

LEASE AGREEMENT

This "Lease" or "Lease Agreement") is entered into as of the 25th day of September, 2020 (the "Effective Date"), by and between McKinney Community Development Corporation, a Texas non-profit community development corporation ("Landlord") and TUPPS Brewery, LLC, a Texas limited liability company ("Tenant").

ARTICLE I. DEFINITIONS

"Adjacent Land" shall mean that certain land adjacent to the Land in a northeasterly direction owned by Landlord and containing approximately 0.5 acres.

"Affiliate" means an entity which (i) is under the direct or indirect control of Tenant, or (ii) is under common direct control with Tenant. For purposes of this definition only, "control" shall mean ownership of fifty-one percent (51%) or more of the voting securities or rights of the controlled entity.

"Alterations" has the meaning set forth in Section 10.2.

"Approved Budget" means that certain budget for the design and construction of the Facility, the construction and installation of the related Improvements, and the purchase of the Personal Property, approved by Landlord and Tenant, attached hereto as Exhibit D and incorporated herein by reference.

"Approved Plans" means the drawings and specifications approved by all necessary parties from time to time under the Construction Contract.

"Approved Subleases" has the meaning set forth in Section 12.2.

"Architect" has the meaning set forth in Section 6.1.

"Base Annual Rental" has the meaning set forth in Section 4.2(a).

"Business Day" means a day on which a majority of the national banks operating branches in Collin County, Texas, are open for business.

"CCRs" has the meaning set forth in Section 5.6.

"City" means the City of McKinney, Texas, and its successors and assigns.

"Collateral" has the meaning set forth in Section 14.3.

"Construction Contract" has the meaning set forth in Section 6.2 below.

"Construction Costs" means costs payable to the Contractor for completed work pursuant to the Construction Contract.

"Contractor" means a qualified general contractor to be engaged by Tenant as a general contractor pursuant to the Construction Contract for the construction of the Facility, as approved by Landlord, such approval not to be unreasonably withheld or delayed.

“Design Costs” means costs incurred in connection with the design of the Facility.

“Eligible Project Costs” means those costs approved by the Landlord in the Approved Budget.

“Environmental Escrow” means that certain Environmental Escrow Agreement dated July 31, 2019, between the City and East State Highway 5, LLC, a Texas limited liability company.

“Environmental Laws” has the meaning set forth in Section 7.2.

“Event of Default” has the meaning set forth in Section 14.1.

“Excess Remediation Expenses” means expenses incurred by Tenant in connection with the Remediation in excess of the funds available to the Landlord pursuant to the Environmental Escrow.

“Facility” means a brewery with rooftop bar, coffee/bakery area, taproom, barrel aging/shop and outdoor event area to be located within renovated historical buildings and new buildings located on the Land with at least 38,500 square feet of interior space, as shown and/or described in the Project Scope Criteria attached as Exhibit “B” hereto, and as such description and Facility attributes may be further hereafter amended and modified by the Approved Plans.

“GMP” means the guaranteed maximum price set forth in the Construction Contract.

“Governmental Regulations” means all laws, ordinances, rules, regulations, statutes, and building codes of all governmental authorities having jurisdiction over the Leased Premises or Tenant’s use thereof, including, without limitation, all health, environmental and regulatory requirements, whether currently in effect or hereafter enacted.

“Grant Fund” means a cumulative amount of up to \$11,333,262.00 available for funding by Landlord to pay Eligible Project Costs associated with the Land and Facility as detailed in Section 6.3 herein.

“Gross Sales” has the meaning set forth in Section 4.4.

“Hazardous Materials” has the meaning set forth in Section 7.2.

“Improvements” means the Facility and all infrastructure improvements from time to time constructed, installed, or situated on the Land that are necessary for the operation of the Facility and which exclusively serve the Facility, including, without limitation, water or sewer facilities, and any renovations to or replacements of any of the foregoing, but shall not include Capital Repairs.

“Invitees” means suppliers, employees, agents, customers, contractors, invitees, subtenants, licensees and concessionaires.

“Land” means that certain real property situated in the City of McKinney, Collin County, Texas, being more particularly described on Exhibit “A” attached hereto.

“Landlord” has the meaning set forth in the Preamble.

“Landlord Notification” shall have the meaning set forth in Section 17.3.

“Landlord’s Representative” has the meaning set forth in Section 6.2.

“Landlord’s Security” has the meaning set forth in Section 6.9.

“Lease Term” means from the Rent Commencement Date until thirty (30) years from and after the next first day of a calendar month following the Rent Commencement Date (or from the Rent Commencement Date, if the Rent Commencement Date is the first day of a calendar month), subject to extension and earlier termination as provided herein.

“Lease Year” shall mean (a) the period commencing on the Rent Commencement Date and ending at the end of the twelfth full calendar month thereafter and (b) each successive period of twelve calendar months, including any extended Lease Term resulting from the exercise of the option provided in Section 17.1.

“Leased Premises” means the Land, the Improvements and the Personal Property, and all rights, privileges, easements, and appurtenances belonging to or in any way appertaining to the Improvements.

“Leasehold Mortgage” means any mortgage, deed of trust or other instrument in the nature thereof which encumbers any of Tenant’s rights, titles and interests in and to use the Leased Premises, including, without limiting the generality of the foregoing, its right to use and occupy the Leased Premises and all of its rights, titles and interests in and to any and all Improvements.

“Leasehold Mortgagee” means any mortgagee, trust or anyone that claims an interest by, through or under a Leasehold Mortgage.

“Likeness” has the meaning set forth in Section 5.3(d).

“Mortgaged Premises” means all of Tenant’s leasehold estate under this Lease covered by a Leasehold Mortgage as applicable.

“Nondisturbance Agreement” shall have the meaning set forth in Section 12.7.

“Percentage Rental” means payments due from Tenant to Landlord pursuant to Section 4.3 hereof.

“Personal Property” means Landlord’s newly purchased equipment and furniture and those certain fixtures more particularly described on Exhibit “C” for the Facility, but excluding the equipment, furniture and other items purchased previously by Tenant and/or otherwise purchased by Tenant with funds that are not included in the Grant Funds as more generally described on Exhibit “C-1”.

“Personal Property Costs” means the costs of procuring Personal Property.

“President” means the President of the McKinney Community Development Corporation.

“Project Scope Criteria” has the meaning set forth in Section 6.1.

“Qualified Bank” has the meaning set forth in Section 11.1(b).

“Relocation Costs” means the costs of relocating the personal property of Tenant to the Facility.

“Remediation” shall mean such testing, soil removal and monitoring to Landlord’s satisfaction, including enrollment into the State of Texas Voluntary Cleanup Program and other remedial measures as may be necessary such that an environmental site assessment of the Land can be rendered by a competent environmental engineer concluding that no recognized environmental conditions exist on the Land.

“Rent” means Base Annual Rental and Percentage Rental.

“Rent Commencement Date” means the next Business Day following (a) issuance of a certificate of occupancy by the City for the use of the Facility, (b) written notice from Landlord to Tenant that public parking, adjacent to, and north or west of the Facility, is open for public use, and (c) written notice from Landlord to Tenant that the parking requirements in the McKinney Town Center have been amended to allow Tenant’s use, as proposed herein, and specifically the amount of parking (onsite or offsite) required to obtain a Certificate of Occupancy. Landlord agrees to use best efforts to coordinate with the City such that continuous access to the Facility, from either existing Dungan Street or Louisiana Street, is not impaired. For clarification purposes, during the initial twelve (12) months following the Rent Commencement Date, no Base Annual Rent, nor any Percentage Rental, shall accrue and/or be due and payable (as provided hereinafter in Sections 4.2 and 4.3).

“Subtenant” means any person or entity to whom or to which Tenant grants or licenses any rights to occupy, use, operate, manage, provide services in, or sell food, beverages, services, or merchandise within the Leased Premises.

“Taxes” has the meaning set forth in Section 8.1.

“Tenant” has the meaning set forth in the Preamble.

“Total Eligible Project Costs” means the aggregate of the Construction Costs, the Design Costs, the Excess Environmental Remediation Costs, and the Personal Property Costs.

“Unavoidable Delay” has the meaning set forth in Section 18.17.

“Work” has the meaning set forth in Section 11.2(c).

ARTICLE II. LEASED PREMISES

Section 2.1. Leased Premises. In consideration of the obligation of Tenant to pay rent as herein provided and in consideration of the other terms, covenants and conditions hereof, Landlord hereby demises and leases to Tenant, and Tenant hereby takes from Landlord, the Leased Premises. TO HAVE AND TO HOLD said Leased Premises for the Lease Term, all upon the terms and conditions set forth in this Lease.

ARTICLE III. LEASE TERM

Section 3.1. Lease Term. This Lease will continue in force during a period beginning on the Effective Date of this Lease and ending on the expiration of the Lease Term, unless this Lease is terminated early or extended to a later date pursuant to the terms of this Lease. The Lease Term will commence and the obligations of Tenant with respect to the Leased Premises (including, without

limitation, payment of Base Annual Rental and Percentage Rental) will accrue beginning on the Rent Commencement Date and continue in full force and effect for the Lease Term, subject to extension and earlier termination as provided herein. Notwithstanding the foregoing, as provided herein, no Base Annual Rental and/or Percentage Rental shall accrue and/or otherwise be due and payable during Lease Year 1.

ARTICLE IV. RENTAL

Section 4.1. Construction Periods. Except as otherwise provided herein, no rent is due from Tenant for the period from the Effective Date to the Rent Commencement Date. Thereafter, Base Annual Rental shall commence from the Rent Commencement Date.

Section 4.2. Base Annual Rental. Tenant shall to pay to Landlord, on or before the first day of each calendar month after the commencement of the second Lease Year, by wire transfer, ACH transfer, check or cash, one-twelfth (1/12) of the Base Annual Rental (as hereinafter defined), together with any other charges due and payable by Tenant hereunder. Any wire transfer shall be made to the following account: JPMorgan Chase, ABA# 021000021, Beneficiary: City of McKinney, Beneficiary credit account #512163913, Attn: Kelvin Bryant, unless Landlord notifies Tenant in writing of another account for such wire transfers. Any ACH transfer shall be made to the following account: JPMorgan Chase, ABA# 111000614, Beneficiary: City of McKinney, Beneficiary credit account #512163913, Attn: Kelvin Bryant, unless Landlord notifies Tenant in writing of another account for such ACH transfers. Any payment which is not a wire transfer shall be made to Landlord at its address set forth in Section 17.12 unless Landlord notifies Tenant in writing of another place of payment.

The term “**Base Annual Rental**” shall mean the amount of base rent payable by Tenant on an annual basis during the Term. The Base Annual Rental for the Lease Term is as follows:

Lease Year	Base Annual Rental	Monthly Amount
1	\$-0-	\$-0-
2-5	\$180,000.00	\$15,000.00
6-10	\$222,000.00	\$18,500.00
11-15	\$264,000.00	\$22,000.00
16-20	\$306,000.00	\$25,500.00
21-25	\$348,000.00	\$29,000.00
26-30	\$378,000.00	\$31,500.00
31-35*	\$420,000.00	\$35,000.00
36-40*	\$462,000.00	\$38,500.00

*If the Lease Term is extended to 40 Years, upon exercise of option provided in Section 17.1.

Section 4.3 Percentage Rental. In addition to the Base Annual Rental, Tenant shall also pay to Landlord, for each Lease Year during the term of this Lease, Percentage Rental determined by multiplying the total Gross Sales of Tenant, wherever consummated, including sales by Affiliates and

any third-party acting as a subcontractor-brewer for Tenant, during the particular Lease Year by a percentage rental rate equal to two percent (2%) beginning to accrue and become due and payable upon the commencement of Lease Year 2 through the end of Lease Year 11, and one percent (1%) thereafter, including any extension of the Lease Term resulting from an exercise of the option provided in Section 17.1 herein. The Percentage Rental shall be paid in monthly installments as follows: on or before the fifth (5th) day of each calendar month during the term of this Lease, Tenant shall pay to Landlord a sum of money equal to the product of the percentage rental rate specified multiplied by the total gross sales of Tenant during such prior month. In the event that the total of the monthly payments of Percentage Rental for any Lease Year is not equal to the annual percentage rental computed on the amount of gross sales for such Lease Year in accordance with the specified rate, then Tenant shall pay to Landlord any deficiency or Landlord shall refund to Tenant any overpayment, as the case may be, within sixty (60) days after the end of such calendar year.

Section 4.4 Gross Sales. The term "Gross Sales" as used herein shall be construed to include the entire amount of the sales price, whether for cash or otherwise, of all sales of products (and specifically including beverages and food) or rentals of merchandise (including gift and merchandise certificates), services and other receipts whatsoever of all business conducted in or from the Leased Premises by Tenant and/or its Affiliates, or in or from any other location utilized by Tenant or its Affiliates for business, including mail, telephone, computer, internet or other electronic orders, deposits not refunded to purchasers, sales to employees, sales through vending machines or other devices, and gross revenues received by Tenant from any sublessee, concessionaire or licensee or otherwise in said Leased Premises or in or from any other location (collectively, the "Vendors"). To be clear, the revenue generated and collected by the Vendors is not included in the definition of Gross Revenue, but any fees and charges paid to Tenant by the Vendors shall be included in the definition of Gross Revenue. Each sale upon installment or credit shall be treated as a sale for the full price in the month during which Tenant receives payment from its customer. As a result, Percentage Rental will not accrue or become due and payable upon any uncollected credit accounts. Gross sales shall not include, however, any sums collected and paid out for any sales or excise tax imposed by any duly constituted governmental authority, nor shall it include the exchange of merchandise between other Tenant locations, if any, where such exchanges are made solely for the convenient operation of the business of Tenant being made in or from the Premises nor the amount of any cash or credit refund made upon any sale previously included in Gross Sales, where the products or merchandise sold, or some part thereof, is thereafter returned by purchaser and accepted by Tenant, nor sales of Tenant's fixtures. Tenant shall afford Landlord with access upon request to copies of all cash register records and all other evidence of the quantity of Gross Sales made, and Landlord shall have the right to audit copies of Tenant's books and records for the purposes of verifying the amount of Gross Sales. If such audit reveals an underreporting by Tenant of Gross Sales by a factor of 2% or greater, Tenant shall reimburse Landlord the expenses of such audit.

ARTICLE V.

USE OF DEMISED PREMISES BY TENANT AND LANDLORD

Section 5.1. Use.

(a) The Leased Premises shall be used by Tenant primarily as a brewery, rooftop bar, coffee/bakery shop and outdoor event center, approved vendor booths, and for no other purpose without the prior written consent of Landlord, except that Landlord acknowledges that the Leased Premises shall additionally be used for certain ancillary purposes related to the brewery, including, without limitation, meeting rooms, a retail store selling brewery-related goods, and such additional uses as are shown and/or described in the Approved Plans. The

Leased Premises may only be used by Tenant as permitted by, and in full and strict compliance with, all Governmental Regulations. Landlord represents and warrants that there are no restrictive covenants or other documents applicable to the Land that prohibit the use of the Leased Premises for the purposes contemplated by this Lease.

(b) (i) Tenant and Landlord acknowledge that the Facility and is primarily intended to serve residents of the City of McKinney and the McKinney region. Tenant and Landlord shall submit to each other, no later than November 30 of each year, a schedule of all major, scheduled events proposed to be held within the outdoor areas on the Land during the succeeding calendar year. Tenant acknowledges and agrees that although the Land and Facility represent its primary place of business, that Landlord shall be able to plan and hold events at the Land and the Facility, in furtherance of the public good and purposes. Specifically, each calendar year during the Term, Landlord shall be entitled to exclusive use of the private event space and outdoor public space at the Facility for up to ten (10) multi-day events (not to exceed four (4) days each), without charge for space rental fees/charges in each instance. Landlord's use of the Facility shall not interfere with the ordinary day-to-day production and taproom operations of the Tenant. Although Landlord's use of the Facility shall not incur any space rental fees/charges, Tenant may nevertheless charge customary charges for food, drinks, beer and alcohol consumed at such events.

(ii) Tenant and Landlord agree to work together to agree upon a schedule of events for the succeeding calendar year, based upon the submissions due from each other by no later than November 30 of each year, balancing the needs and demands of each party and attempting to resolve any scheduling conflicts or disputes in a manner mutually agreeable to each of Tenant and Landlord. If the parties are unable to reach mutual approval of a schedule for the succeeding calendar year, then they each agree to resolve any remaining scheduling conflict by expressing their respective positions with the Landlord's board of directors in an in-person meeting, with the board's decision being binding.

(c) Tenant shall obtain Landlord's approval of all major events within the outdoor areas on the Land that are not on the annual schedule approved by the parties. Likewise, Landlord shall obtain Tenant's approval of all events within the outdoor areas on the Land that are not on the annual schedule approved by the parties. Tenant shall obtain Landlord's approval of all constructed temporary or permanent improvements made to the outside area of the Leased Premises, and to allow public access to the outdoor areas on the Land during all hours Tenant is open for business except when exclusive use of the outdoor areas has been booked in advance by private groups or is otherwise specifically programmed for use by Tenant (exclusive of the public at large).

Section 5.2. Limitations on Use.

(a) Tenant shall not, without Landlord's prior written consent, keep anything within the Leased Premises or use the Leased Premises for any purpose which invalidates any insurance policy carried on the Leased Premises.

(b) Tenant shall not permit any objectionable or unpleasant odors not consistent with brewery industry standards for a similar scale of manufacturing to be perceptible outside the confines of the Leased Premises; nor place any antenna, awning or other projection on the

exterior of the Leased Premises (other than those indicated on the Approved Plans or otherwise approved in advance by Landlord in writing); nor take any other action which would constitute a nuisance. Tenant shall comply with local noise ordinances in any outdoor music event and in the operation of televisions, loudspeakers or amplifiers on the Leased Premises, except for special circumstances involving special events for which City approval has been obtained. All spent grain waste resulting from Tenant's brewing operations shall be stored within a closed container.

(c) Tenant shall keep the Leased Premises neat, clean and reasonably free from dirt or rubbish at all times, reasonable wear and tear excepted. Tenant shall store all trash and garbage within the Leased Premises or in such area outside the Leased Premises as may be designated for such purpose by Landlord and Tenant shall arrange for the regular pickup of such trash and garbage at Tenant's expense. Tenant shall not operate an incinerator or burn trash or garbage.

Section 5.3. Operational Rights; Revenue.

(a) Subject to the terms and provisions of this Lease, Tenant shall have full and exclusive control of the management and operation of the Leased Premises, including, without limitation, the Facility. Without limiting the generality of the foregoing, Tenant shall own all revenues of any source generated by or from the Leased Premises or the operation or management of the name thereof, subject to payment of Percentage Rental as provided herein.

(b) Subject to all Governmental Regulations, Tenant and Landlord shall mutually cooperate in selecting a suitable name for the Facility. The Facility name shall be consistent with Tenant's business purpose and marketing brand as well as the interests of the McKinney community; however, the Facility's name shall be subject to Landlord's final approval, which approval shall not be unreasonably withheld. The Facility's entry shall display ownership by the McKinney Community Development Corporation in a manner, form and size mutually agreed upon by Landlord and Tenant.

(c) Subject to the terms and provisions of this Lease, Tenant shall have the right to install and shall have the full and exclusive control of any and all advertising signage displayed within the Facility, subject to all Governmental Regulations; provided, however, all signage on the exterior of the Facility shall be only as approved by Landlord, such approval not to be unreasonably withheld.

(d) Tenant shall own all rights, including intellectual property rights, in, to and relating to the Leased Premises, including, without limitation, the Facility, whether now in existence or created in the future, including, without limitation, all copyrights, trademarks, trade names, trade dress and merchandising rights of, in or relating to the Leased Premises and any and all names, logos or other likenesses of the Leased Premises as well as the rights to protect, enforce and license any or all of the foregoing (collectively, the "**Likenesses**"). Tenant shall provide Landlord, or shall cause the owner of such documents to provide Landlord, copies of any drawings, renderings, designs, and plans and specifications for the Facility, and Landlord shall be entitled to use them. In the event of the occurrence of an Event of Default under this Lease, for the purpose of satisfying Tenant's obligations under this Lease. In addition, Landlord and its agents and contractors shall have the right to use the Facility name, logo and image in connection with any Landlord-approved or Landlord-sponsored campaign

marketing the McKinney Community Development Corporation or the City of McKinney, Texas, subject to Tenant's prior, written approval, not to be unreasonably withheld.

