide Landlord with an additional security deposit and assurances reasonably satisfactory to Landlord that Tenant intends to and can meet and comply with its future obligations under this Lease, both monetary and non-monetary.

v. If Landlord exercises its right to lock out Tenant in accordance with the terms of this Lease, Landlord shall, within ten (10) days after the lock out date and upon written request by Tenant and upon Tenant's execution and delivery of such waivers and indemnifications as Landlord may reasonably require, at Landlord's option, either:

1. escort Tenant or its specifically authorized employees or agents to the Leased Premises to retrieve personal belongings of Tenant's employees and personal property of Tenant, or
2. obtain from Tenant a list of such personal property and arrange for such items to be removed from the Leased Premises and made available to Tenant at such time and place as Landlord may designate, provided however, Tenant must pay in cash in advance to Landlord the estimated costs that Landlord may incur for moving and storage charges to be incurred by Landlord with respect to such property.

vi. All of Landlord's rights and remedies set forth herein are cumulative and pursuit of any remedy specified in this Lease will not constitute an election to pursue that remedy only, nor preclude Landlord from pursuing any other remedy available at law or in equity or by statute, nor constitute a forfeiture or waiver of any Rent or other amount due to Landlord as described herein. In addition to other remedies provided in this Lease, Landlord shall be entitled, to the extent permitted



by applicable law, to injunctive relief or to a decree compelling performance, in each case with respect to any of the covenants, agreements, conditions or provisions of the Lease. In addition, in all events Landlord shall be entitled to recover from Tenant reasonable attorneys' fees actually incurred.

vii. Landlord will not be liable for any claims or liabilities arising from Landlord's exercise of its remedies set forth in this Lease upon the occurrence of an Event of Tenant Default. Landlord may take any of the actions set forth herein without being deemed in any manner guilty of trespass, eviction or forcible entry or detainer and without incurring any liability for any damage resulting therefrom, and without relinquishing Landlord's right to Rent or any other right given to Landlord hereunder or by operation of law; Tenant hereby waives any right to claim damage for such reentry and expulsion.

- c. All obligations of Landlord hereunder shall be construed as covenants, not conditions and, except as may be otherwise expressly provided in this Lease, Tenant may not terminate this Lease for an Event of Landlord Default. Any liability of Landlord under this Lease shall be limited solely to its equity interest in the Leased Premises, and in no event shall any personal liability be asserted against Landlord in connection with this Lease nor shall any recourse be had to any other property or assets of Landlord, its affiliates, owners, partners, members, joint ventures or any officer, director, or employee of the foregoing. Tenant agrees that in the event of any act or omission by Landlord hereunder which could give Tenant the right to terminate this Lease or to claim a partial or total eviction (actual or constructive), Tenant shall not exercise any such right until it has notified in writing every mortgagee (provided Landlord has notified Tenant of the name and address of any such mortgagee or Tenant has actual knowledge thereof) and such party has not cured such act or omission within a reasonable time period.

## **22. SURRENDER AND HOLDING OVER.**

- a. Surrender of the Leased Premises. Upon the expiration of or prior termination of this Lease, the Tenant shall remove all property of the Tenant from the Leased Premises and surrender the Leased Premises to the Landlord "broom clean" in as good order and condition as they were upon the Commencement Date, ordinary wear and tear excepted. In addition, should Tenant fail to satisfy the restoration and surrender provisions of this Lease upon the termination or expiration of this Lease, in addition to any other liabilities to Landlord.
- b. Tenant's Property Left in Leased Premises. If Tenant abandons, vacates, or surrenders or is locked out (by Landlord due to an Event of Tenant Default) of the Leased Premises, or is dispossessed by process of law, or otherwise, all Trade Fixtures, Tenant Alterations, and Tenant's property of every kind left in or about the Leased Premises on or after ten (10) days after the date Tenant abandons, vacates or surrenders, or is locked out of the Leased Premises will, at the option of Landlord, be deemed abandoned and may, at the expense of Tenant, be disposed of, kept in place, used, sold, destroyed or stored by



Landlord without notice to Tenant or any other person and without any obligation to credit or account to Tenant or any other person for such fixtures, alterations, or property. Tenant hereby waives any right to claim damages in connection with any such disposal, use, sale, distribution or storage of such fixtures, alterations, or property.