Section 5.4. Declaration of Covenants, Conditions and Restrictions. Tenant acknowledges and agrees that a Declaration of Covenants, Conditions and Restrictions ("**CCRs**") governing the Development may be recorded after the Effective Date, which restricts the Land against certain noxious uses but shall not prohibit Tenant's use of the Land and Facility as provided herein. Notwithstanding the foregoing, Landlord agrees that Tenant shall have the right to review and comment upon any proposed CCRs at least sixty (60) days prior to finalizing, in order to ensure the long-term protection of Tenant's business and do not put unreasonable and/or unduly burdensome restrictions and/or obligations upon the Tenant's business.

ARTICLE VI.

DESIGN, CONSTRUCTION, INSTALLATION AND LIEN CLAIMS

Section 6.1. Design of Facility. Tenant shall be responsible for the planning, design, and engineering of the Facility in substantial conformity with the preliminary site plans, floor plans and elevations to which Landlord has given conceptual approval, which site plans, floor plans and elevations are attached hereto as Exhibit "B" and comprise the "**Project Scope Criteria**" and for soliciting bids from general contractors, entering into construction contracts and overseeing and monitoring work by the Contractor. Landlord shall be provided with all general contractor proposals for review and comment. Tenant shall be responsible for assuring that the Approved Plans for the Facility (a) satisfy any and all Governmental Regulations applicable to the construction and operation of the Facility (including, without limitation, if applicable, (i) United States Occupational Safety and Health Administration requirements, (ii) the Americans with Disabilities Act of 1990 (as amended) and comparable state laws, (iii) building codes and zoning requirements, and (iv) storm water, utility and related requirements), and (b) do not violate the easements, CCRs and other restrictions encumbering or otherwise affecting the Leased Premises that are listed on Exhibit "E" attached hereto.

Tenant shall hire, terminate, and replace, as the case may be, and shall pay all fees and costs of the architect (the "**Architect**"), engineers and other design professionals for the design development of the Facility, with the understanding that the structural elements of the Facility shall be engineered in accordance with generally accepted engineering practices which will result in a useful life of the structural elements of not less than fifty (50) years. The fees and expenses of the Architect and the engineers shall be included in the Approved Budget.

The Approved Plans shall be prepared by the Architect from time to time during the course of construction, and Tenant shall be responsible to assure that such Approved Plans are without material deviation from the Project Scope Criteria, and copies thereof made available to Landlord and approved by Tenant as provided in this Lease. Tenant will provide Landlord, within thirty (30) days upon receipt of Landlord request, a construction progress schedule, and immediately upon their availability from time to time, copies of the Approved Plans and all other related construction documents. **LANDLORD'S PAYMENT TO ARCHITECT FROM THE GRANT FUND, AND APPROVAL OF THE PROJECT SCOPE CRITERIA, ANY OF THE DRAWINGS AND SPECIFICATIONS, OR THE CONSTRUCTION PROGRESS SCHEDULE BY LANDLORD OR THE CITY DOES NOT IMPOSE ON LANDLORD OR THE CITY ANY RESPONSIBILITY WHATSOEVER, INCLUDING WITHOUT LIMITATION, RESPONSIBILITY FOR THE ADEQUACY OF THE CONSTRUCTION TIME PROVIDED, THE SUFFICIENCY OF THE PLANS OR COMPLIANCE WITH ANY GOVERNMENTAL REGULATIONS, FOR WHICH THE ARCHITECT AND CONTRACTOR SHALL HAVE FULL AND COMPLETE**

RESPONSIBILITY. Upon either party's desire for a change to the Approved Plans, or any other change under the Construction Contract, the requesting party shall provide the non-requesting party with written notice thereof, and the non-requesting party shall respond to the requesting party's request within five (5) business days of such notice. Landlord shall have final approval of any requested change. Notwithstanding the foregoing, alterations, additions and/or improvements to the Facility and/or the Project Scope Criteria that (a) are stylistic in nature, and (b) do not result in expenditures or cost requests from Landlord that exceed the amount of the Grant Fund, shall be deemed approved and shall simply require Tenant to provide Landlord with written notice regarding such. In designing the Facility, Tenant shall ensure that (i) the Architect and the engineers reasonably consult with the President, or the Landlord's Representative (defined below), with respect to satisfaction of the City's code requirements applicable to the design of the Facility, and (ii) the Contractor obtains all City permits, licenses and approvals required by law, rule, regulation or ordinance in connection with the construction of the Facility and all other permits or approvals, if any, issued by other governmental agencies, to the extent required by law. Landlord shall pay or obtain the City's waiver of any construction, design, and inspection permits and fees in connection with the construction of the Facility.

Section 6.2. Construction of Facility. Upon Tenant's coordination to Landlord's satisfaction of all requisites under state law for a public procurement, Tenant shall execute a contract (the "**Construction Contract**") with Contractor as the general contractor for the development and construction of the Facility. The Construction Contract shall contain, among other things, Contractor's obligation to obtain and, at all times during the term of such contract, carry insurance sufficient to satisfy Landlord's insurance requirements. The Construction Contract shall further set out a guaranteed maximum price ("**GMP**") for construction of the Facility, as mutually agreed by Landlord and Tenant (but not exceeding the amount of the Grant Fund), subject to agreed change orders. Landlord may designate a "**Landlord's Representative**" to monitor construction of the Facility and Tenant and Contractor shall cooperate in sharing information with Landlord's Representative. **Tenant shall insure conformity to all state procurement laws in coordination of construction of the Facility.** The Construction Contract shall include liquidated damages from Contractor in the event the Contractor does not complete construction and obtain a Certificate of Occupancy by September 15, 2022. The amount of liquidated damages from Contractor shall be no less than \$2,500.00 per day and liquidated damages shall be payable under the Construction Contract 80% to Landlord and 20% to Tenant. The Construction Contract shall require Contractor to carry builder's risk insurance for the full cost of all completed improvements. The Construction Contract shall further provide that if Landlord terminates this Lease under **Section 6.10**, Landlord shall have no obligation to Contractor, Tenant or any other party as a result of such termination. The Construction Contract shall provide for a mutually agreed GMP (as contemplated above), and shall require that the Contractor furnish a payment and performance bond covering all costs of and completion of the construction, such bonds to be acceptable to Landlord in form and to name Landlord as obligee. The actual GMP (not to exceed the above amount) shall be derived from the competitive bidding of subcontractors.

Under no circumstances whatsoever shall Tenant authorize, without Landlord's prior written approval, any change, alteration, or addition to the Approved Plans which Landlord or Tenant reasonably believes would (a) increase the total cost to complete the construction of the Facility over the amount of the GMP, (b) delay the completion of the Facility beyond the completion date set forth in the Construction Contract, or (c) significantly deviate from the Approved Plans, or (d) have a material adverse impact on the quality of the completed Facility.

In the event of any agreed increase in the GMP that is a result of any changes to the plans solely requested or required by Tenant and approved by Landlord, Tenant shall deposit the amount of

such increase with Landlord upon request, and such deposit shall become part of the Grant Fund and disbursed as provided herein.

During the construction of the Facility and related Improvements, Tenant shall allow Landlord's Representative to attend "job progress" meetings on a regular basis as necessary to provide appropriate coordination, and Landlord shall be notified in advance of, and Landlord and the President shall be entitled to attend, all such meetings. During the construction of the Facility, Landlord and the President shall be entitled to monitor and inspect all aspects of the construction of the Facility. To ensure that neither the design nor the construction of the Facility is delayed, Landlord will cause the President, the President's authorized designees, and the Landlord's Representative to respond in a reasonably expeditious manner to all submissions and requests by Tenant, the Architect, the engineers, the Contractor or other contractors.

As expressly set forth in Section 17.21 hereof, Landlord is making no representations and is providing no warranties of any kind in connection with the construction of the Facility and related Improvements. However, Tenant agrees to assign to Landlord any and all such warranties remaining at the completion of construction and thereafter upon the expiration or earlier termination of this Lease. Tenant further agrees that it will not, without the consent of Landlord, waive or release any rights or claims that Tenant may have against the Contractor or any of the other contractors, subcontractors, material suppliers, architects, design consultants, or other third parties regarding the design or construction of the Facility or related Improvements. Landlord agrees to cooperate with Tenant in Tenant's utilization of warranties during any maintenance or repair performed by Tenant as required under the Lease.

Section 6.3. Construction Costs; Grant Fund. Prior to any disbursement of advances under the Grant Fund, Tenant shall deposit with Landlord the difference between the Grant Fund and the Total Eligible Project Costs. Once deposited with Landlord, Landlord shall advance Design Costs in accordance with this Section. No Contractor draws shall be advanced until the GMP is established through the completed bidding process. Provided no Event of Default on the part of Tenant exists hereunder, Landlord shall make advances from the Grant Fund to pay the draw applications payable to Contractor pursuant to the Construction Contract for work performed and verified by inspection to be in place, up to the amount of the GMP; provided, however, that in the event the reasonably estimated cost to complete the uncompleted work within the scope of the Construction Contract, as reasonably estimated by Landlord's Representative, exceeds the positive difference between the GMP and the contract sums paid to Contractor through such date, Landlord's obligation to make further advances for Construction Costs shall be conditioned upon Tenant's deposit into the Grant Fund of the amount of such deficiency. In any event, all payments to Contractor in excess of the GMP shall be the sole responsibility of Tenant.

Provided no Event of Default on the part of Tenant exists hereunder, Landlord shall further make advances of the Grant Fund up to the excess of the amount of the Grant Fund over the GMP (and in the amount of any savings if the work in the Construction Contract is completed to final completion at a Construction Cost less than the GMP) for the following:

- (a) Design Costs, up to the line item amount for Design Costs in the Approved Budget;
- (b) Excess Environmental Remediation Costs;
- (c) Personal Property Costs, up to the line item amount for such costs in the Approved Budget;

- (d) Additional improvements or construction to the Facility that are consistent with the Approved Plans (subject to Landlord's approval not to be unreasonably withheld); and
- (e) Relocation Costs, up to the line item amount for such costs in the Approved Budget, but only after final completion of the work within the scope of the Construction Contract, and the relocation and installation within the Facility of all Personal Property.

The Construction Costs and the costs listed in this Section 6.3(a)-(e) above shall constitute the Total Eligible Project Costs.

Section 6.4. Purchase of Personal Property. Tenant shall purchase for Tenant's use the Personal Property. Landlord shall retain ownership of the Personal Property at all times pursuant to Section 6.6 below. Landlord agrees that Tenant may modify the list attached to this Lease as Exhibit "C" provided, however, that the total cost for Personal Property shall not exceed the amount therefor set forth in the Approved Budget. In the event the actual cost of the Personal Property exceeds the amount estimated therefor in the Approved Budget and Landlord or Tenant believe that such increase will result in an increase to the total amount of the Approved Budget that causes the Grant Fund to be exceeded, Tenant will deposit such deficiency with Landlord within ten (10) days after Landlord's written request therefor. All Personal Property purchased by Tenant shall remain at the Leased Premises unless replaced by Tenant with items of comparable quality, characteristics and value or unless such items have become obsolete; provided, however, that any such replacement or disposal of the Personal Property shall remain subject to the notice requirements of Section 6.7 below.

Section 6.5. Project Management. Tenant shall oversee the development of the Facility to ensure the Facility is constructed by Contractor in a quality, workmanlike manner.

Section 6.6. Ownership of Improvements. The Facility, the Personal Property, and all other Improvements of any nature constructed on the Land, together with any modifications, replacements or substitutions for any of the foregoing, shall be owned by and shall be the property of Landlord, free of any claim of Tenant or any party claiming by, through or under Tenant. Any and all fixtures which are a part of the Improvements shall remain at the Leased Premises unless replaced by Tenant with items of comparable quality, characteristics and value. Notwithstanding the foregoing, Tenant's equipment and personal property owned prior to the Rent Commencement Date, as generally described on Exhibit "C-1", and used at Tenant's prior facility or otherwise purchased by Tenant with funds that are not included within the Grant Funds shall remain owned exclusively by Tenant.

Notwithstanding the foregoing, Tenant may elect to replace the Personal Property from time to time, at Tenant's sole cost and expense, and any replacements of the Personal Property purchased by Tenant shall be deemed owned by Tenant and may, unless affixed to the Facility, be removed by Tenant upon the expiration or early termination of this Lease. In addition, Tenant may dispose of items of the Personal Property which have become obsolete. However, Tenant shall provide Landlord thirty (30) days prior written notice of Tenant's intent to replace or dispose of any item of the Personal Property, the original cost of which was in excess of \$3,000.00. Landlord shall be entitled, but not obligated, to remove such Personal Property from the Facility within such thirty (30) day period, and to sell or otherwise dispose of such Personal Property in such manner and upon such terms as Landlord deems appropriate, in Landlord's sole discretion, and any proceeds therefrom shall be the sole property of Landlord.

Upon the expiration or earlier termination of this Lease, Tenant shall deliver up the Leased Premises, including the Improvements and any remaining items of the Personal Property, to Landlord in good condition, reasonable wear and tear excepted. Upon the expiration of this Lease, Tenant may, and at Landlord's request shall, at Tenant's sole cost, remove any and all furniture, trade fixtures, equipment, and other personal property not permanently affixed to the Improvements and purchased at Tenant's cost (expressly excluding any remaining items of the Personal Property), title to which shall not be in or pass automatically to Landlord upon such expiration, repairing all damage caused by such removal. Property not so removed shall, unless requested to be removed, be deemed abandoned by Tenant and title to the same shall thereupon pass to Landlord under this Lease as by a bill of sale.

Upon the termination of this Lease, Tenant will execute, at Landlord's written request, a release or other recordable instrument, of all Tenant's interest in the Leased Premises, and Landlord and Tenant shall further execute such other instruments as may be necessary to evidence the termination of this Lease and stating the termination date.

Section 6.7. Tenant's Work. Tenant shall have no right, authority or power to bind Landlord for any claim for labor or material or for any other charge or expense incurred in connection with any construction work done by Tenant on the Leased Premises or any change, alteration or addition thereto, or replacement or substitution therefor, or to render the Landlord's interest in the Leased Premises liable to any lien or right of lien for any labor or material or any other charge or expense incurred in connection therewith, and Tenant shall in no way be considered as the agent of Landlord in the construction or operation of the Improvements or any replacement or substitution therefor.

All work at any time done by Tenant within the Leased Premises shall be performed in a good and workmanlike manner, in compliance with all Governmental Regulations, and in such manner as to cause a minimum of interference with other construction in progress. Tenant agrees to indemnify Landlord and hold Landlord harmless from and against any loss, liability or damage resulting from Tenant's work, and Tenant shall furnish bond or other security satisfactory to Landlord against any such loss, liability or damage.

Section 6.8. Permits.

(a) Tenant shall be responsible for obtaining the issuance of all permits, licenses and approvals by all public authorities that are required in connection with the construction of the Facility, including a Certificate of Occupancy for the Facility.

(b) Tenant shall obtain the issuance of all permits, licenses and approvals by all public authorities which are required in order for Tenant to carry on its business upon the Leased Premises.

Section 6.9. Discharge of Liens. If any mechanic's, materialman's or other types of liens or lien claims are filed against the whole or any part of the Leased Premises, arising or resulting from actions or omissions by Tenant, including, without limitation, Tenant's failure to cause Contractor to retain the amounts required under the Construction Contract or under applicable law, then Tenant shall promptly secure their release, or if Tenant wishes to contest any such lien or claim and has a reasonable basis for a contest, Tenant may do so, but only if Tenant furnishes Landlord with surety bonds or escrow funds ("**Landlord's Security**") sufficient in amount to protect Landlord's interest in the Leased Premises and Landlord's and Tenant's interest in this Lease during the pendency of the contest. If Tenant does not secure a lien release or furnish Landlord's Security, such failure shall constitute an Event of Default by Tenant hereunder and, in addition to all other rights and remedies available to Landlord by reason thereof, Landlord may, after thirty (30) days' prior written notice, pay such lien or

claim and secure such release, and Tenant shall be obligated to reimburse Landlord for all sums reasonably expended by Landlord in paying such lien or claim and securing such release, including reasonable attorney's fees, plus interest at the highest lawful rate from the date of Landlord's payment until it is reimbursed. Nothing contained in this Section 6.9 or elsewhere in this Lease shall be deemed or construed as an authorization by or consent of Landlord to the filing of any mechanic's or materialman's lien against the Land, or against all or any portion of the Leased Premises or any interest therein.

Section 6.10. Conditions Relating to Construction. Landlord shall have the right to terminate this Lease, without obligation to Tenant except as provided in this Lease, in the event of the following: (a) Tenant's failure to execute a Construction Contract conforming with the provisions of Section 6.2 on or before April 30, 2021 and containing a construction completion date on or before September 15, 2022, (b) Tenant's failure to obtain a Certificate of Occupancy for use of the Facility and to open the Facility for business on or before September 15, 2022. Notwithstanding the foregoing, the aforementioned deadlines shall be extended for reasonable periods of time for purposes contemplated by Section 18.17 hereinafter, but such extension shall not extend the Rent Commencement Date.

Section 6.11. Environmental Remediation. Tenant shall engage an environmental consultant to complete the Remediation prior to the commencement of construction pursuant to the Construction Contract. Landlord shall provide Tenant funds from the Environmental Escrow in the cumulative amount of \$303,000.00 to pay for costs of the Remediation as they become due. Excess Remediation Expenses shall be paid by Landlord out of the Grant Fund.

Section 6.12. Parking for the Leased Premises. Tenant shall not be required to expend any portion of the Grant Fund, nor any other sums or monies of its own, to construct or develop any public parking for visitors and staff on the Land or the Leased Premises. Notwithstanding the foregoing, Tenant's Improvements shall include parking for its business vehicles located at the Leased Premises, delivery vehicles and others using the loading dock area, and such Improvements may utilize the Grant Funds and/or other sums or monies provided by Tenant. The current understanding of Landlord and Tenant is that upon the Rent Commencement Date, no customer or staff parking will be required on the Leased Premises by the McKinney Town Center Ordinance.

ARTICLE VII. COMPLIANCE WITH LAW

Section 7.1. Compliance with Laws.

(a) Tenant shall comply, and shall require any Subtenants of the Leased Premises at all times to comply, at Tenant's and/or Subtenants' sole cost and expense, with (i) any and all Governmental Regulations applicable to the Leased Premises, including, without limitation, those related to the use and occupancy of the Leased Premises, (ii) any Governmental Regulations relating to the design and construction of the Facility, including, without limitation, those related to signage at the Leased Premises, and (iii) all governmental orders for the correction, prevention and abatement of nuisances or other violations of Governmental Regulations on or about the Leased Premises, including, without limitation, any repairs, additions or alterations which are required in connection therewith.

(b) Tenant shall procure at its sole expense any permits and licenses required for the transaction of business in the Leased Premises and/or in any way related to the Leased Premises, including, without limitation, any permits required in connection with the

production, sale and consumption of alcoholic beverages at the Facility. Landlord covenants and agrees that if Tenant is no longer allowed to produce, sale and/or consume alcoholic beverages at the Facility, due to governmental regulation, law, statute, or ordinance, that the parties hereto shall work together to ensure that the purposes of this Agreement are pursued to the greatest extent legally possible. If this change in the law takes effect prior to Tenant having the right to exercise its right to purchase the buildings and other above-ground Improvements located on the Land pursuant to Section 17.1 hereinbelow, then the parties attempt "to ensure that the purposes of this Agreement are pursued to the greatest extent legally possible" shall include Tenant receiving monetary credit in the same amount and form it would receive pursuant to Section 17.1 when exercising its right and option to purchase the building and Improvements.

(c) Tenant shall comply, and shall require any Subtenants of the Leased Premises at all times to comply, at Tenant's and/or Subtenants' sole cost and expense, with the CCRs, easements and other restrictions encumbering or otherwise affecting the Leased Premises that are described on Exhibit "E" attached hereto.

Section 7.2. Environmental Covenants. Tenant shall not, and shall not direct, suffer or permit Subtenants or any of Tenant's or Subtenants' Invitees to at any time handle, use, manufacture, store or dispose of, in or about the Leased Premises in violation of Environmental Laws, any flammables, explosives, radioactive materials, hazardous wastes or materials, toxic wastes or materials, or other similar substances, petroleum products or derivatives or any substance subject to regulation by or under any Environmental Law, as hereinafter defined (collectively, "Hazardous Materials"), nor shall Tenant suffer or permit any Hazardous Materials to be used in or on the Leased Premises and appurtenant land in any manner not fully in compliance with all Environmental Laws or allow the environment to become contaminated with any Hazardous Materials. The term "Environmental Laws" shall mean, collectively, any and all federal, state and local laws and ordinances relating to the protection of the environment or the keeping, use or disposition of environmentally hazardous materials, substances, or wastes, presently in effect or hereafter adopted, all amendments to any of them, and all rules and regulations issued pursuant to any of such laws or ordinances. Notwithstanding the foregoing, Tenant and Subtenants may:

(a) subject to Landlord's prior consent, handle, store, use or dispose of products containing small quantities of Hazardous Materials (such as aerosol cans containing insecticides, toner for copiers, paints, paint remover and the like) to the extent customary and necessary for general office use; and

(b) store and use on the Leased Premises such quantities of anhydrous ammonia, gasoline, refrigeration oil, water base house paint, spray paint, mineral spirits, automotive oil, grease, and household cleaning products, as are reasonably necessary in connection with Tenant's use of the Leased Premises;

provided that Tenant and Subtenants shall always handle, store, use, and dispose of any such Hazardous Materials in a safe and lawful manner and never allow such Hazardous Materials to contaminate the Leased Premises, the appurtenant land, or the environment in violation of Environmental Laws. Tenant shall protect, defend, indemnify and hold Landlord harmless from and against any and all loss, claims, liability or costs (including court costs and reasonable attorney's fees) incurred by reason of any actual or asserted failure of Tenant or Subtenants to fully comply with all applicable Environmental Laws, or by reason of any actual or asserted failure of Tenant or Subtenants to keep, observe, or perform any provision of this Section 7.2. Notwithstanding anything to the

contrary contained herein, Tenant shall have no liability to Landlord except as provided in Section 6.11 for (a) any Hazardous Materials which are located at the Leased Premises prior to Tenant taking possession of the Leased Premises and which have not been placed at the Leased Premises by Tenant, Subtenants, or Tenant's or Subtenants' agents, employees or contractors, (b) any Hazardous Materials which are placed or disposed of in or about the Leased Premises by Landlord, its employees, agents, or contractors; or (c) any Hazardous Materials which are released underground or into the groundwater by parties other than Tenant, Subtenants, or Tenant's or Subtenants' agents, employees or contractors; provided, however, that Tenant shall give immediate written notice to Landlord upon becoming aware of any such actual or alleged contamination, and shall cooperate with Landlord in Landlord's investigation and/or cleanup thereof.

ARTICLE VIII.

TAXES

Section 8.1. Payment of Taxes. Tenant shall pay all property taxes, assessments and other governmental charges and impositions levied or assessed against the Leased Premises or any part thereof, including, without limitation, the Land, the Improvements, and the Personal Property (together with any other equipment, furniture or fixtures purchased by Tenant, whether in replacement thereof, substitution therefor, or otherwise) (collectively, "**Taxes**") before the same become delinquent, and Tenant, at the request of Landlord, shall furnish to Landlord receipts or copies thereof showing payment of such Taxes. Tenant shall be entitled to pay any Taxes in installments as and to the extent the same may be permitted by the applicable taxing authority or claimant. Landlord agrees to cooperate with Tenant in seeking the delivery of all notices of Taxes to Tenant directly from the applicable taxing authorities. Landlord shall promptly deliver all notices of Taxes to Tenant which are delivered to Landlord. In no event shall Tenant be in default under this Lease for failure to pay any Taxes before the same become delinquent if Landlord fails to forward or deliver to Tenant notice of such Taxes at least thirty (30) days before the date the same become delinquent.

ARTICLE IX.

TENANT'S INSURANCE

Section 9.1. Liability Insurance. Tenant agrees, at its sole expense, to obtain and maintain public liability insurance at all times during the Term hereof with reputable insurance companies authorized to transact business in the State of Texas for bodily injury (including death) and property damage with minimum limits of \$5,000,000, protecting Landlord and Tenant against any liability, damage, claim or demand arising out of or connected with the condition or use of the Leased Premises. Such insurance shall include contractual liability, personal injury and advertising liability, business automobile (including owned, non-owned and hired), liquor liability, and independent contractor liability in at least the minimum coverages listed herein below. Such insurance coverage must be written on an "occurrence" basis. It may be maintained by any combination of single policies and/or umbrella or blanket policies and may be obtained and maintained by a Subtenant with respect to that portion of the Leased Premises subleased to such Subtenant. Landlord shall be named as additional insureds on all insurance policies required by this Section 9.1, whether provided by Tenant or by any Subtenant.

(a) **General Liability:** Five Million Dollars (\$5,000,000) per occurrence for bodily injury, including death, personal injury and property damage, and fully insuring and covering the indemnification provisions of this Lease. The policy shall have no standard coverages removed by exclusion. The policy shall include coverage for premises operation, independent contractors, products/completed operations, personal and advertising injury,

contractual liability, fire legal liability and medical payments expense. A One Hundred Thousand Dollars (\$100,000) limit for fire legal liability is required.

(b) **Business Automobile Liability Insurance:** covering owned, hired and non-owned vehicles, with a minimum combined single limit of One Million Dollars (\$1,000,000).

(c) **Liquor Liability:** with a minimum limit of Two Million Dollars (\$2,000,000).

(d) **Workers' Compensation and Employers Liability Insurance.** Tenant agrees, at its sole expense, to obtain and maintain during the Lease Term, (a) workers' compensation insurance, as required by applicable law, and (b) employer's liability insurance with limits of \$500,000 each accident, \$500,000 disease policy limit, \$500,000 disease--each employee.

(e) **Property Insurance.** At all times during the Lease Term, Tenant shall, at its sole expense, obtain All Risk or Special Form coverage protecting Tenant and Landlord against loss of or damage to the Leased Premises, including, without limitation, the Improvements and the Personal Property (together with any other equipment, furniture or fixtures purchased by Tenant, whether in replacement thereof, substitution therefor, or otherwise), to the full replacement value of the property so insured. Coverage must be written by reputable insurance companies authorized to transact business in the State of Texas. Landlord and City shall be named as additional insured or loss payee, as appropriate, on all such coverage, and will have the right to settle all claims covered by such insurance.

Section 9.2. Policies. All insurance policies required by this Article IX shall provide for at least thirty (30) days written notice to Landlord before cancellation. Certificates or copies of policies of insurance shall be delivered to Landlord on or before the date Tenant takes possession of the Leased Premises and at least 30 days prior to any renewal of such policies. If any blanket general insurance policy of Tenant complies with the terms of this Article IX, the naming of Landlord therein as an additional insured shall be deemed compliance with the requirements for the insurance coverage provided in any such blanket policy.

ARTICLE X.

MAINTENANCE AND REPAIR; ALTERATIONS; UTILITIES; SECURITY

Section 10.1. Maintenance and Repair. Tenant shall maintain in good repair and condition the entire Leased Premises and all of the Improvements and the Personal Property (together with any other equipment, furniture or fixtures purchased by Tenant, whether in replacement thereof, substitution therefor, or otherwise) and keep them free from waste or nuisance.

Section 10.2. Alterations. Subject to Landlord's prior written consent, Tenant shall have the right, from time to time, to make additions, alterations and changes (hereinafter sometimes referred to collectively as "Alterations") in or to the Improvements, provided that, no Event of Default shall exist by Tenant in the performance of Tenant's covenants or agreements in this Lease, subject, however, to the following:

(a) subject to the Governmental Regulations, no structural alterations or alterations to the original facade or exterior of the Improvements will be commenced without Landlord's prior written consent of such alterations, which consent shall not be unreasonably withheld or delayed;

(b) no alterations will be made which would impair the structural soundness of the Improvements;

(c) no alterations will be undertaken until Tenant has obtained all building permits, licenses and authorizations of all municipal departments and governmental subdivisions having jurisdiction. Landlord shall join, but without expense to Landlord, in the application for such permits, licenses or authorizations whenever such action is necessary and is requested by Tenant and approved by Landlord;

(d) no alterations will be made which would be in violation of the terms and provisions of any easements or other restrictions listed on Exhibit "E" attached hereto;

(e) no alterations will be made which are inconsistent with Tenant's use of the Leased Premises, as set forth in this Lease;

(f) any alterations shall be made within a reasonable time and in a good and workmanlike manner and in substantial compliance with all applicable permits, licenses and authorizations, and building laws and with all other Governmental Regulations; and

(g) Tenant will upon demand by Landlord give reasonably satisfactory proof or assurances to Landlord that the funds required to pay for such alterations are or will be available to Tenant for such purpose.

Section 10.3. Utilities. Tenant shall pay all charges for water, electricity, gas, sewer, telephone or any other utility connections, tap-in fees and services furnished to the Leased Premises from and after the Effective Date, until the end of the Lease Term. Landlord shall in no event be liable or responsible for any cessation or interruption in, or damage caused by, any such utility services, unless the cessation or interruption results from Landlord's intentional or negligent conduct.

Section 10.4. Security. Landlord will not be responsible for providing security to the Leased Premises.

Section 10.5. Inspection. Tenant shall permit Landlord and its agents, upon no less than twenty-four (24) hours prior written notice, to enter into and upon the Leased Premises during normal business hours for the purpose of inspecting the same on the condition that Tenant's and any Subtenant's quiet enjoyment of the same is not interfered with.

Section 10.6. Capital Repairs. Tenant shall be responsible for all costs associated with the maintenance and operation of the Facility, including all capital repairs, which shall include capital replacements, deemed necessary to keep the Facility in the same condition as delivered to Tenant (normal wear and tear excluded) from the Effective Date until the end the Lease Term in accordance with an agreed schedule by and between Landlord and Tenant.

ARTICLE XI.

CASUALTY DAMAGE, DESTRUCTION AND CONDEMNATION

Section 11.1. Casualty Damage or Destruction.

(a) **Tenant's Obligation to Restore.** Should any of the Improvements or the Personal Property (or any other equipment, furniture or fixtures in replacement thereof or

substitution therefor or otherwise purchased by Tenant) be wholly or partially destroyed or damaged by fire, or any other casualty whatsoever, Tenant shall promptly repair, replace, restore or reconstruct the same in substantially the form and condition in which the same existed prior to any such casualty. Such work shall commence on or before sixty (60) days from the event giving rise to such construction obligation and shall be completed thereafter with reasonable diligence.

In the event of any casualty damage to the Improvements during the last twelve (12) months of the Lease Term which would require more than ninety (90) days to repair and restore after commencement of restoration, Tenant shall have the option to terminate this Lease at any time prior to commencement of rebuilding by giving notice of termination to Landlord. Upon Tenant's exercise of such option, (i) this Lease shall terminate as of the termination date specified in such notice to Landlord, which shall not be less than thirty (30) days after the date of such notice; (ii) Tenant shall be required to pay the Base Annual Rental through the end of the Lease Term and all other payments due and owing as of the termination date; (iii) Tenant shall not be required to repair the damage; and (iv) all insurance proceeds available as a result of such damage shall be paid to and be the property of Landlord.

(b) **Deposit of Funds for Restoration.** All insurance proceeds shall be deposited with a national bank in McKinney or Dallas, Texas selected by Landlord ("**Qualified Bank**"). Such proceeds shall be received, held and paid out by such Qualified Bank, and shall be disbursed for restoration of the Improvements and replacement of the Personal Property (and any other equipment, furniture or fixtures in replacement thereof or substitution therefor or otherwise purchased by Tenant) as follows:

(i) Tenant must first secure Landlord's approval of (A) the budget for such restoration and replacement, and (B) the plans and specifications for the proposed restorative work if such plans and specifications for restoration deviate materially from the original plans and specifications for the Improvements which have been so damaged. The insurance proceeds will be disbursed by such Qualified Bank after delivery of evidence reasonably satisfactory to Landlord that (x) such repair, restoration, rebuilding or replacement for which a disbursement has been requested has been completed and effected in compliance with this Lease and all applicable laws, and (y) no mechanics' or materialmen's liens have attached to the fee or leasehold estate. At the option of Tenant, such proceeds may be disbursed by such Qualified Bank in reasonable installments. Each such installment (except the final installment) is to be disbursed by such Qualified Bank in an amount equal to the cost of construction of the work completed or Personal Property (or other equipment, furniture, or fixtures purchased by Tenant) replaced since the prior advance (or since commencement of work, as to the first advance) according to a certificate by the Tenant's architect in charge, less statutorily required retainage in respect of mechanics' and materialmen's liens, together with a reasonable showing of bills for labor and material, and evidence satisfactory to Landlord that no lien affidavit has been filed in Collin County for any labor or material in connection with such work. The final payment or disbursement shall then be made upon the architect's proper certificate of completion and upon receipt of evidenced required by (i)(x) and (i)(y) above, but in no event shall such Qualified Bank be required to advance more than the balance of such insurance proceeds remaining on deposit with such disbursing agent;

(ii) Should the cost of said repairs, restoration, rebuilding or replacement be estimated by Tenant's architect in charge to be in excess of said insurance proceeds or should the actual cost determined after Tenant has commenced restoration and replacement be in excess of said proceeds, Tenant will deposit the necessary funds to cover such deficiency with such Qualified Bank; and

(iii) Any and all such insurance proceeds in excess of the cost of such repairs, restoration, rebuilding or replacement shall be paid over to Landlord.

(c) **No Abatement.** In the event of any such casualty the Base Annual Rental and other payments herein provided for shall not be abated and the happening of any such casualty shall not cause a termination of this Lease, except as herein provided. Notwithstanding the foregoing, should such major casualty (greater than 75% of value of Improvements) occur prior to the last twelve (12) months of the Lease Term, Tenant shall have a right of termination if the Property Insurance is continuously maintained and in force on the date of such major casualty.

Section 11.2. Condemnation.

(a) **Total or Substantial Partial Taking.** Landlord and Tenant agree that should the whole of the Leased Premises, a lesser portion of the Leased Premises which results in the loss of use to Tenant of 10,000 square feet or more of interior space or less than 10,000 square feet or more of interior space that includes a portion of the space that Tenant deems essential to its continuing business operations (a "Substantial Partial Taking") be taken (which term when used in this Section 11.2 shall include any conveyance in avoidance or settlement of condemnation or eminent domain proceedings) by the Government of the United States, State of Texas, the City, or any other government or power whatsoever, or by any corporation under the right of eminent domain, or should the whole of said Leased Premises and improvements be condemned by any court, city, state, county or governmental authority or office, department or bureau of the city, county, state or United States, then the award will paid to Landlord and this Lease shall terminate as of the date of taking of possession by the condemning authorities as if such date were the expiration of this Lease, no obligation for rental payments shall accrue after the later of (i) the date of such earlier termination of this Lease or (ii) the date Tenant delivers possession of the Leased Premises to Landlord. Portions of the interior of the Facility deemed essential to Tenant's continuing business operations include (to the extent not replaceable within the Facility itself and/or otherwise upon the Land in manner reasonably similar in both size and quality) the taproom, the area used for brewing and producing its beer and/or seltzer products, areas used for special events/entertainment/leasing to vendors, and any other area that results in a material adverse effect upon Tenant's revenue-generating opportunities. Notwithstanding the foregoing and as of the date of any Total Taking or Substantial Partial Taking, Tenant shall be allocated an amount equaling the difference between i) that amount of the Grant Fund expended on the Facility, and ii) the Purchase Option amount, which amount shall be utilized as a dedicated grant to Tenant for a substitute facility of similar size and having similar attributes, if Tenant constructs such substitute facility within three (3) years of such Total Taking.

(b) **Partial Taking.** Landlord and Tenant agree that should the fee simple title to part of the Leased Premises, including a portion of the leasehold estate, not constituting a Substantial Partial Taking, be taken by the Government of the United States, State of Texas, the City, or any other government or power whatsoever, or by any corporation under the right of eminent domain, or should a part of said Leased Premises not constituting a Substantial

Partial Taking be condemned by any court, city, state, county or governmental authority or office, department or bureau of the city, county, state or United States, then in such event this Lease shall nevertheless continue in effect as to the remainder of the Leased Premises unless so much of the Leased Premises shall be so taken or condemned as to materially interfere with Tenant's use of the remainder for the uses and purposes contemplated herein, in which latter event this Lease shall terminate upon notice of termination by the Tenant to Landlord, with such termination to be effective as of the date of taking of possession by the condemning authority in the same manner as if the whole of the Leased Premises had been thus taken or condemned. In the event of such taking or condemnation of a portion of the Leased Premises where this Lease is not terminated thereby under the provisions of the first sentence of this Paragraph, the Base Annual Rental payable during the remainder of the Term after taking of possession by said condemning authority shall be reduced on a just and proportionate basis taking into consideration the extent, if any, to which Tenant's use of the remainder of the Leased Premises shall be impaired or interfered with by reason of such partial taking or condemnation.

(c) **Award.** In the event that a part of the Leased Premises is taken under the power of eminent domain, or by condemnation proceedings, then the award will be distributed to Landlord. If this Lease is not terminated by virtue of such taking, and repairs and/or restoration to the Improvements are required, Tenant shall commence and thereafter proceed with reasonable diligence to repair, alter and restore the remaining part of the Improvements so as to constitute complete, rentable Improvements (the foregoing being herein referred to as the "**Work**"). Landlord shall make the award received available to Tenant to complete the Work, and the award will be disbursed by Landlord to Tenant in reasonable installments after delivery of evidence satisfactory to Landlord that (i) the Work for which a disbursement has been requested has been completed and effected in compliance with this Lease and all applicable laws, and (ii) no mechanics' or materialmen's liens have attached to the fee or leasehold estate. Each such installment (except the final installment) is to be advanced by Landlord, in an amount equal to the cost of construction of the Work completed since the prior advance (or, for purposes of the first advance, since commencement of the Work) according to a certificate by the Tenant's architect in charge, less statutorily required retainage in respect of mechanics' and materialman's liens, together with a reasonable showing of bills for labor and material, and evidence satisfactory to Landlord that no lien affidavit has been filed in Collin County for any labor or material in connection with such Work. The final payment or disbursement shall then be made upon the architect's proper certificate of completion and upon receipt of evidenced required by (i) and (ii) above, but in no event shall Landlord be required to advance more than the balance of the award remaining. Should the cost of the Work be estimated by Tenant's architect in charge to be in excess of the award or should the actual cost determined after Tenant has commenced restoration be in excess of said award, Tenant will deposit the necessary funds to cover such deficiency with Landlord. Any portion of the award in excess of the cost of the Work will be retained by Landlord.

ARTICLE XII.

ASSIGNMENT AND SUBLETTING; TRANSFERS BY LANDLORD

Section 12.1. Assignment. Except as otherwise provided in **Section 12.5** below, Tenant shall not sell, assign, mortgage, pledge, or otherwise transfer any portion of its leasehold estate, or undivided interests therein without the prior written consent of Landlord, which consent shall not be unreasonably

withheld if the assignee is acquiring substantially all of Tenant's assets and will have a net worth immediately after the assignment no less than Tenant's upon the effective date of this Lease.

Section 12.2. Subleasing. Except as otherwise provided in Section 12.5 below, Tenant shall not sublease any portion of the Leased Premises without the prior written consent of Landlord. Notwithstanding the foregoing, Landlord's approval will not be unreasonably withheld for the revocable licensing of the containers/vendor spaces included within the overall Facility development plan to local merchants and vendors.