- c. Holding Over. If Tenant does not vacate the Leased Premises upon the expiration or termination of this Lease without first obtaining the written consent of Landlord to remain in the Leased Premises, such holding over shall constitute, and be construed as, a tenancy at will at the daily rental equal to one-thirtieth (1/30<sup>th</sup>) of an amount equal to, in addition to Additional Rent, (i) two (2) times the rate of the Base Rent immediately prior to the expiration or termination of the Lease with respect to the initial sixty (60) day period immediately after the date of expiration or termination of this Lease, and (ii) three (3) times the Base Rent immediately prior to the expiration or termination of the Lease with respect to the period after such initial sixty (60) day period. All other terms and provision of this Lease shall apply during such holdover period, except for options granted to Tenant, if any, for renewal of the Lease, expansion of the Leased Premises, purchase of the Leased Premises, or any right of first refusal to purchase the Leased Premises. During such holdover period, Tenant agrees to vacate the Leased Premises in strict compliance with the terms of this Lease within five (5) days of Tenant's receipt of notice from Landlord to vacate the Leased Premises. Tenant agrees to pay the Rent payable during the holdover period to Landlord on demand. No holding over by Tenant without the written consent of Landlord will operate to extend or renew the Term.

23. **QUIET ENJOYMENT**. The Landlord covenants and agrees with the Tenant that upon the Tenant paying Rent and performing all the covenants and conditions aforesaid on the Tenant's part to be observed and performed, the Tenant shall and may peaceably and quietly have, hold, and enjoy the Leased Premises, for the term of this Lease, subject, however, to the terms of this Lease.

24. **MISCELLANEOUS**.

- a. Memorandum of Lease. Tenant agrees that it will not record this Lease or otherwise make it a matter of public record unless required in any litigation involving Tenant. If the Tenant or Landlord request, the parties will execute a short form lease, describing the Leased Premises and the term of this Lease, and including any other terms necessary to permit the recording of such short form lease. Such recording, if requested by Tenant, shall be at Tenant's own cost.
- b. Interest. In addition to any other late fee provided for in this Lease, any amount due from Tenant to Landlord under this Lease which is not paid when due shall bear interest at the lesser of the highest legal rate allowed in the jurisdiction where the Leased Premises is located or fifteen percent (15%) per annum from the date due until paid; provided, however, the payment of such interest shall not excuse or cure the default upon which such interest is accrued.