Section 12.3. Continuing Obligations. Except as otherwise stated herein, Tenant shall at all times remain fully responsible and liable for the payment of the rent herein specified and for compliance with all of its other obligations under this Lease (even if future assignments and sublettings occur subsequent to the assignment or subletting by Tenant, and regardless of whether or not Landlord's approval has been obtained for such future assignments and sublettings). Landlord shall be permitted to enforce the provisions of this Lease against the undersigned Tenant and/or any assignee without demand upon or proceeding in any way against any other person. Tenant shall reimburse Landlord for Landlord's reasonable expenses incurred by Landlord in connection with any request by Tenant for assignment or subletting which requires Landlord's prior consent.

Section 12.4. Landlord Transfers and Mortgages.

(a) Landlord may freely assign, transfer, sublet, hypothecate, pledge or mortgage the Land and Landlord's interest under this Lease, subject to the terms and provisions of this Lease, without Tenant's prior written consent; provided, however, that upon the sale, lease or other transfer of the Leased Premises, Landlord shall not be released from its obligations under this Lease unless the assignee or transferee assumes all such obligations in writing.

(b) Every lienholder to whom Landlord shall grant a mortgage, pledge, lien or other encumbrance upon Landlord's interest in the Land or hereunder must expressly agree in the loan documents that (i) all notices to Landlord of any default or defaults of Landlord under such loan documents or in connection with such loan, including notice of acceleration of the maturity of the indebtedness, will be given to Tenant as well as to Landlord and shall not be effective until so given to Tenant, (ii) such lienholder will accept a cure of any default under such loan documents by Tenant, but that Tenant shall not be required to cure any such default, and (iii) all payments so made and all things so done or performed by Tenant shall be effective to prevent an acceleration of the maturity of the indebtedness, the foreclosure of any liens securing payment thereof or the exercise of any other remedies the same as if paid, done or performed by Landlord. Tenant shall not be or become liable to any such lienholder as a result of the right and option to cure any such default or defaults by Landlord.

Section 12.5. Approved Assignments. Notwithstanding anything to the contrary set forth herein, Tenant shall be permitted to assign this Lease to an Affiliate of Tenant without the prior consent of Landlord, if all of the following conditions are first satisfied:

- (i) Tenant shall give Landlord at least thirty (30) days prior written notice of such assignment;
- (ii) No Event of Default (or event which, with notice or lapse of time or both, would constitute an Event of Default) has occurred and is continuing under this Lease;

(iii) A fully executed copy of such assignment, the assumption of this Lease by the assignee, and such other information regarding the assignment as Landlord may reasonably request, shall have been delivered to Landlord;

(iv) The Leased Premises shall continue to be operated solely for the use specified in this Lease;

(v) Tenant shall pay Landlord's reasonable costs, including reasonable attorneys' fees, in connection with Landlord's review of the assignment and other documentation required under this Section 12.5;

(vi) The Affiliate remains an Affiliate of Tenant during the Lease Term; and

(vii) The net worth of the Affiliate at the time of such assignment is at least equal to the net worth of Tenant upon the execution of this Lease.

Tenant acknowledges and agrees (and agrees at the time of such assignment to confirm) that in each instance described above, Tenant shall remain liable for the performance of the terms and conditions of this Lease despite such assignment.

Section 12.6. Leasehold Mortgages.

(a) Leasehold Mortgages Permitted. Tenant, from time to time and at any time, shall have the right to grant a Leasehold Mortgage. In the event that Tenant grants a Leasehold Mortgage, upon Tenant's written request to Landlord, Landlord will execute and deliver an estoppel certificate addressed to the Leasehold Mortgagee setting forth the information described in Section 18.4 of this Lease, confirming the terms of this Section 12.6, and providing Landlord's agreement to recognize the Leasehold Mortgagee or any purchaser of the Mortgaged Premises at foreclosure in the same manner as an assignee pursuant to Section 12.1 of this Lease. Notwithstanding the foregoing, no Leasehold Mortgagee shall acquire, by virtue of the Leasehold Mortgage, any greater right in the Mortgaged Premises and in any building or improvements thereon than Tenant then had under this Lease. In no event shall Tenant have the right to encumber, subordinate or render inferior in any way Landlord's fee simple title in and to the Leased Premises.

(b) Notices to Leasehold Mortgagees. If at any time after execution and recordation of any Leasehold Mortgage in the Real Property Records of Collin County, Texas, in accordance with the provisions of Section 12.6(a) hereof, the Leasehold Mortgagee shall notify Landlord in writing that the Leasehold Mortgage on the Mortgaged Premises has been given and executed by Tenant, and shall furnish Landlord at the same time with the address to which the Leasehold Mortgagee desires copies of notices to be mailed, or designates some person or corporation as its agent and representative for the purpose of receiving copies of notices, Landlord hereby agrees that it will thereafter deliver in the manner specified in Section 17.13 to the Leasehold Mortgagee and to the agent or representative so designated by the Leasehold Mortgagee, at the address so given, duplicate copies of any and all notices in writing which Landlord may from time to time give or serve upon Tenant under and pursuant to the terms and provisions of this Lease and any and all pleadings in suits filed by Landlord against Tenant. No notice to Tenant shall be effective as to the Leasehold Mortgagee unless duplicate copies thereof are delivered to such Leasehold Mortgagee at the same time the notice is given or served upon Tenant.

(c) Leasehold Mortgagee's Right to Cure. If Landlord shall ever be entitled to exercise a right hereunder to terminate this Lease after the giving of notice and/or the passage of time, as

applicable, Landlord, subject to notification by Leasehold Mortgagee pursuant to Section 12.6(b) hereof, shall deliver additional written notice to Leasehold Mortgagee of Landlord's intention to so terminate this Lease and describing the existing defaults, and Leasehold Mortgagee thereafter shall have thirty (30) days to cure the defaults described in such written notice. Notwithstanding the foregoing, but subject to the provisions of Section 14.2 hereof, in the event (a) such default is not capable of cure within such 30-day period, this Lease may not be terminated if Leasehold Mortgagee shall deliver to Landlord, within such 30-day period, written notice of Leasehold Mortgagee's intention to cure the specified defaults and shall commence and diligently pursue the cure of the specified defaults and such defaults are cured within 60 days of the date of such notice, or (b) any Leasehold Mortgagee is not in actual possession of the Mortgaged Premises on the date of the additional notice given the Leasehold Mortgagee under this Section 12.6(c) and possession is necessary in order to cure any default, then the time within which such Leasehold Mortgagee may commence to cure such default shall be extended for a reasonable time not to exceed 60 days until such Leasehold Mortgagee can obtain actual possession of the Mortgaged Premises. No purported termination of this Lease shall be effective until such written notice shall have been given to Leasehold Mortgagee and such 30-day period, or additional time period as provided above, shall have expired without the described defaults having been cured. Leasehold Mortgagee may, at its option and at any time before the rights of Tenant under this Lease have been terminated, pay any of the Base Annual Rental and Percentage Rental due hereunder, procure any insurance required hereunder, pay any taxes required hereunder, make any repairs and improvements required hereunder, or do any other act or thing or make any other payment required of Tenant by the terms of this Lease or which may be necessary and appropriate to comply with the covenants and conditions of this Lease to prevent the termination of this Lease. All payments so made and all things so done and performed by any such Leasehold Mortgagee shall be as effective to prevent a forfeiture of the rights of Tenant hereunder as if performed by Tenant.

(d) New Lease. Notwithstanding anything to the contrary contained in this Lease or otherwise, in the event of termination of this Lease for any reason prior to the stated expiration date, Landlord shall promptly notify all Leasehold Mortgagees of such termination. If the Leasehold Mortgagee having the highest priority with respect to the Lease cures (subject to Section 12.6(e) hereof) all defaults giving rise to such termination as provided below, Landlord shall enter into a new lease of the Mortgaged Premises with such Leasehold Mortgagee or its designee for the remainder of the Term of this Lease, such new lease to be effective as of the date of termination of this Lease, at the Base Annual Rental and Percentage Rental payable hereunder and upon all the same terms, conditions, covenants, agreements, provisions and limitations contained herein, subject to the following:

(i) the Leasehold Mortgagee entitled to the new lease shall make written request to Landlord for a new lease within sixty (60) days of receipt by the Leasehold Mortgagee of written notice from Landlord of the date of termination of this Lease; and

(ii) at the time of the execution and delivery of the new lease, the Leasehold Mortgagee or its designee shall pay to Landlord all amounts specified in the notice of termination delivered by Landlord which would have been due hereunder except for such termination and which are currently due except for such termination, and shall promptly cure (subject to Section 12.6(e) hereof) all other defaults giving rise to such termination.

(e) Survival. The provisions of Section 12.6(d) shall survive the termination of this Lease and shall continue in full force and effect thereafter to the same extent as if said Section 12.6(d) was a separate and independent contract among Landlord, Tenant and any Leasehold Mortgagee.

(f) Leasehold Mortgagees' Liability. Unless a new lease shall have been executed pursuant to Section 12.6(d) hereof, no Leasehold Mortgagee shall be or become personally liable to Landlord as an assignee of this Lease, for the payment or performance of any obligation of Tenant unless and until it expressly assumes by written instrument the payment or performance of such obligation, and no assumption of liability shall be inferred from or result from foreclosure or other appropriate proceedings in the nature thereof or as the result of any other action or remedy provided for by any Leasehold Mortgage, or from a conveyance or assignment pursuant to which any purchaser at foreclosure shall acquire the rights and interest of Tenant under the terms of this Lease; provided, however, any such assignee or purchaser must timely and diligently perform all obligations of Tenant hereunder.

Section 12.7. Nondisturbance Agreement. Upon the written request of Tenant, Landlord will enter into a Nondisturbance Agreement (herein so called) with any approved Subtenant or Leasehold Mortgagee. Such Nondisturbance Agreement shall include such reasonable provisions as requested by an approved Subtenant or a Leasehold Mortgagee, subject to the reasonable approval of Landlord, but in any event shall (a) reaffirm Landlord's ownership of the Leased Premises, (b) confirm (if true) that this Lease is in full force and effect without default by Tenant (or, if a default exists, specifying the default and the remedy required by Landlord), and (c) in the case of an approved Subtenant, provide, in substance, that, so long as the approved Subtenant complies with all of the terms of its sublease or other applicable agreement, Landlord, in the exercise of any of its rights or remedies under this Lease, shall not deprive the approved Subtenant of possession, or the right of possession, of the subleased property during the term of the sublease, deprive the approved Subtenant of any other rights under the sublease or other applicable agreement or join the approved Subtenant as a party in any action or proceeding to enforce or terminate this Lease or obtain possession of the property leased in the sublease for any reason other than a breach by the approved Subtenant of the terms of the sublease or other applicable agreement which would entitle Tenant to dispossess the approved Subtenant thereunder or otherwise terminate the approved Subtenant's rights thereunder.

ARTICLE XIII. INDEMNIFICATION

Section 13.1. Indemnification. From and after the Effective Date, Tenant agrees to protect, defend (with counsel reasonably acceptable to Landlord), indemnify and hold harmless Landlord from and against any and all loss, cost, damage, liability and expense (including court costs and reasonable attorneys' fees) arising from (i) the failure by Tenant, any Subtenant, or any of their agents, employees, or contractors, to comply with the terms and conditions of this Lease and/or to perform their respective duties and obligations under this Lease in accordance with the terms hereof, (ii) the use, possession, management, and maintenance of the Leased Premises by Tenant hereunder; (iii) any work done in, on, or about the Leased Premises by Tenant, its agents, contractors, or employees; or (iv) any accident, injury or damage to any person or property occurring in, on, or about the Leased Premises caused by, directly or indirectly, the acts and/or omissions of Tenant, any Subtenant, or any of their agents, employees, contractors, customers, invitees and/or guests; provided, however, that none of the foregoing will apply when any of the following apply: (i) when such loss results from a default by Landlord under this Lease or the willful misconduct or gross negligence of Landlord, its agents, employees, or contractors, (ii) to the extent of any insurance proceeds received by Landlord or payable under Landlord's insurance, (iii) any claims relating to the creek or flood plain on the Land, except as arising directly from Tenant's use of the Land, and (iv) any claims relating to construction of the Facility or Improvements.

Likewise, from and after the Effective Date, Landlord agrees to protect, defend (with counsel reasonably acceptable to Tenant), indemnify and hold harmless Tenant from and against any and all loss, cost, damage, liability and expense (including court costs and reasonable attorneys' fees) arising from (i) the failure by Landlord, sublessor or any of their agents, employees, or contractors, to comply with the terms and conditions of this Lease and/or to perform their respective duties and obligations under this Lease in accordance with the terms hereof, (ii) any work done in, on, or about the Leased Premises by Landlord, its agents, contractors, or employees; or (iii) any accident, injury or damage to any person or property occurring in, on, or about the Leased Premises caused by, directly or indirectly, the acts and/or omissions of Landlord, any sublessor, or any of their agents, employees, contractors, customers, invitees and/or guests; provided, however, that none of the foregoing will apply when any of the following apply: (i) when such loss results from a default by Tenant under this Lease or the willful misconduct or negligence of Tenant, its agents, employees, or contractors, and (ii) to the extent of any insurance proceeds received by Tenant or payable under Tenant's insurance.

Section 13.2. Third Parties and Subtenants. In connection with its management, operation, promotion and approved subleasing of the Leased Premises, including, but not limited to Tenant's business operations, Tenant shall insert, in each and every contract or approved sublease entered into, a clause exculpating Landlord from personal liability under the contract or lease and a clause pursuant to which the third party or approved Subtenant agrees to indemnify and hold harmless Landlord for the matters set forth in Section 13.1.

ARTICLE XIV. TENANT'S DEFAULT AND LANDLORD'S REMEDIES

Section 14.1. Default. Each of the following events is an "**Event of Default**" by Tenant under this Lease:

(a) Tenant fails to pay when due any sum of money becoming due to be paid to Landlord under this Lease, whether such sum be any installment of the rent reserved by this Lease, or any other payment or reimbursement to Landlord required by this Lease, and such failure shall continue for a period of ten (10) business days after written notice that such payment was not made when due.

(b) Tenant fails to perform or observe any of the terms, covenants, conditions, agreements and provisions of this Lease which is not provided for in another clause of this Section 14.1 and such failure continues for a period of thirty (30) days after written notice thereof; provided, however, that if such failure cannot reasonably be cured within said thirty-day period despite Tenant's diligent good faith efforts, the occurrence of such failure shall not constitute an Event of Default if Tenant commences reasonable efforts to cure such failure within said thirty (30) day period and thereafter diligently pursues such efforts until such failure is cured.

(c) Tenant fails to vacate the Leased Premises immediately upon termination of this Lease, by lapse of time or otherwise, or upon termination of Tenant's right to possession only.

(d) Tenant shall become insolvent, admit in writing its inability to pay its debts generally as they become due, file a petition in bankruptcy or a petition to take advantage of any insolvency statute, make an assignment for the benefit of creditors, make a transfer in fraud of creditors, apply for or consent to the appointment of a receiver of itself or of the whole

or any substantial part of its property, or file a petition or answer seeking reorganization or arrangement under the federal bankruptcy laws, as now in effect or hereafter amended, or any other applicable law or statute of the United States or any state thereof.

(e) A court of competent jurisdiction shall enter an order, judgment or decree adjudicating Tenant bankrupt, or appointing a receiver of Tenant, or of the whole or any substantial part of its property, without the consent of Tenant, or approving a petition filed against Tenant seeking reorganization or arrangement of Tenant under the bankruptcy laws of the United States, as now in effect or hereafter amended, or any state thereof, and such order, judgment or decree shall not be vacated or set aside or stayed within thirty (30) days from the date of entry thereof.

Section 14.2. Landlord's Remedies for Tenant Default. Upon the occurrence and during the continuance of an Event of Default, Landlord shall have all remedies available at law or in equity, including, without limitation, termination, injunction and specific performance, subject to the provisions of Article 12 of this Lease. All remedies of Landlord under this Lease shall be cumulative, and the failure to assert any remedy or the granting of any waiver of any event of default shall not be deemed to be a waiver of such remedy or any subsequent event of default. Notwithstanding the foregoing, if Tenant's Event of Default is the inability or other failure to pay Base Rent, Percentage Rental and/or any other sums due hereunder during the existence of a Triggering Event, then in order to avoid Tenant suffering an Event of Default, Tenant shall be able to receive credit for Base Rent and any other sums due and payable hereunder by using a portion of its "equity or credit" that has accumulated to date (as the concept is referenced in Section 17.1 hereinabove) in order to satisfy its payment obligations hereunder, such "reallocation of equity or credit" necessarily reducing the equity or credit available to Tenant pursuant to Section 17.1 and/or otherwise herein. A "Triggering Event" shall be defined as the existence of a local, state or federal government decree, order or law that requires the shutdown of Tenant's ability to continue its normal business operations (whether because of prohibiting or otherwise precluding the ability of (a) Tenant's employees to be at the Facility, (b) members of the public from being able to visit the Facility, and/or (c) vendors to be able to provide essential services to Tenant (such as the business reductions and shutdowns occurring during the Covid-19 pandemic in 2020, when employees were prohibited from being at work premises, the public was prohibited from going to bars and/or vendor relationships were suspended because vendors experienced the same reductions and shutdowns). However, Tenant shall not be able to utilize this alternative payment option past the date that any such Triggering Event is resolved (i.e. any and all business reductions and shutdowns are terminated) and in no event for longer than twelve (12) months.

Section 14.3. Lien For Rent. In consideration of the mutual benefits arising under this Lease, Tenant hereby grants to Landlord a lien and security interest in all property of Tenant, if any (including, but not limited to, all fixtures, machinery, equipment, furnishings, and other articles of personal property now or hereafter placed in or on the Leased Premises and owned by Tenant, together with the proceeds from the disposition of those items) (the "Collateral"), now or hereafter placed in or upon the Leased Premises, as security for payment of all rent and other sums agreed to be paid by Tenant herein, subordinate, however to purchase money liens or working capital liens held by other third parties on collateral other than the Personal Property who have executed an acceptable agreement with Landlord concerning the removal of the collateral covered by such liens. The provisions of this Section 14.3 constitute a security agreement under the Texas Uniform Commercial Code, and Landlord has and may enforce a security interest in the Collateral. Upon the occurrence of an Event of Default under this Lease, the Collateral shall not be removed without the consent of Landlord until all arrearages in rent and other sums of money then due to Landlord hereunder have been paid and discharged. Tenant shall, upon Landlord's request, execute a Financing Statement to perfect this

security interest pursuant to the Texas Uniform Commercial Code. Landlord may at its election at any time file a copy of this Lease as a Financing Statement. Landlord, as Secured Party, has all of the rights and remedies afforded a secured party under the Texas Uniform Commercial Code in addition to and cumulative of the landlord's liens and rights provided by law or by the other terms and provisions of this Lease. Upon request, Landlord shall subordinate its lien on the Collateral to a lien in favor of a financial institution supplying working capital financing to Tenant and/or for purchase money liens held by third parties, provided that such lender agrees to remove its collateral within a reasonable time after termination of this Lease and to repair any damage occasioned by such removal.

Section 14.4 Rights of Leasehold Mortgagees. Notwithstanding any other provision of this Article XIV, all rights and remedies of Landlord under this Lease are subject to the provisions of Section 12.6 hereof.

ARTICLE XV.

REPRESENTATIONS AND WARRANTIES

Section 15. Landlord's Representations, Warranties and Special Covenants. Landlord hereby represents, warrants and covenants as follows:

(a) **Existence.** Landlord is a Type B economic development corporation of the State of Texas duly incorporated and currently existing pursuant to the constitution and laws of the State of Texas, including Chapter 505 of the Local Government Code and Texas Government Code.

(b) **Authority.** Landlord has all requisite power and authority to purchase and own the Leased Premises, to execute, deliver and perform its obligations under this Lease and to consummate the transactions herein contemplated and, by proper action in accordance with all applicable law, has duly authorized the execution and delivery of this Lease, the performance of its obligations under this Lease and the consummation of the transactions herein contemplated.