- c. Inspection and Showing. Landlord, and its officers, agents or representatives upon at least twenty-four (24) hours prior notice to Tenant, may enter the Leased Premises at all reasonable hours (or at any time in case of an emergency) to (i) inspect their general condition and state of repair, (ii) to perform maintenance and make repairs, alterations or additions that are Landlord's responsibility under the terms of this Lease, (iii) exhibit the Leased Premises to (a) mortgagees or prospective mortgagees or purchasers, and (a) prospective tenants during the six (6) months before expiration of the Term or any renewal term of this Lease, and (iv) for any other reasonable purposes. Tenant shall not be entitled to any abatement or reduction of rent by reason of Landlord's entry. Landlord shall use commercially reasonable efforts to minimize any interference with Tenant's business operations in, and Tenant's use of and access to, the Leased Premises in connection with Landlord's access of the Leased Premises.
- d. Non-Waiver. Landlord's failure to insist upon strict performance of any covenant of this Lease or to exercise any option or right herein contained shall not be a waiver or relinquishment for the future of such covenant, right, or option, but the same shall remain in full force and effect.
- e. Air Quality. Landlord has no knowledge and takes no responsibility for any type of air quality problems that Tenant, Tenant's invitees or guests might encounter in the Leased Premises. If Tenant or Tenant's invitee or guest experience any type of respiratory problems, it is strongly recommended that Tenant, at Tenant's own cost, have the Leased Premises tested before occupancy. The Tenant will pay cost of such testing.
- f. Mold and Mildew. Mold and mildew can grow in any portion of the Leased Premises exposed to elevated levels of moisture, and some forms of mold and mildew can be harmful. Tenant agrees to promptly report to Landlord any water intrusion or the formation of mold or mildew. Tenant shall not block or cover any heating, ventilation, or air condition ducts located in the Leased Premises. Landlord shall not be responsible or liable to Tenant or Tenant's invitees or guests for any illness or sickness that might arise from mold, mildew, and/or air quality within the Leased Premises.
- g. Security Cameras. The Landlord shall have the right, but not the obligation, to install security cameras on the exterior of the Leased Premises and exterior common areas, including entryways, driveways, and parking areas.
- h. Captions, Gender, and Number. The captions and headings herein are for convenience and reference only and should not be used in interpreting any provision of this Lease. Where logic of the context would so require, masculine shall be construed to be feminine or neuter, feminine shall be construed to be masculine or neuter, plural shall be construed to be singular, and singular shall be construed to be plural.
- i. Applicable Law. This Lease shall be governed by and construed under the laws of the State of Oklahoma, and venue shall be proper in Comanche County, Oklahoma.



- j. Severability. If any provision of this Lease, or portion thereof, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease shall not be affected thereby, and each provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.
- k. Deadlines. Time is of the essence in this Lease. References to “days” in this Lease means calendar days unless expressly stated or qualified otherwise (e.g., “business days”). References to “business days” means any day other than Saturday, Sunday, or legal holidays on which business is not conducted by national banking institutions. If the last day of any time period falls on a Saturday, Sunday, or legal holiday on which business is not conducted by national banking institutions, then the duration of such time period shall be extended so that it ends on the next succeeding day that is not a Saturday, Sunday, or legal holiday on which business is not conducted by national banking institutions.
- l. Successors. This Lease and the covenants and conditions herein contained shall inure to the benefit of and be binding upon Landlord, its successors, and assigns; and shall be binding upon Tenant, its successors, and assigns; and shall inure to the benefit of Tenant and only such assigns of Tenant to whom the assignment by Tenant has been consented to by Landlord.
- m. Force Majeure. The time within which any of the parties hereto shall be required to perform any act or acts under this Lease shall be extended to the extent that the performance of such act or acts shall be delayed by any cause beyond the reasonable control of such party, other than lack of monies or inability to procure monies to fulfill its commitment or obligation under this Lease; provided, however, that the party entitled to such extension hereunder shall give prompt notice to the other party of the occurrence causing such delay. The provisions of this subsection shall not operate to excuse Tenant from prompt payment of Rent, or any other payments required by the terms of this Lease.
- n. Brokers. Landlord and Tenant represent and warrant that no real estate broker or other intermediary was or will be involved in this transaction.
- o. Acceptance of Rent. Rent payments are deemed received only upon actual receipt by Landlord. Acceptance of Rent by Landlord with knowledge of a default by Tenant does not constitute and shall not be deemed a waiver of the default (nor shall it constitute an estoppel). Tenant agrees that no endorsement or statement on any check or in any correspondence accompanying any check or payment of Rent constitutes an accord and satisfactions and Landlord may in its sole discretion accept such check or payment without prejudice to Landlord’s right to recover the balance of Rent then due or to pursue any remedy available under this Lease.
- p. Security. Landlord is not providing any security services with respect to the Leased Premises and Landlord shall not be liable to Tenant for, and Tenant waives any claim



against Landlord with respect to, any loss by theft or any other damage suffered or incurred by Tenant in connection with an unauthorized entry into the Leased Premises or any other breach of security with respect to the Leased Premises.