(c) **Binding Obligation.** This Lease is a valid and binding obligation of Landlord and is enforceable against Landlord in accordance with its terms, subject to (i) applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, rearrangement, moratorium, receivership, liquidation and similar laws affecting creditors' rights generally, or (ii) general principles of equity.

(d) **No Defaults.** The execution by Landlord of this Lease and the consummation by Landlord of the transactions contemplated hereby (i) do not, as of the Effective Date, result in a breach of any of the terms or provisions of or constitute a default, or a condition which upon notice or lapse of time or both would ripen into a default, under any resolution, indenture, agreement, instrument or obligation to which Landlord is a party; and (ii) do not, to the knowledge of Landlord, constitute a violation of any law, order, rule or regulation applicable to Landlord of any court or of any federal, state or municipal regulatory body or administrative agency or other governmental body having jurisdiction over Landlord.

(e) **Consents.** Except as expressly stated otherwise herein, no permission, approval or consent by third parties or any other governmental authorities is required in order for Landlord to enter into this Lease, make the agreements herein contained or perform the obligations of Landlord hereunder other than those which have been obtained.

(f) **Quiet Enjoyment.** From and after the date Landlord delivers possession of the Leased Premises to Tenant, and subject to the terms of this Lease, Tenant shall have the quiet enjoyment and peaceable possession of the Leased Premises against hindrance or disturbance by Landlord or any person or entity acting by, through or under Landlord.

Section 15.2. Tenant's Representations, Warranties and Special Covenants.

(a) **Existence.** Tenant is duly organized and validly existing under the laws of the state of its organization and is authorized to do business in the State of Texas.

(b) **Authority.** Tenant has all requisite power and authority to lease the Leased Premises, execute, deliver and perform its obligations under this Lease, operate its business, and consummate the transactions herein contemplated, and by proper action in accordance with all applicable law, has duly authorized the execution and delivery of this Lease, the performance of its obligations under this Lease, and the consummation of the transactions herein contemplated.

(c) **Binding Obligation.** This Lease is a valid and binding obligation of Tenant and is enforceable against Tenant in accordance with its terms, subject to (i) applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, rearrangement, moratorium, receivership, liquidation and similar laws affecting creditors' rights generally, or (ii) general principles of equity.

(d) **No Defaults.** The execution by Tenant of this Lease and the consummation by Tenant of the transactions contemplated hereby (i) do not, as of the Expansion Effective Date, result in a breach of any of the terms or provisions of, or constitute a default, or a condition which upon notice or lapse of time or both would ripen into a default, under the organizational documents of Tenant or under any indenture, agreement, instrument or obligation to which Tenant is a party or is bound, and (ii) do not, to the knowledge of Tenant, constitute a violation of any law, order, rule or regulation applicable to Tenant of any court or of any federal, state or municipal regulatory body or administrative agency or other governmental body having jurisdiction over Tenant.

(e) **Consents.** No permission, approval or consent by third parties or any other governmental authorities is required in order for Tenant to enter into this Lease, make the agreements herein contained or perform the obligations of Tenant hereunder other than those which have been obtained.

(f) **Proceedings.** There are no actions, suits or proceedings pending or, to the reasonable best knowledge of Tenant, threatened or asserted against Tenant affecting Tenant, at law or at equity or before or by any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign.

**ARTICLE XVI.
Intentionally Blank**

**ARTICLE XVII.
TENANT'S OPTIONS**

Section 17.1 Option for Purchase of Buildings. At any time after the tenth (10th) Lease Year, provided that Tenant is not then in default pursuant to this Lease, Tenant shall have the option to purchase all of the buildings and other above-ground Improvements located on the Land pursuant to the provisions of this paragraph. Such option may be exercised by written notice to Landlord indicating Tenant's desire to exercise this option. Upon the exercise of such option, the Tenant shall pay a sum of money equal to the purchase price as described above to Landlord within sixty (60) days after exercise of the option in exchange for which the Landlord shall execute and deliver a deed conveying to Tenant with special warranty of title, the buildings and other above-ground Improvements located on the Land, but retaining the Land and all below-ground and sub-surface Improvements located on the Land, and subject to all matters of record. The purchase price to be paid by Tenant for such conveyance shall be determined as follows:

The Purchase Price shall be the lesser of i) the amount of the Grant Fund expended, or ii) \$11,333,260.00 reduced by the cumulative total payments of Base Rental and Additional Rental made by Tenant to Landlord during each Lease Year, discounted by a factor of 2% per annum for each Lease Year after the first Lease Year in which such rental payments are made. Attached hereto as **Exhibit F**, is an example illustrating the application of such purchase price formula to hypothetical payment amounts for percentage rental in each Lease Year.

Upon such closing, this Lease shall be amended to extend the Lease Term through the date which is forty (40) years after the first day of the first calendar month following the Commencement Date (or the Commencement Date if the Commencement Date is the first day of a calendar month) and the Annual Base Rent shall be reduced immediately thereafter to \$10.00 per Lease Year, payable on the first day of such Lease Year in advance, and payments of Percentage Rental shall likewise immediately cease, and to provide that the buildings and Improvements purchased by Tenant shall revert to Landlord if not removed by the end of the Lease Term, with all damage to the Land and remaining Improvements caused by such removal to be restored by Tenant. Notwithstanding the foregoing, if Tenant has not exercised its option to purchase the Land (as provided by Section 17.2 hereinbelow) by the expiration of the Lease Term, then Landlord nevertheless agrees to work closely with Tenant to negotiate and mutually agree upon the terms and conditions associated with successive extensions and/or renewals of the Lease Term of at least five (5) years each.

Section 17.2 Option to Purchase Land. Provided that Tenant is not then in default pursuant to this Lease and provided that Tenant has theretofore exercised its option in Section 17.1 above to purchase the buildings and above-ground Improvements, and closed the purchase pursuant to the exercise of such option, Tenant shall have the additional option to purchase the Land and all subsurface and surface grade Improvements located on the Land for a cash price equivalent to the greater of (a) the fair market value of the Land and Improvements purchased determined as provided below, or (b) \$2,648,493.00. Such option may be exercised by written notice from Tenant to Landlord indicating Tenant's desire to exercise such option, subject to potential defeasance as set forth in this Section 17.2 below. Upon an exercise of such option, within sixty (60) days thereafter, each of Landlord and Tenant shall obtain and furnish to the other an appraisal of the fair market value of the Land and Improvements to be conveyed prepared by an MAI Appraiser licensed in the State of Texas. If the higher of the fair market values as determined by such two appraisals is no more than 115% of the lower value, the arithmetic average of such two values shall be the fair market value for purposes of this option. If the higher value is more than 115% of the lower value, the two appraisers shall select a third appraiser who shall also submit an appraisal of the fair market value of the Land and Improvements to be conveyed and the median value determined by the three appraisers shall be the fair market value for purposes of this option. If either of Landlord or Tenant fails to submit an appraisal within the time provided, the fair market value shall be as determined by the appraisal obtained by the other party. All such

appraisers shall be instructed to determine the fair market value of the Land and subsurface and surface-grade Improvements as if unencumbered by this Lease. Within ninety (90) days after determination of the fair market value, Tenant shall pay the purchase price in cash to Landlord in exchange for a special warranty deed conveying the Land and surface-grade and subsurface Improvements to Tenant.

Should Landlord desire to sell the Land to a third party before the end of the tenth (10th) Lease Year, Tenant shall have a right of first refusal to purchase the Land, subsurface Improvements, and surface-grade Improvements on the equivalent terms and condition contained in a written offer to purchase the Land as encumbered by this Lease received by Landlord from an unaffiliated third party, which offer Landlord desires to accept. Accordingly, any such third party offer accepted by Landlord shall be accepted subject to Tenant's right to preempt such third party purchase by Tenant's written notice to Landlord (the "**ROFR Exercise Notice**"), given within ten (10) business days after Tenant's receipt of the complete third party offer as accepted by Landlord subject to Tenant's preemptive right (the "**Third Party Contract**"), that Tenant elects (1) to assume the position of the third party Purchaser under the Third Party Contract, with a waiver of any inspection period or due diligence period provided in the Third Party Contract, and (2) to exercise Tenant's purchase option pursuant to Section 17.1 for a closing simultaneously with Tenant's portion of the Land pursuant to this Section 17.2.

If Tenant fails to give a ROFR Exercise Notice within the time provided, Landlord shall be free to sell the Land, subsurface Improvements, surface-grade Improvements, and Landlord's interest in this Lease to the third party purchaser pursuant to the Third Party Contract and upon the closing of such sale and purchase, Tenant's option pursuant to this Section 17.2 shall be defeased, but Tenant's options pursuant to Section 17.1 and 17.3 shall continue in effect.

If Tenant gives a ROFR Exercise Notice, but thereafter fails to close both the purchase of the Land and associated Improvements pursuant to the Third Party Contract and the buildings and associated Improvements pursuant to the exercise of option provided in Section 17.1, on the Closing Date provided in the Third Party Contract for any reason other than Landlord's default, Tenant's option pursuant to this Section 17.2 shall be defeased, but Tenant's options pursuant to Section 17.1 and 17.3 shall continue in effect.

Upon a purchase of the Land by Tenant, this Lease shall terminate upon the closing of such purchase.

Section 17.3 Right of First Offer on Adjacent Land. During the Term, provided that Tenant is not then in default pursuant to this Lease, Tenant shall have a right of first offer to purchase the Adjacent Land on the terms and conditions specified in this paragraph. During the Term, Landlord shall not offer for sale the Adjacent Tract or accept any offer for the sale of the Adjacent Land without first notifying Tenant of its intent to market the Adjacent Land (the "**Landlord Notification**"). Within fifteen (15) business days after receiving the Landlord Notification, Tenant may notify Landlord of its intent to make an offer to purchase the Adjacent Land at fair market value. Tenant's failure to make such offer within such 15 business day period shall be a waiver of the right of first offer provided herein. If Tenant indicates that it does desire to exercise its right of first offer with respect to the Adjacent Land, each of Landlord and Tenant shall commission a licensed Texas real estate broker to issue an opinion of fair market value as to the Adjacent Land within sixty (60) days after Tenant's indication that it desires to exercise its right of first offer. The fair market value of the Adjacent Land shall be determined utilizing the same procedures as described in Section 17.2 above for determination of the fair market value of the Land and such fair market value so determined shall be the purchase

price for the Adjacent Land. Tenant shall purchase the Adjacent Land after an exercise of its right of first offer herein at a closing to be held within ninety (90) days after determination of the fair market value and at such closing Tenant shall pay the purchase price to Landlord in cash and Landlord shall convey the Adjacent Land to Tenant by special warranty deed subject to all matters of record. Tenant's failure to close the purchase after exercising its right of first offer as provided herein shall constitute a waiver of Tenant's right of first offer under this paragraph.

ARTICLE XVIII.

MISCELLANEOUS

Section 18.1. Rent on Net Return Basis. It is intended that the rent provided for in this Lease shall be a net return to Landlord as provided herein, without any offsets or deductions whatsoever. Tenant shall pay all operating expenses with respect to the Leased Premises, including, without limitation, insurance premiums, utility charges, maintenance and repair costs, and taxes and assessments, and this Lease shall be construed in accordance with and to effectuate this intention.

Section 18.2. Holding Over. If Tenant, or any of Tenant's successors in interest, fails to surrender the Leased Premises, or any part thereof, on the expiration of the Lease Term (whether by lapse of time or otherwise), the holding over shall constitute a tenancy from month-to-month terminable at any time by either Landlord or Tenant after 30 days prior written notice to the other, at a monthly rental equal to one hundred fifty percent (150%) of the rent paid for the month preceding the expiration of the Lease Term.

Section 18.3. Waiver of Default. No waiver by the parties hereto of any default or breach of any term, condition or covenant of this Lease shall be deemed to be a waiver of any subsequent default or breach of the same or any other term, condition or covenant contained herein.

Section 18.4. Estoppel Certificates. Both parties hereto agree that from time to time, on 10 days prior written request, the non-requesting party, at the requesting party's cost, will deliver to the requesting party a statement in writing certifying:

- (a) if the facts permit, that this Lease is unmodified and in full force and effect (or if there have been modifications, that this Lease as modified is in full force and effect and stating the modifications);
- (b) the dates to which rent and other charges have been paid;
- (c) that either the requesting party is not in default under any monetary obligation or other material term or provision of this Lease, or if in default the nature thereof in detail in accordance with an exhibit attached thereto;
- (d) that rent has not been paid more than one (1) month in advance; and
- (e) any other information reasonably requested by the requesting party.

Section 18.5. No Partnership. It is understood and agreed that in leasing and operating the Leased Premises, Tenant is acting independently and is not acting as agent, partner, joint venturer or employee of Landlord.

Section 18.6. Survival. All of the terms, provisions, conditions, agreements and covenants contained in this Lease shall survive the expiration or termination of this Lease with respect to all rights and remedies that have accrued prior to or that accrue on the expiration or termination of this Lease.

Section 18.7. Exhibits. All exhibits, attachments, annexed instruments and addenda referred to herein shall be considered a part hereof for all purposes.

Section 18.8. Use of Language. Words of any gender used herein shall be held and construed to include any other gender, and words in the singular shall be held to include the plural, unless the context otherwise requires.

Section 18.9. Captions. The captions or headings of paragraphs in this Lease are inserted for convenience only, and shall not be considered in construing the provisions hereof if any question of intent should arise.

Section 18.10. Successors. The terms, conditions and covenants contained in this Lease shall apply to, inure to the benefit of, and be binding upon the parties hereto and their respective permitted successors and assigns. All rights, powers, privileges, immunities and duties of either party under this Lease, including, but not limited to, any notices required or permitted to be delivered by either party hereunder, may, at such party's option, be exercised or performed by such party's agent or attorney.

Section 18.11. Severability. If any provision herein is held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Lease shall not be affected thereby.

Section 18.12. Notices. All notices which are required or permitted hereunder must be in writing and shall be deemed to have been given, delivered or made, as the case may be, (notwithstanding lack of actual receipt by the addressee): (i) upon actual receipt or refusal by the addressee by hand, telecopier or other electronic transmission; or (ii) three (3) business days after having been deposited in the United States mail, certified or registered, return receipt requested, sufficient postage affixed and prepaid; or (iii) one (1) business day after having been deposited with an expedited, overnight courier service (such as by way of example but not limitation, U.S. Express Mail, Federal Express or UPS) for one-day delivery, addressed to the party to whom notice is intended to be given at the following addresses:

LANDLORD'S ADDRESS:

McKinney Community Development Corporation
Attention: Cindy Schneible, President
5900 S. Lake Forest Drive, Suite 110
McKinney, Texas 75070
Email: cschneible@mckinneycdc.org

With a copy to:

City of McKinney
Attention: City Manager
222 N. Tennessee Street
McKinney, Texas 75070

With a copy to:

Brown & Hofmeister, LLP
Attention: Mark Houser
740 E. Campbell Road, Suite 800
Richardson, Texas 75081

TENANT'S ADDRESS:

TUPPS Brewery, LLC
Attention: Keith Lewis
721 Anderson
McKinney, TX 75069

Leggett Clemons Crandall, PLLC
5700 Granite Parkway, Ste. 950
Plano, Texas 75024
Attn: Steve H. Clemons
Email: sclemons@lccclawfirm.com

Section 18.13. Fees or Commissions. Each party hereby represents and warrants to the other that it has neither contacted nor entered into an agreement with any real estate broker, agent, finder, or any other party in connection with this transaction, or taken any action that would result in any real estate broker's, finder's, or other fees or commissions being due or payable to any other party with respect to the transaction contemplated by this Agreement. To the extent permitted by applicable law, each party hereby indemnifies and agrees to hold the other party harmless from any loss, liability, damage, cost, or expense (including reasonable attorney's fees) resulting to the other party from a breach of the representation made by the indemnifying party in this Section 18.13.

Section 18.14. Counterparts. This Lease may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument.

Section 18.15. Actions for Nonpayment of Rent and Other Charges. Tenant shall not for any reason withhold or reduce Tenant's required payments of rentals and other charges provided in this Lease, it being agreed that the obligations of Landlord hereunder are independent of Tenant's obligations, except as may be otherwise expressly provided.

Section 18.16. Limitation of Landlord's Liability. Landlord's and the City's elected officials and employees shall not be personally liable for any judgments.

Section 18.17. Delays. The time for the performance of either Landlord's or Tenant's obligations, as the case may be, relative to the construction, restoration, repair, operation and maintenance of the Improvements as provided for in this Lease shall be extended for the period that such performance is prevented by Unavoidable Delay (as hereinafter defined); provided, however, that the Rent Date shall not be extended due to any Unavoidable Delay. "**Unavoidable Delay**" shall mean all failures or delays in a party's performance of its obligations hereunder not within such party's reasonable control, including without limitation, the impossibility of such performance which shall result from or be caused by acts of God, acts of the public enemy, wars, blockades, any unforeseen future pandemics, earthquakes, storms, floods, explosions, strikes, labor disputes, work stoppages, riots, insurrections, lawful acts of any governmental agency, business shutdowns and/or closings mandated by governmental agencies, save and except the City of McKinney, or other authority, restricting or curtailing the construction of the Improvements or withholding or revoking necessary consents, approvals, permits or licenses, equipment failures, provided, that such party shall pursue with reasonable diligence the avoidance or removal of such delay. The inability or refusal of a party to settle any labor dispute shall not qualify or limit the effect of Unavoidable Delay. The parties hereby agree, when feasible, to reschedule the pertinent obligations and deliverables for mutually agreed dates as soon as practicable after the Unavoidable Delay ends.

Section 18.18. Short Form Lease. The parties agree not to place this Lease of record, but each party shall, at the request of the other, execute and acknowledge so that the same may be recorded a short form lease or memorandum of lease, stating that Tenant has accepted possession of the Leased Premises, indicating the Lease Term, but omitting rent and other terms, and an agreement specifying the date of commencement and termination of the Lease Term; provided, however, that the failure to record said short form lease, memorandum of lease or agreement shall not affect or impair the validity and effectiveness of this Lease. The party requesting such recording shall pay all costs, taxes, fees and other expenses in connection with or prerequisite to recording.

Section 18.19. Governing Law; Provisions Severable. The laws of the State in which the Leased Premises are situated shall govern the interpretation, validity, performance and enforcement of this Lease. If any provision of this Lease should be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Lease shall not be affected thereby. Venue for any action under this Lease shall be in Collin County, Texas.

Section 18.20. Interest on Late Payments. In the event any installment of Base Annual Rental, Percentage Rental or any other sum payable by Tenant to Landlord under the provisions of this Lease is not received by Landlord from Tenant within ten (10) days of the date it is due and payable, Tenant shall pay to Landlord an additional sum equal to five percent (5%) of the amount due. Furthermore, in the event any installment of Base Annual Rental, Percentage Rental or any other sum payable by Tenant to Landlord under the provisions of this Lease is not received within ten (10) days after its due date for any reason whatsoever, it is agreed that the amount thus due shall bear interest at the maximum contractual rate which legally could be charged under the laws of the State in which the Leased Premises are situated in the event of a loan of such rental or other sum to Tenant (but in no event to exceed 1-1/2% per month), such interest to accrue continuously on any unpaid balance due to Landlord by Tenant during the period commencing with the aforesaid due date and terminating with the date on which Tenant makes full payment of such amounts to Landlord. Any such interest shall be payable as additional rent hereunder and shall be payable immediately on demand. In addition to any other charges permitted herein, if Tenant makes a payment to Landlord by check and said check is returned to Landlord by Tenant's bank marked NSF (Not Sufficient Funds), "Account Closed," or is dishonored for some similar reason, then an additional charge of \$50.00 per check shall be paid by Tenant to Landlord.

Section 18.21. No Warranties; Covenants of Performance. Tenant acknowledges that its decision to lease the Leased Premises is based solely upon Tenant's comprehensive inspection of the Leased Premises and not upon any warranty or representation of Landlord, or of Landlord's employees, agents, or representatives, with regard thereto. It is expressly stipulated and agreed that none of the obligations to be undertaken hereunder by Landlord shall constitute any form of a warranty, express or implied, all such obligations being contractual covenants of performance. Without limiting the generality of the foregoing, THERE IS NO WARRANTY, EXPRESS OR IMPLIED, OF SUITABILITY, MERCHANTABILITY, HABITABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE GIVEN IN CONNECTION WITH THIS LEASE. The parties agree that the herein provision disclaiming warranties, express and implied, are provisions bargained for by the parties in entering into this Lease. The parties further agree that had warranties been undertaken by the Landlord hereunder or were the Landlord to undertake to perform repairs beyond that contemplated hereunder, the economics of this Lease would have been affected and would have required an increase in rent from that payable hereunder.

Section 18.22. Entire Agreement and Amendments. This Lease embodies the entire agreement between Landlord and Tenant and supersedes all prior agreements and understandings,

whether written or oral, and all contemporaneous oral agreements and understandings relating to the subject matter hereof. Except as otherwise specifically provided herein, no agreement hereafter made shall be effective to change, modify, discharge or effect an abandonment of this Lease, in whole or in part, unless such agreement is in writing and signed by or on behalf of the party against whom enforcement of the change, modification, discharge or abandonment is sought.

Section 18.23. Bankruptcy or Insolvency. Landlord and Tenant agree that if Tenant ever becomes the subject of a bankruptcy proceeding under the federal bankruptcy laws, as now enacted or hereinafter amended, then "adequate protection" of Landlord's interest in the Leased Premises pursuant to the provisions of Sections 361 and 363 or their successor sections of the United States Bankruptcy Code, 11 U.S.C. §101, et seq. (the "**Bankruptcy Code**") prior to the assumption and/or assignment of the Lease by Tenant shall include, but not be limited to all (or any part) of the following:

(a) The continued payment by Tenant of all rent and other sums due and owing under this Lease; the performance of all other covenants and obligations under this Lease by Tenant;

(b) The hiring of security guards to protect the Leased Premises if Tenant abandons and/or ceases operations; such obligation of Tenant only to be effective so long as Tenant remains in possession and control of the Leased Premises to the exclusion of Landlord; and

(c) The furnishing of a security deposit by Tenant in the amount of three times the then-current monthly Base Annual Rental payable hereunder.

Notwithstanding anything in this Lease to the contrary, all amounts payable by Tenant to or on behalf of Landlord under this Lease, whether or not expressly denominated as "rent," shall constitute "rent" for the purposes of §502(b)(6) of the Bankruptcy Code. If this Lease is assigned to any person or entity pursuant to the provisions of the Bankruptcy Code, any and all monies or other considerations payable or otherwise to be delivered in connection with such assignment shall be paid and delivered to Landlord, shall be and remain the exclusive property of Landlord and shall not constitute property of Tenant or the estate of Tenant within the meaning of the Bankruptcy Code. Any and all monies or other considerations constituting Landlord's property under the preceding sentence not paid or delivered to Landlord shall be held in trust by Tenant for the benefit of Landlord and shall be promptly paid to or turned over to Landlord.

Section 18.24. Landlord's Right to Perform Tenant's Covenants. If Tenant shall fail in the performance of any of its covenants, obligations or agreements contained in this Lease, other than the obligation to pay Base Annual Rental and Percentage Rental, and such failure shall continue without Tenant curing or commencing to cure such failure within all applicable grace and/or notice and cure periods, Landlord may, after ten (10) days additional written notice to Tenant specifying such failure (or shorter notice if imminent danger to the safety of persons or of substantial damage to property exists), perform the same for the account and at the expense of Tenant, but Landlord will not be obligated to perform same, and the amount of any payment made or other reasonable expenses (including reasonable attorneys' fees incurred by Landlord for curing such default), with interest thereon at the highest rate then allowed by law, shall be payable by Tenant to Landlord on demand, or, if not so paid, shall be treated at Landlord's option as a monetary default hereunder pursuant to and subject to all of the provisions of Section 14.1(a) hereof.

Section 18.25. Time is of the Essence. Time is of the essence with respect to each and every provision of this Lease.


Section 18.26. Exhibits. As of the date of execution of this Lease, the parties have agreed to the attached Exhibit "A" (Description of Land), Exhibit "B" (Project Scope Criteria), Exhibit "C" (Personal Property List), Exhibit "C-1" (Tenant's Owned Personal Property List), Exhibit "D" (Approved Budget), Exhibit "E" (Easements and Encumbrances), and Exhibit "F" (Illustrative Example of Section 17.1 Purchase Price Calculation) which Exhibits shall govern the construction of the Facility Expansion and the Lease.

[Signatures on Next Page]

EXECUTED as of the day, month and year first above written.

LANDLORD:

**MCKINNEY COMMUNITY DEVELOPMENT
CORPORATION,
A Texas non-profit community development
corporation**

By: 
Name: Jackie Brewer
Title: Chairman

TENANT:

**TUPPS BREWERY, LLC,
a Texas limited liability company**

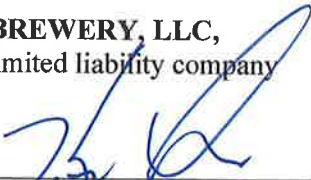
By: 
Name: Keith Lewis
Title: President

Exhibit "A"

Description of Land

[4.317 acres, less the northeastern portion]

Being a 190,238 square foot or 4.3676 acres, tract of land situated in the William Davis Survey, Abstract No. 248, City of McKinney, Collin County, Texas, and being known as all of Lots 1 and 2, Block 1 of Andrew's Addition, an Addition to the City of McKinney, according to the Plat thereof recorded in Volume 116, Page 210, Deed Records, Collin County, Texas, also known as Tract 1 as described in a Warranty Deed to East State Hwy 5, LLC, as recorded under Instrument Number 20090224000202340, Official Public Records, Collins County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a found 1 1/2 inch iron rod for the southeast corner of the herein described tract and said Lot 2, Block 1, said point also being the northwest corner of the intersection of Green Street (40' right-of-way) and Andrews Street (40' right-of-way)

Thence South 89 degrees 08 minutes 00 seconds West, along the north right-of-way line of said Green Street, common with the south line of the herein described tract, a distance of 302.66 feet to a set 1/2 inch iron rod with a yellow cap stamped "TXHS", said point being the southwest corner of the herein described tract and said Lot 2, Block 1, said point also lying on the east line of that certain tract of land as described in Warranty Deed to Gilbert Living Trust, as recorded under Instrument Number 94-0069414, Real Property Records, Collin County, Texas, from which a found 1/2 inch iron rod bears South 62 degrees 22 minutes 39 seconds East, a distance of 0.92 feet;

Thence North 00 degrees 04 minutes 00 seconds East, departing the north right-of-way line of said Green Street, along the west line of said Gilbert tract, common with the east line of the herein described tract, passing the northeast corner of Gilbert tract, common with the southeast corner of that certain tract of land as described in Warranty Deed to Gilbert Living Trust, as recorded under Instrument Number 94-0069417, Real Property Records, Collin County, Texas, and continuing along said line also passing the northeast corner of said Gilbert Living Trust tract as recorded under Instrument Number 94-0069417, common with the southeast corner of that certain tract of land as described in Warranty Deed to Charles L. Wilhite, and Sherilyn K. Wilhite, as recorded under Volume 5560, Page 4868, Deed Records, Collin County, Texas, for a total distance of 686.82 feet to a set 1/2 inch iron rod with a yellow cap stamped "TXHS", said point being the northwest corner of the herein described tract, lying on the east line of said Wilhite tract, and also lying on the southerly right-of-way line of E. Louisiana Street (variable width right-of-way) / Greenville Street (variable width right-of-way);

Thence South 89 degrees 56 minutes 00 seconds East, departing the east right-of-way line of said Wilhite tract, along the southerly right-of-way line of said Louisiana Street / Greenville Street, common with the northerly line of the herein described tract, a distance of 42.30 feet to an "X" in concrete set, said point being an angle point;

Thence South 61 degrees 30 minutes 00 seconds East, continuing along the southerly right-of-way line of said Greenville Street, common with the north line of the herein described tract, a distance of 292.80 feet to a found 1/2 inch iron pipe, said point lying on the west right-of-way line of said Andrews Street, and said point also being the northeast corner of the herein described tract;

Thence South 00 degrees 14 minutes 00 seconds East, departing the southerly right-of-way line of said Greenville Street, along the east line of the herein described tract, common with the west right-of-way line of said Andrews Street, a distance of 542.49 feet to the POINT OF BEGINNING and containing 190,238 square feet or 4.3673 acre of land.

Exhibit "B"

Project Scope Criteria

Exhibit "B"
Project Scope Criteria

TUPPS BREWERY @McKinney Grain & Feed
402 N. Louisiana Drive McKinney Texas 75069

PROJECT DESCRIPTION

The Project will consist of an approximately four-acre site to include an open/public space for events and concerts, landscaping and game areas for adults and kids, a beer garden, patios, trellis, arbors, and walking paths. The site will feature a renovation of the grain processing facility into the taproom that will include a full bar with bar seating, a restaurant seating area for food service, a smaller bar to serve both inside and outside, an elevated deck for additional seating, and a merchandise area for merchandise sales and beer to go sales. Adjacent to the taproom a new wing to the building will be added to include a full kitchen, a private rentable area, and restrooms. The existing warehouse, or "barrel aging", building will require some upgrades and be used for storage of barrels and additional covered seating. Additionally, the site will include the new construction of a state-of-the-art brewery and packaging facility with office space on a mezzanine. Minor renovations will be made to bring the small building on the northwest corner of the site to bring it up to code to be potentially leased to a coffee shop or like business at some future date. The total interior square footage of all buildings will be a minimum of 38,500. This is subject to change based on general contractors bid to build. The scope may change based on project cost. (If scope, interior sf and/or amenities for public space change-will need to go to MCDC board).

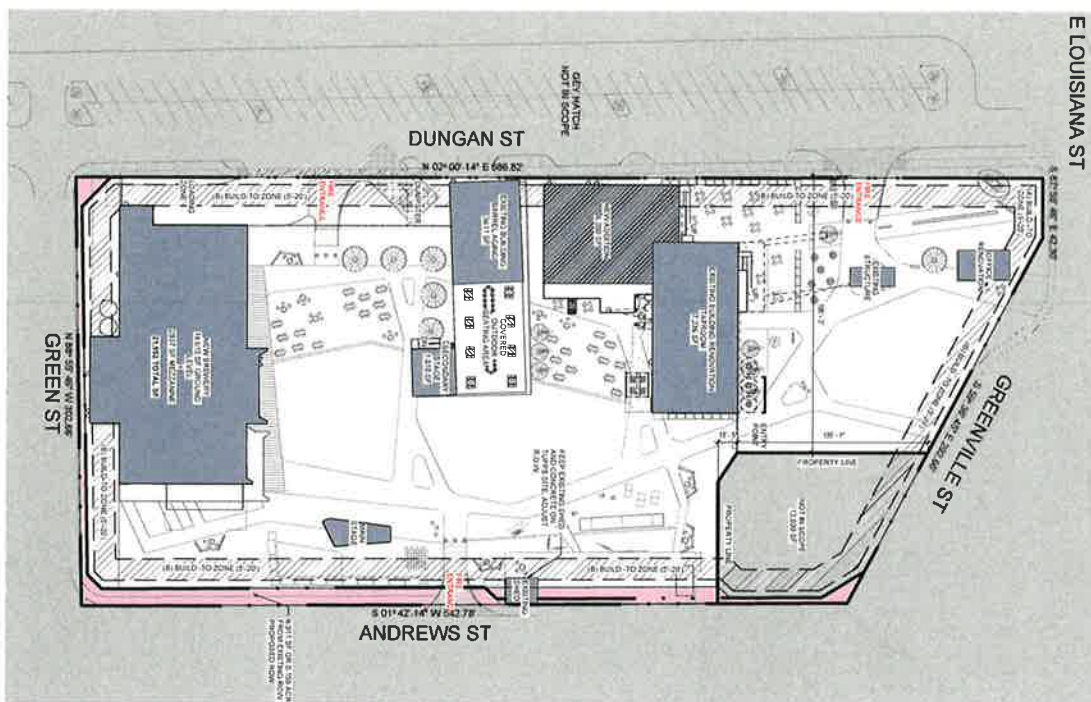
Along with the above considerations, the project will also consist of, but not limited to:

Earthwork, demolition, site utilities, site improvements, site amenities, landscape & irrigation, building envelope, renovations, new construction interior finishes, fire protection, plumbing, HVAC, electrical, security, and communications.

Notwithstanding the foregoing, nothing herein shall supersede or amend any conflicting provision of the Lease, it being understood that the Lease shall control.

Schedule Milestones:

- | | |
|---------------------------------------|-----------------------|
| • GC proposal responses due | Dec 11, 2020 |
| • Proposal evaluation / GC Interviews | Dec 11 – Dec 15, 2020 |
| • GC Selection / Agreement execution | Dec 07 – Dec 18, 2020 |
| • Contractor Participation Start | Jan 7 2021 |
| • Estimated Substantial Completion | February 2022 |

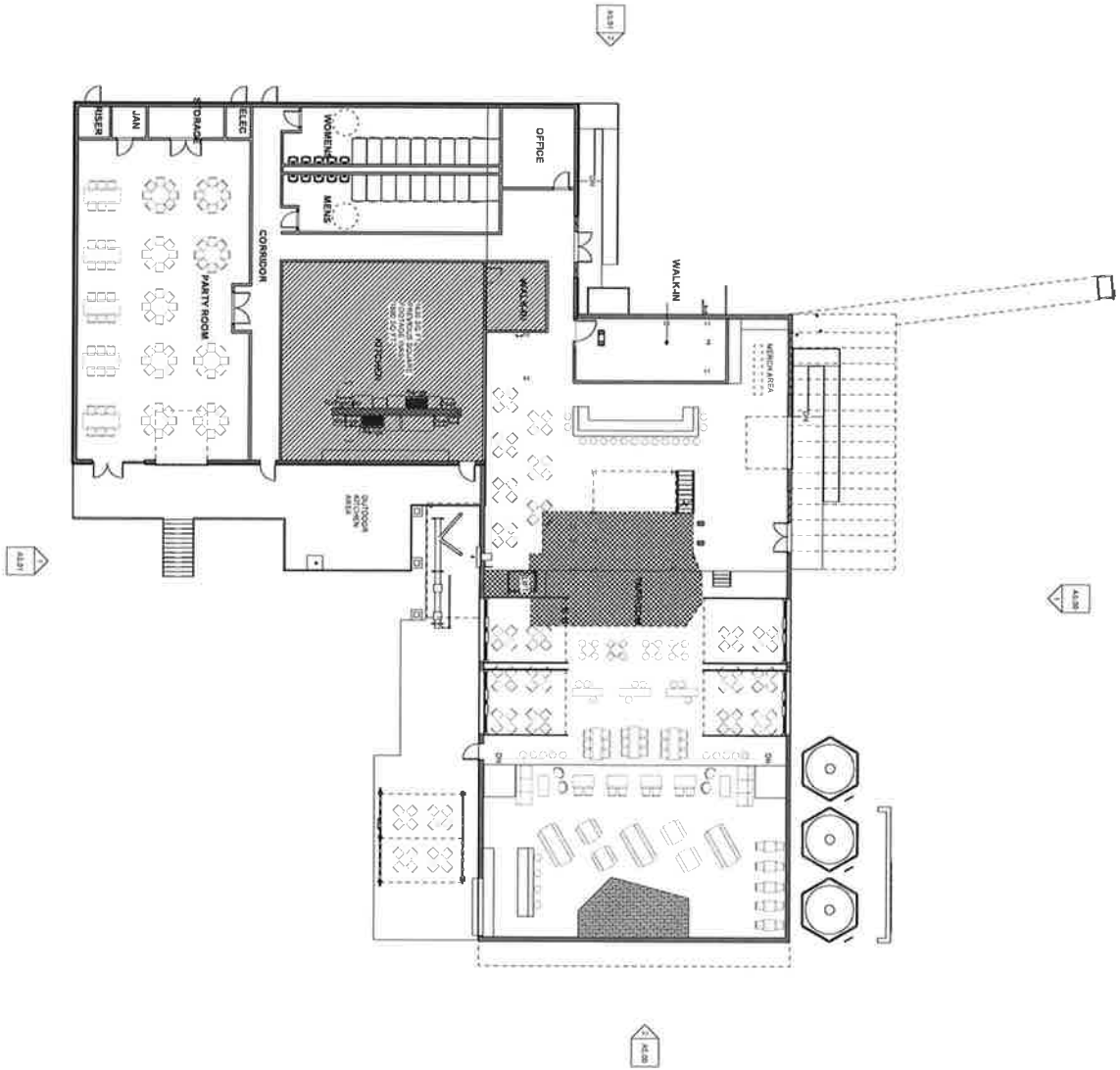


ZONING REGULATIONS:

- LOCATED IN MCKINNEY MFC -> TRANSIT VILLAGE EDGE
- REFER TO APPENDIX G-2, SECTION 1'S
- BUILDING PLACEMENT (7.2)
- BUILDING FRONTAGE REQUIRED ALONG PERMANENT PROPERTY X= 70% MIN
- NO FRONTAGE REQUIRED ALONG SERVICE ST.
- BUILDING HEIGHT (7.3)
 - * 3 STOREYS MAX
 - * GROUND FLOOR HEIGHT = 12' UN FOR SIDEWALK RAMPED USED
 - * GROUND FLOOR FINISH LEVEL: 12' MAX ABOVE SUBGRADE
 - * UPPER FLOOR HEIGHTS: 10' MIN
- ACCESS (7.4)
 - * 2 STOREYS MAX
 - * BZSETBACKS: PLACED BEHIND FACADE
 - * FOOTPRINT: NO MORE THAN 75% OF PRIMARY STRUCTURE
- LOT & BLOCK (7.5)
 - * 16' x 80' OR 8' x 90' ON LOT WIDTH/DEPTH
 - * BLOCK FACE DIMENSION: 600' MAX
- BLOCK PERIMETER: 1600' MAX
- DRIVEWAY (7.5.1)
 - WIDTH: 30' MAX FOR TRUCKS
 - SCREENING OF FORMS/ENCLOSING PER SECTION 146-112
- ENCROACHMENT (7.5.2) * 5% OF SIDEWALK OR 10' WHICHEVER IS LESS
- RECREATION STREET 2' SIDE OF SIDEWALK OR 10' WHICHEVER IS LESS
- SERVICE, REAR, AND SIDE ENCROACHMENT ALLOWED OVER SETBACK, NOT PROPERTY LINE

1 FIRST FLOOR PLAN

3/22" = 1'-0"