- q. Complete Agreement. This Lease and the Exhibits attached hereto and forming a part hereof set forth all the covenants, promises, agreements, conditions, and understandings between Landlord and Tenant concerning the Leased Premises, and there are no covenants, promises, agreements, conditions, or understandings, oral or written, between them other than are herein set forth.
- r. Rent Tax. If applicable in the jurisdiction where the Leased Premises is located, Tenant shall pay and be liable for all rental, sales and use taxes or other similar taxes, levied, or imposed by any city, state, county or other governmental body, such payments to be in addition to all other payments required to be paid to Landlord by Tenant under the terms of this Lease.
- s. Survival. All obligations of Tenant under the terms of this Lease not fully performed as of the expiration or earlier termination of this Lease shall survive the expiration or earlier termination of this Lease including, without limitation, all payment obligations and all obligations concerning the condition of the Leased Premises.
- t. Limitation of Warranties. There are no implied warranties of merchantability, habitability, suitability, fitness for a particular purpose or of any other kind arising out of this Lease, all of which are waived by Tenant, and there are no warranties which extend beyond those expressly set forth in this Lease.
- u. Property Name and Address. Landlord reserves the right at any time to change the name by which the property of which the Leased Premises forms a part is designated and its address, and Landlord has no obligation or liability whatsoever for costs or expenses incurred by Tenant because of such name or address change.
- v. Taxes on Tenant's Property. Tenant is solely liable for all taxes levied or assessed against the personal property, furniture or fixtures placed by Tenant in the Leased Premises. If any such taxes for which Tenant is liable are levied or assessed against Landlord or Landlord's property and if Landlord elects to pay the same or if the assessed value of Landlord's property is increased by the inclusion of personal property, furniture or fixtures placed by the Tenant in the Leased Premises, and Landlord elects to pay the taxes based on such increase, Tenant shall pay Landlord upon demand that part of such taxes for which Tenant is primarily liable under the terms of this Lease.
- w. Prohibited Persons and Transactions. Landlord and Tenant each represents to the other that neither it nor any of its partners, members, managers, or shareholders (excluding individual shareholders of any publicly traded company), and none of their respective officers or directors, is a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control

("OFAC") of the U.S. Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute (including the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001), executive order (including the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action.

- x. Amendments. No subsequent alteration, amendment, change, or addition to this Lease shall be binding upon Landlord and Tenant unless reduced to writing and signed by both parties.
- y. Counterparts. The parties may execute this Lease in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement and may be signed and delivered by fax or any other electronic or digital method.
- z. **Landlord agrees to fix the following before possession of the leases premises:**
  - i. **Air intake on the top of the inside unit.**
  - ii. **A riser for an open/close filter housing should be added or repaired to the inside unit.**
  - iii. **All broken fixtures.**
  - iv. **Replace blinds in sunroom that have been damaged.**
  - v. **Water leak on the NE side of the leased premises.**
  - vi. **Barricades need to be removed.**

IN WITNESS WHEREOF, the parties have hereto executed this instrument on the day and year first written above.

**LANDLORD:**

Hilliary Development, Inc.



By: Dean Penneillo

Title: Chief Financial Officer

**TENANT:**

Mayor of the City of Lawton

By: \_\_\_\_\_

Title: \_\_\_\_\_





## EXHIBIT A



**All of Lot Eleven (11), and a portion of Lot Seven (7), and Lot Eight (8), RIDLING SUB-DIVISION, Comanche County Oklahoma, according to the recorded plat thereof; more particularly describing the portion of Lot 7 and Lot 8 as follows:**

**Beginning at the Southeast Corner of Lot 7; THENCE North 177.06 feet; THENCE Northwesterly on a curve to the right, having a radius of 5,854.6 feet, a distance of 55 feet; THENCE West parallel to the Section line, a distance of 11 feet; THENCE South 208.71 feet; THENCE East 56 feet, to the point of beginning;**

**AND**

**Beginning at the Southeast Corner of Lot 8; THENCE North 36.5 feet; THENCE Northwesterly 251.8 feet; THENCE South 177.06 feet; THENCE East 208.71 feet, to the point of beginning.**