A2.00

FLOOR PLAN

1/28/2021
2006

TUPPS BREWERY - TAP ROOM

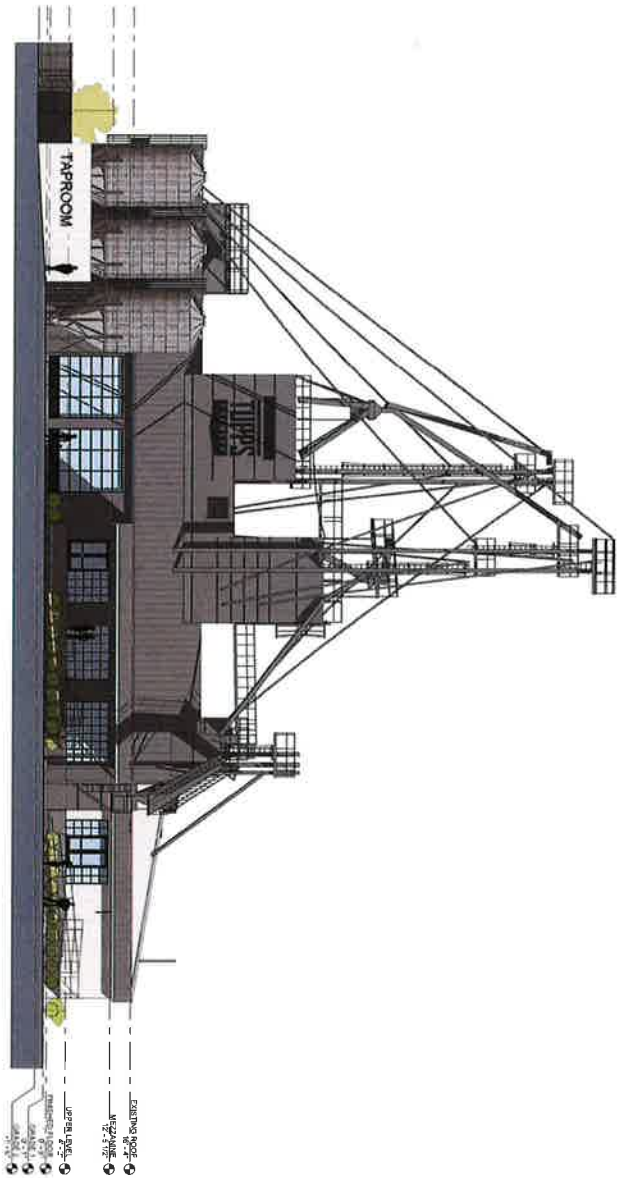
402 E. LOUISIANA ST, MCKINNEY, TX 75069

conduit
architecture + design

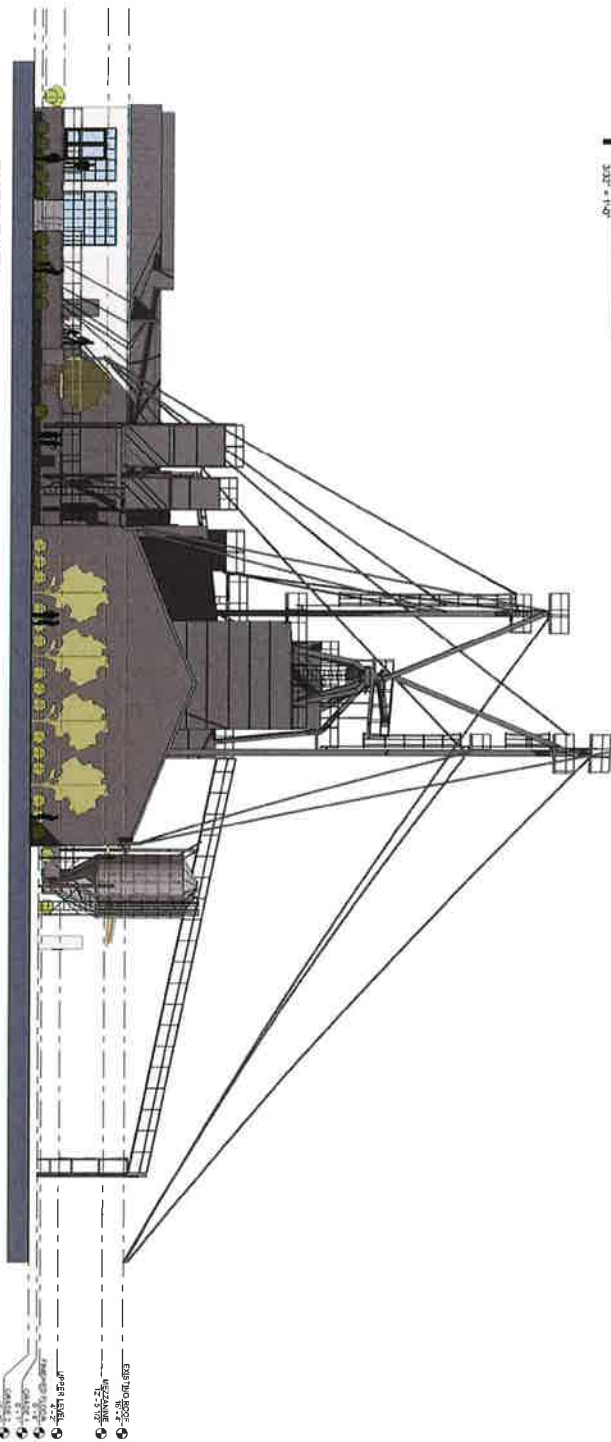
711 Tennessee St.
I 972 302 9747

McKinney, TX
conduited.com

PROCESS PRINT
SCHEMATIC DESIGN
REVIEW
1/28/2021
ART FOR REGISTRATION
APPROVAL FOR PERMIT
DATE: 1/28/2021
SHEET: 1 OF 1



1
NORTH ELEVATION
SIZE = 1/4"



2
EAST ELEVATION
SIZE = 1/4"

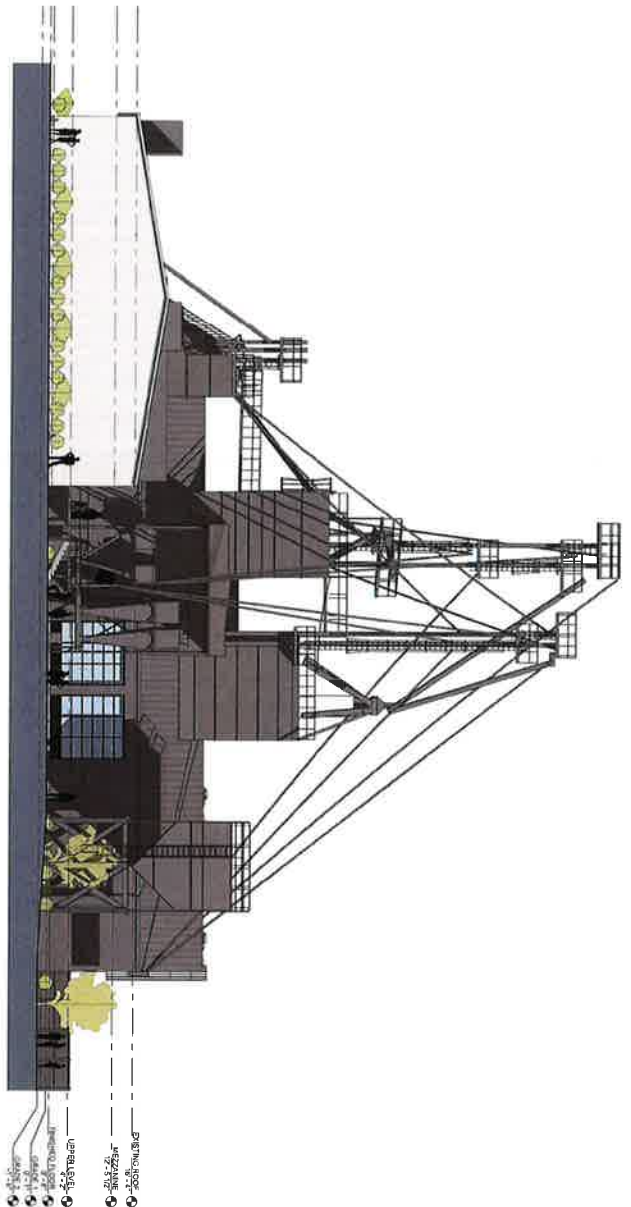
PROCESS PRINT
SCHEMATIC DESIGN
REVIEW
NOT FOR CONSTRUCTION
ARCHITECT: CONDUIT
ENGINEER: CONDUIT
DATE: 1.28.2021

1.28.2021
TUPPS BREWERY - TAP ROOM
402 E. LOUISIANA ST., MCKINNEY, TX 75069
ARCHITECT: CONDUIT
ENGINEER: CONDUIT
DATE: 1.28.2021

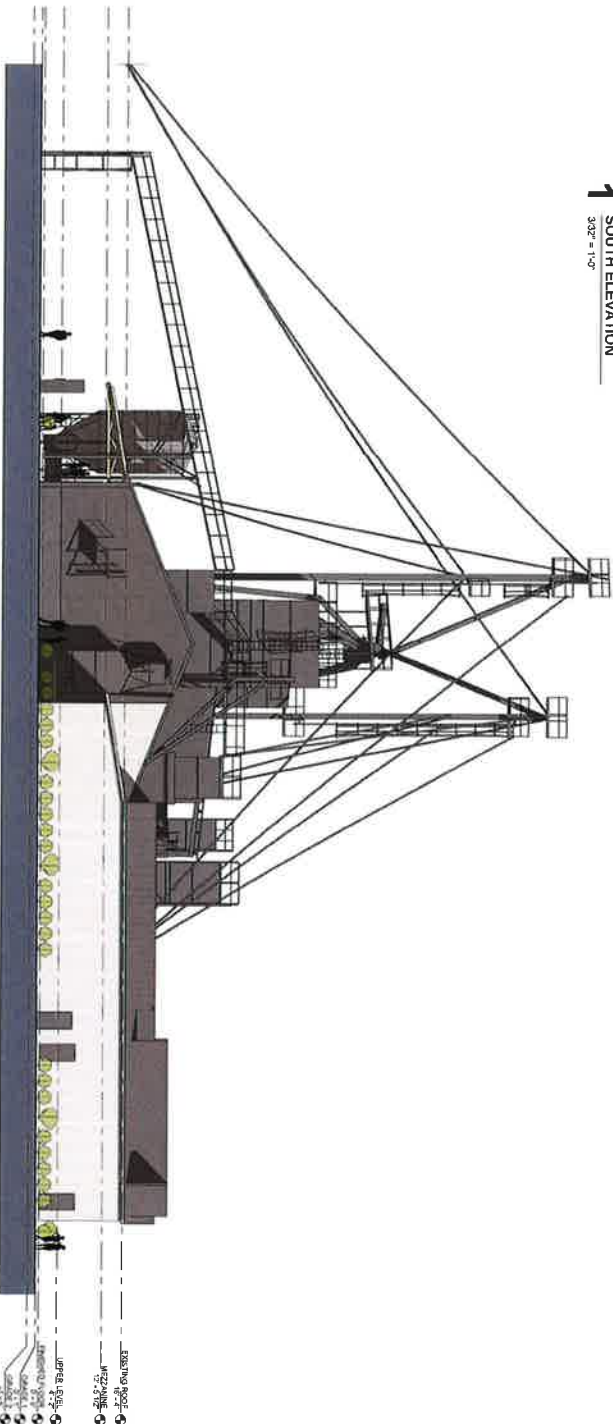
conduit
architecture • design
711 Tennessee St. McKinney, TX
872.302.9747 conduitat.com

TUPPS BREWERY - TAP ROOM
402 E. LOUISIANA ST, MCKINNEY, TX 75069

DATE: 1.28.2021
DRAWN BY: [REDACTED]
CHECKED BY: [REDACTED]
1.28.2021
EXTERIOR ELEVATIONS
A5.00



1 SOUTH ELEVATION
3/32" = 1'-0"



2 WEST ELEVATION
3/32" = 1'-0"

PROCESS PRINT
SCHEMATIC DESIGN
REVIEW

NOT FOR CONSTRUCTION
APPROVAL, REVISIONS
OR CORRECTIONS
BY: J. CONNOR #23110

1.28.2021

1. CONDUIT ARCHITECTURE + DESIGN
2. TUPPS BREWERY
3. TUPPS BREWERY
4. TUPPS BREWERY
5. TUPPS BREWERY
6. TUPPS BREWERY
7. TUPPS BREWERY
8. TUPPS BREWERY
9. TUPPS BREWERY
10. TUPPS BREWERY
11. TUPPS BREWERY
12. TUPPS BREWERY
13. TUPPS BREWERY
14. TUPPS BREWERY
15. TUPPS BREWERY
16. TUPPS BREWERY
17. TUPPS BREWERY
18. TUPPS BREWERY
19. TUPPS BREWERY
20. TUPPS BREWERY
21. TUPPS BREWERY
22. TUPPS BREWERY
23. TUPPS BREWERY
24. TUPPS BREWERY
25. TUPPS BREWERY
26. TUPPS BREWERY
27. TUPPS BREWERY
28. TUPPS BREWERY
29. TUPPS BREWERY
30. TUPPS BREWERY
31. TUPPS BREWERY
32. TUPPS BREWERY
33. TUPPS BREWERY
34. TUPPS BREWERY
35. TUPPS BREWERY
36. TUPPS BREWERY
37. TUPPS BREWERY
38. TUPPS BREWERY
39. TUPPS BREWERY
40. TUPPS BREWERY
41. TUPPS BREWERY
42. TUPPS BREWERY
43. TUPPS BREWERY
44. TUPPS BREWERY
45. TUPPS BREWERY
46. TUPPS BREWERY
47. TUPPS BREWERY
48. TUPPS BREWERY
49. TUPPS BREWERY
50. TUPPS BREWERY
51. TUPPS BREWERY
52. TUPPS BREWERY
53. TUPPS BREWERY
54. TUPPS BREWERY
55. TUPPS BREWERY
56. TUPPS BREWERY
57. TUPPS BREWERY
58. TUPPS BREWERY
59. TUPPS BREWERY
60. TUPPS BREWERY
61. TUPPS BREWERY
62. TUPPS BREWERY
63. TUPPS BREWERY
64. TUPPS BREWERY
65. TUPPS BREWERY
66. TUPPS BREWERY
67. TUPPS BREWERY
68. TUPPS BREWERY
69. TUPPS BREWERY
70. TUPPS BREWERY
71. TUPPS BREWERY
72. TUPPS BREWERY
73. TUPPS BREWERY
74. TUPPS BREWERY
75. TUPPS BREWERY
76. TUPPS BREWERY
77. TUPPS BREWERY
78. TUPPS BREWERY
79. TUPPS BREWERY
80. TUPPS BREWERY
81. TUPPS BREWERY
82. TUPPS BREWERY
83. TUPPS BREWERY
84. TUPPS BREWERY
85. TUPPS BREWERY
86. TUPPS BREWERY
87. TUPPS BREWERY
88. TUPPS BREWERY
89. TUPPS BREWERY
90. TUPPS BREWERY
91. TUPPS BREWERY
92. TUPPS BREWERY
93. TUPPS BREWERY
94. TUPPS BREWERY
95. TUPPS BREWERY
96. TUPPS BREWERY
97. TUPPS BREWERY
98. TUPPS BREWERY
99. TUPPS BREWERY
100. TUPPS BREWERY

conduit
architecture + design

711 Tennessee St.
I. 972.303.9747

McKinney, TX
conduitad.com

TUPPS BREWERY - TAP ROOM

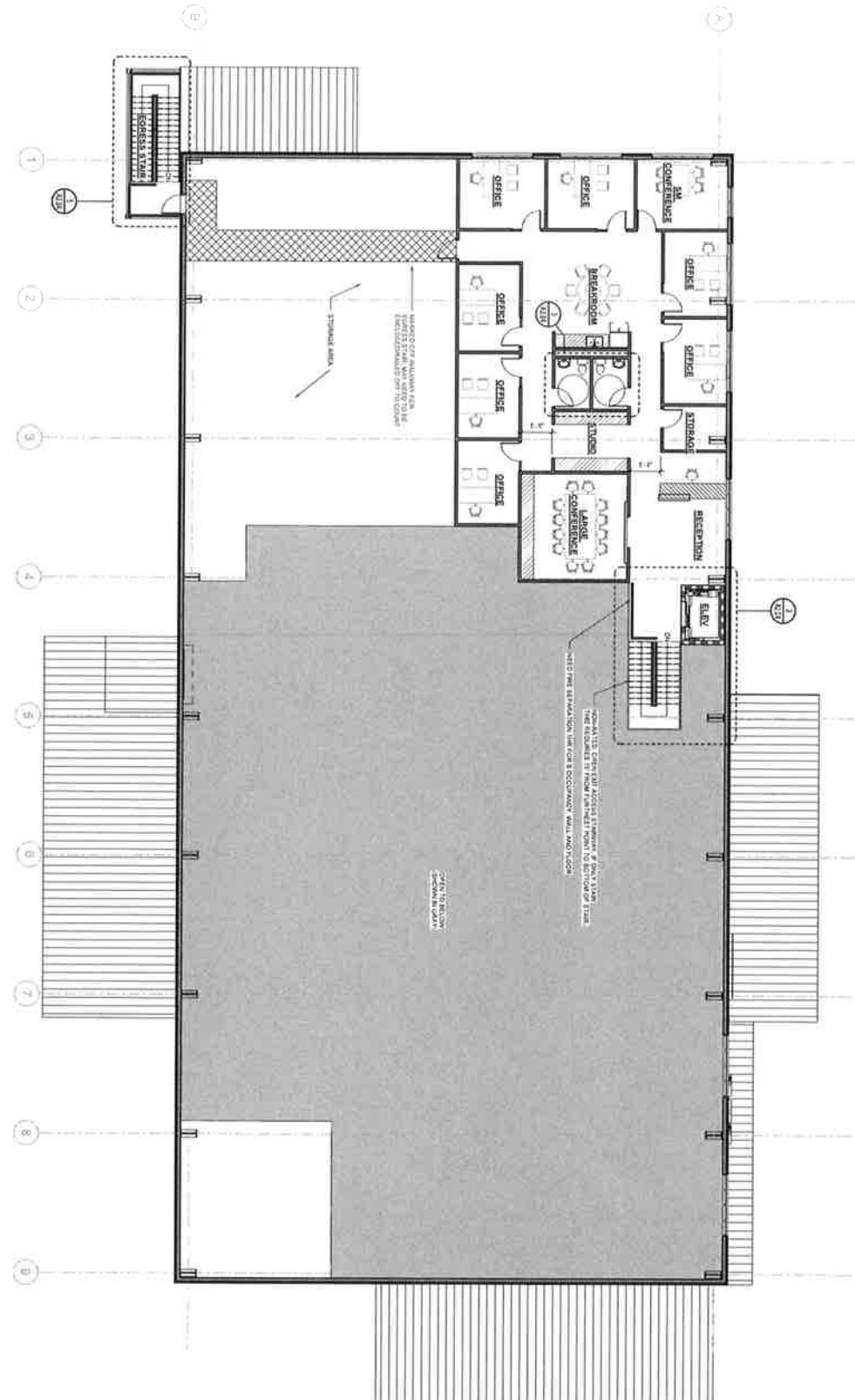
402 E. LOUISIANA ST, MCKINNEY, TX 75069

A5.01

EXTERIOR
ELEVATIONS

1.28.2021

2006



MEZZANINE PLAN

1/16" = 1'-0"

GENERAL CONSTRUCTION NOTES:

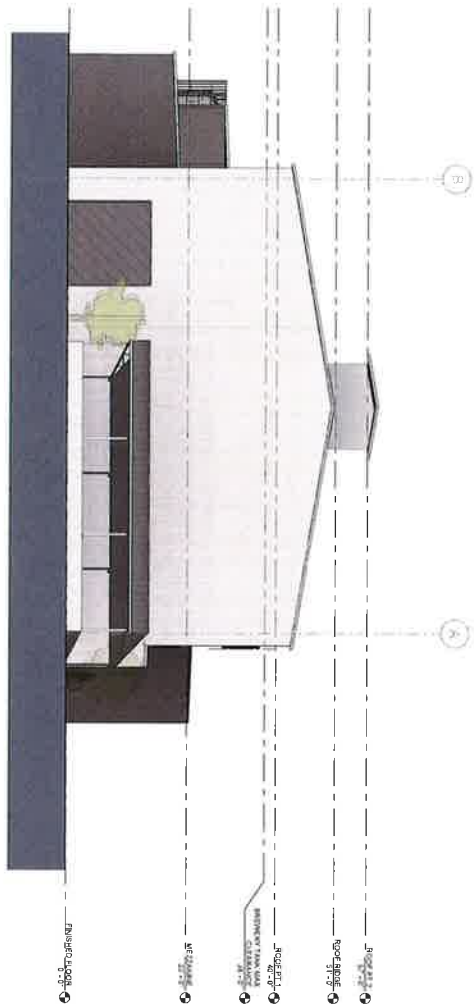
1. CONTRACTOR TO PROVIDE ALL MATERIALS AND LABOR FOR THE MEZZANINE CONSTRUCTION. CONTRACTOR TO BE RESPONSIBLE FOR THE MEZZANINE CONSTRUCTION. CONTRACTOR TO BE RESPONSIBLE FOR THE MEZZANINE CONSTRUCTION.
2. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2015 INTERNATIONAL BUILDING CODE (IBC) AND THE 2015 INTERNATIONAL MECHANICAL AND ELECTRICAL CODE (IMC).
3. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2015 INTERNATIONAL BUILDING CODE (IBC) AND THE 2015 INTERNATIONAL MECHANICAL AND ELECTRICAL CODE (IMC).
4. WHERE IT IS DEEMED NECESSARY TO OBTAIN STABILITY, CONTRACTOR TO PROVIDE FOOTING, ANCHORS AND/OR BRACING IN STUD PARTITIONS. ALL BRACING SHALL BE PROVIDED.
5. ALL WALL ANGLES ARE TO BE 90 DEGREES, UNLESS NOTED OTHERWISE.
6. FIELD VENTILATION AND VENTILATORS ARE REQUIRED BY ALL TRADES.

FLOOR FINISHES/DETAILS:

1. CONTRACTOR TO MEET THE FINISH TO THE MEZZANINE CONSTRUCTION. CONTRACTOR TO BE RESPONSIBLE FOR THE MEZZANINE CONSTRUCTION.
2. PROVIDE FINISHES TO THE MEZZANINE CONSTRUCTION. CONTRACTOR TO BE RESPONSIBLE FOR THE MEZZANINE CONSTRUCTION.
3. PROVIDE FINISHES TO THE MEZZANINE CONSTRUCTION. CONTRACTOR TO BE RESPONSIBLE FOR THE MEZZANINE CONSTRUCTION.
4. PROVIDE FINISHES TO THE MEZZANINE CONSTRUCTION. CONTRACTOR TO BE RESPONSIBLE FOR THE MEZZANINE CONSTRUCTION.
5. PROVIDE FINISHES TO THE MEZZANINE CONSTRUCTION. CONTRACTOR TO BE RESPONSIBLE FOR THE MEZZANINE CONSTRUCTION.
6. PROVIDE FINISHES TO THE MEZZANINE CONSTRUCTION. CONTRACTOR TO BE RESPONSIBLE FOR THE MEZZANINE CONSTRUCTION.
7. PROVIDE FINISHES TO THE MEZZANINE CONSTRUCTION. CONTRACTOR TO BE RESPONSIBLE FOR THE MEZZANINE CONSTRUCTION.
8. PROVIDE FINISHES TO THE MEZZANINE CONSTRUCTION. CONTRACTOR TO BE RESPONSIBLE FOR THE MEZZANINE CONSTRUCTION.
9. PROVIDE FINISHES TO THE MEZZANINE CONSTRUCTION. CONTRACTOR TO BE RESPONSIBLE FOR THE MEZZANINE CONSTRUCTION.
10. PROVIDE FINISHES TO THE MEZZANINE CONSTRUCTION. CONTRACTOR TO BE RESPONSIBLE FOR THE MEZZANINE CONSTRUCTION.

MECHANICAL/ELECTRICAL:

1. PROVIDE MECHANICAL/ELECTRICAL TO THE MEZZANINE CONSTRUCTION. CONTRACTOR TO BE RESPONSIBLE FOR THE MEZZANINE CONSTRUCTION.
2. PROVIDE MECHANICAL/ELECTRICAL TO THE MEZZANINE CONSTRUCTION. CONTRACTOR TO BE RESPONSIBLE FOR THE MEZZANINE CONSTRUCTION.
3. PROVIDE MECHANICAL/ELECTRICAL TO THE MEZZANINE CONSTRUCTION. CONTRACTOR TO BE RESPONSIBLE FOR THE MEZZANINE CONSTRUCTION.
4. PROVIDE MECHANICAL/ELECTRICAL TO THE MEZZANINE CONSTRUCTION. CONTRACTOR TO BE RESPONSIBLE FOR THE MEZZANINE CONSTRUCTION.
5. PROVIDE MECHANICAL/ELECTRICAL TO THE MEZZANINE CONSTRUCTION. CONTRACTOR TO BE RESPONSIBLE FOR THE MEZZANINE CONSTRUCTION.
6. PROVIDE MECHANICAL/ELECTRICAL TO THE MEZZANINE CONSTRUCTION. CONTRACTOR TO BE RESPONSIBLE FOR THE MEZZANINE CONSTRUCTION.
7. PROVIDE MECHANICAL/ELECTRICAL TO THE MEZZANINE CONSTRUCTION. CONTRACTOR TO BE RESPONSIBLE FOR THE MEZZANINE CONSTRUCTION.
8. PROVIDE MECHANICAL/ELECTRICAL TO THE MEZZANINE CONSTRUCTION. CONTRACTOR TO BE RESPONSIBLE FOR THE MEZZANINE CONSTRUCTION.
9. PROVIDE MECHANICAL/ELECTRICAL TO THE MEZZANINE CONSTRUCTION. CONTRACTOR TO BE RESPONSIBLE FOR THE MEZZANINE CONSTRUCTION.
10. PROVIDE MECHANICAL/ELECTRICAL TO THE MEZZANINE CONSTRUCTION. CONTRACTOR TO BE RESPONSIBLE FOR THE MEZZANINE CONSTRUCTION.



1 EAST ELEVATION
3/32" = 1'-0"



2 NORTH ELEVATION
3/32" = 1'-0"

PROCESS PRINT
SCHEMATIC DESIGN
REVIEW

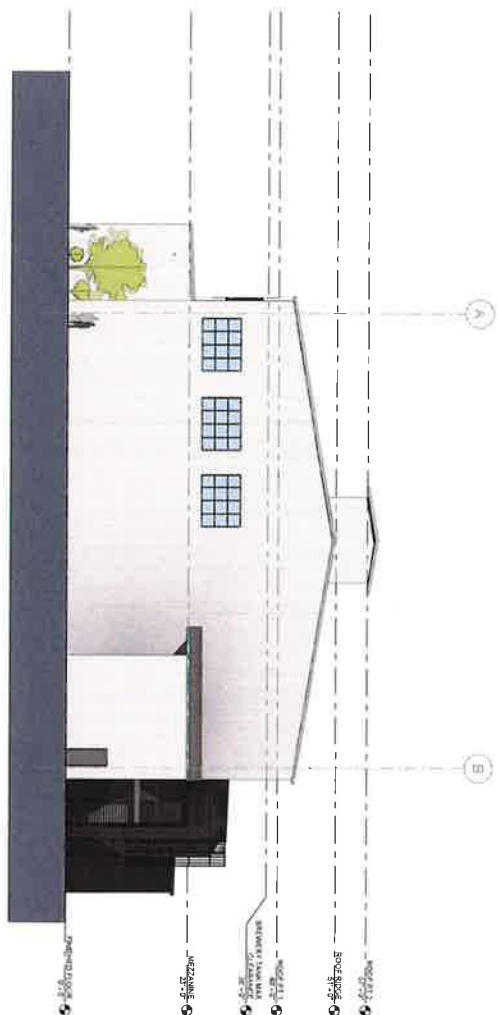
NOT FOR CONSTRUCTION
APPROVAL REQUIRED
DATE: 3/23/2021

2.3.2021

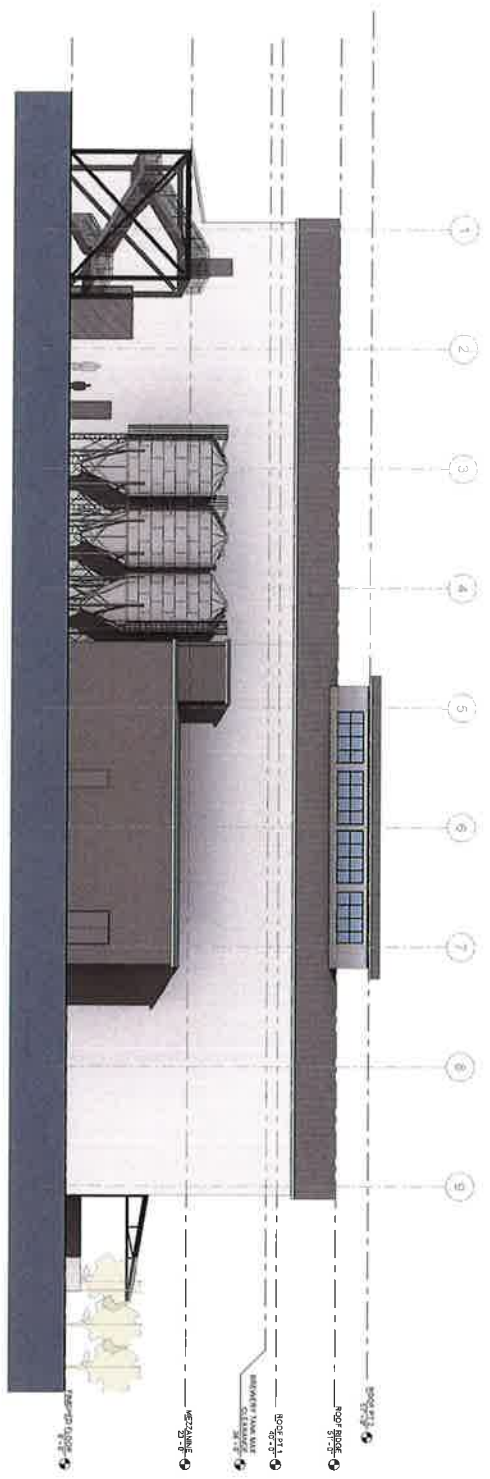
conduit
architecture + design
711 N. Tennessee St. McKinney, Texas
t 972.302.9747 conduitad.com

TUPPS BREWERY - BREWERY
402 E. LOUISIANA ST, MCKINNEY, TX 75069

2006
2.3.2021
EXTENSION
ELEVATIONS
A5.00



1 WEST ELEVATION
3/22' x 14'



2 SOUTH ELEVATION
3/22' x 14'

PROCESS PRINT
SCHEMATIC DESIGN
REVIEW
NOT FOR CONSTRUCTION
APPROVAL, SPECIFICATION
OR CONSTRUCTION
DATE: 2.3.2021
KES: 4/20/2021

conduit
architecture + design
711 N. Tennessee St. McKinney, Texas
972.302.9747
conduited.com

TUPPS BREWERY - BREWERY
402 E. LOUISIANA ST, MCKINNEY, TX 75069

2.3.2021
2008
2.3.2021
EXTERIOR
ELEVATIONS
A5.01

Exhibit "C"

Personal Property List

(to be attached by Tenant)

Exhibit "C-1"

Tenant's Owned Personal Property List

(to be attached by Tenant)

	Qty	Cost	Value
Brewery Equipment			
Fermenter Tanks			
30BBL	2	\$ 15,000	\$ 30,000
60BBL	13	\$ 18,000	\$ 234,000
90BBL	3	\$ 24,000	\$ 72,000
120BBL	1	\$ 36,000	\$ 36,000
Brite Tanks			
60BBL	2	\$ 18,000	\$ 36,000
120BBL	3	\$ 36,000	\$ 108,000
Filter Tanks	1	\$ 3,000	\$ 3,000
Brewhouse	1	\$ 120,000	\$ 120,000
Hot Liquor	1	\$ 18,000	\$ 18,000
Cold Liquor	1	\$ 12,000	\$ 12,000
Chiller	2	\$ 54,000	\$ 108,000
Keg Washer	1	\$ 12,000	\$ 12,000
Compressor	1	\$ 6,000	\$ 6,000
Mill	1	\$ 6,000	\$ 6,000
Boiler	1	\$ 52,000	\$ 52,000
Centrifuge	1	\$ 210,000	\$ 210,000
Canning line	1	\$ 135,000	\$ 135,000
Electric pallet jack	1	\$ 6,000	\$ 6,000
Floor pallet jack	3	\$ 500	\$ 1,500
Grain Silo	1	\$ 22,000	\$ 22,000
Walk-in cooler	1	\$ 48,000	\$ 48,000
Bar	1	\$ 2,000	\$ 2,000
TVs	4	\$ 600	\$ 2,400
Projector	1	\$ 2,200	\$ 2,200
Screen	1	\$ 800	\$ 800
Sound System	1	\$ 1,200	\$ 1,200
Gas Heater	1	\$ 450	\$ 450
Electric Heater	1	\$ 1,500	\$ 1,500
Grill	1	\$ 500	\$ 500
1800's wagon	1	\$ 12,000	\$ 12,000
Go cart	1	\$ 500	\$ 500
Ape Statue	1	\$ 12,000	\$ 12,000
1951 Plymouth Sign car	1	\$ 2,500	\$ 2,500
Sales Cars (5)	5	\$ 23,000	\$ 115,000
Delivery van	1	\$ 12,000	\$ 12,000
Beer serving materials	1	\$ 8,000	\$ 8,000
Computers	15	\$ 1,200	\$ 18,000
Furniture	1	\$ 25,000	\$ 25,000
Lights	1	\$ 500	\$ 500
POS System	1	\$ 12,000	\$ 12,000
		\$	\$
		\$	\$


Total


\$ -
\$ -
\$ 1,504,050

Exhibit "D"

Approved Budget

Exhibit "D"
Approved Budget

Description	Budgeted Amount	Provider
		Conduit
Architectural and Eng Design Fees	\$727,175.00	
Sub-Total		\$727,175.00

			
Construction Costs	Subtotal	Total	General Contractor
Brewery & Packaging/Offices		\$4,759,631.00	<i>includes brewery infrastructure</i>
Kitchen/Private Dining Room		\$1,129,700.00	
Barrel Aging Room/Covered Patio Seating		\$202,953.00	
Taproom		\$1,212,197.00	
Front and West Patio Area		\$71,113.00	
House		\$0.00	<i>GC to clean and use during construction</i>
Site/Outdoor Entertainment Areas			
Main Entry	\$105,652.00		
Kids Play Zone	\$87,906.00		
Adult Play Zone	\$73,475.00		
Wedding/Outdoor Rentable Space	\$106,954.00		
Outdoor Seating/Art Installations	\$160,431.00		
Landscape and Irrigation	\$180,652.00		
Site Grading, Infrastructure, and Hardscapes	\$354,467.00		
Main Stage	\$84,526.00		
Second Stage	\$48,879.00		
Silo Area Retail	\$61,464.00		
Site/Outdoor Entertainment Areas Total		\$1,264,406.00	
General Contractor Contingency		\$360,000.00	
Pre-Construction Services		\$0.00	
Sub-Total			\$9,000,000.00

TUPPS BREWERY			
Owner Budget	Subtotal	Total	Owner Notes
Phone/Data/IT Design, Equipment, and Install			
Hardware	\$48,000.00		
Cabling	\$18,000.00		
Install	\$44,000.00		
Phone/Data/IT Design, Equipment, and Install Total		\$110,000.00	
Owners Rep/Project Management (Matador)		\$200,000.00	
Security Design, Equipment, and Install (ADT Contracted)		\$25,000.00	
Audio/Visual Design, Equipment, and Install		\$87,000.00	
FF&E		\$455,087.00	<i>Items included listed below</i>
Kitchen			
Equipment	\$240,000.00		
Design and Installation	\$35,000.00		
Kitchen Total		\$275,000.00	
City Permit/Inspection Fees		\$0.00	
Impact Fee		\$30,000.00	
Signage - Not contemplated by landscape or GC		\$50,000.00	
Commissioning Fees / Testing Fees		\$30,000.00	
Relocation expenses		\$132,000.00	
Geotechnical Soil		\$10,000.00	
Texas Accessibility Inspection/Review/Inspection		\$2,000.00	
Preconstruction Administration		\$30,000.00	<i>Legal fees and other professional services</i>
Owners Contingency		\$170,000.00	
TOTAL		\$11,333,262.00	\$1,606,087.00
Budget		\$11,333,262.00	
Variance		\$0.00	

Taproom	\$ 185,000.00
Finish out Taproom - Tables, chairs, art etc.	
Finish out the Kitchen - Small equipment and supplies, etc.	
Outdoor seating, tables, and chairs	
Taproom Bar Supplies and Equipment	
Merch room coolers and retail shelving	
Outdoor Space	\$ 125,000.00
Mobile tables and chairs for outdoor space	
Adult and kids games for outdoor spaces	
Liquor Building	\$ 45,087.00
Liquor Building Patio Finish Out - Tables, chairs, bar setup, etc.	
Brewery Building	\$ 100,000.00
Can shelving	
Keg storage	
Racks for the walk-in	
Finish out the vestibule	
Brewery building bar finish out - Stools, equipment, and supplies	
Lab tables and chairs	
Office tables and chairs	
Total FFE	\$ 455,087.00
	\$ 455,087.00
	\$ -

Notwithstanding the foregoing, nothing herein shall supersede or amend any conflicting provision of the Lease, it being understood that the Lease shall control.

Exhibit "E"

Easements and Encumbrances

EXHIBIT E

1. Easement granted by W. S. Anderson - Manager of Co-op Gin to Texas Power & Light Company, filed 11/07/1951, recorded in Volume 440, Page 366, Real Property Records, Collin County, Texas. (Affects Tracts 1 - 4)
2. Easement granted by McKinney Co-op Gin Co. to Texas Power & Light Company, filed 04/22/1955, recorded in Volume 498, Page 347, Real Property Records, Collin County, Texas. (Affects Tracts 1 - 4)
3. Easement granted by W. T. Dugan to Texas Power & Light Company, filed 01/22/1955, recorded in Volume 494, Page 303, Real Property Records, Collin County, Texas. (Affects Tract 5)
4. Easement granted by W. T. Dugan, et al to Texas Power & Light Company, filed 09/20/1956, recorded in Volume 521, Page 627, Real Property Records, Collin County, Texas. (Affects Tract 5)
5. Access easements set out in Deed filed 02/28/1975, recorded in Volume 946, Page 728, Real Property Records, Collin County, Texas. (Affects Tract 6)
6. Easements as shown on plat recorded in Volume 2015, Page 8, Plat Records, Collin County, Texas.



Filed and Recorded
Official Public Records
Stacey Kemp, County Clerk
Collin County, TEXAS
08/01/2019 03:50:26 PM
\$58.00 NPRECELLA
20190801000922550

Exhibit "F"

Illustrative Example of Purchase Price Calculation
Under Section 17.1

[INSERT TEXT EXAMPLE]

Note: The Purchase Option may not be exercised prior to Lease Year 11. The Purchase Option Prices for Years 1-10 are provided to show application of rent paid to the Year 11 and subsequent year Purchase Prices only.

Exhibit F

Lease Year	Hypothetical Annual Lease	Running Total	Hypothetical Purchase Price
	\$ -		
1	\$ 42,000	\$ 42,000	N/A
2	\$ 282,840	324,840	N/A
3	\$ 283,697	608,537	N/A
4	\$ 284,571	893,108	N/A
5	\$ 285,462	1,178,570	N/A
6	\$ 316,371	1,494,941	N/A
7	\$ 317,299	1,812,240	N/A
8	\$ 318,245	2,130,485	N/A
9	\$ 319,210	2,449,694	N/A
10	\$ 320,194	2,769,888	N/A
11	\$ 351,198	3,121,086	(\$8,422,000)
12	\$ 352,222	3,473,308	(\$8,149,721)
13	\$ 353,266	3,826,574	(\$7,881,989)
14	\$ 354,331	4,180,905	(\$7,618,716)
15	\$ 355,418	4,536,324	(\$7,359,813)
16	\$ 386,526	4,922,850	(\$7,083,770)
17	\$ 387,657	5,310,507	(\$6,812,349)
18	\$ 388,810	5,699,317	(\$6,545,457)
19	\$ 389,986	6,089,303	(\$6,283,008)
20	\$ 391,186	6,480,490	(\$6,024,913)
21	\$ 422,410	6,902,899	(\$5,751,682)
22	\$ 423,658	7,326,557	(\$5,483,016)
23	\$ 424,931	7,751,488	(\$5,218,828)
24	\$ 426,230	8,177,718	(\$4,959,027)
25	\$ 427,554	8,605,273	(\$4,703,530)
26	\$ 458,905	9,064,178	(\$4,434,674)
27	\$ 460,284	9,524,462	(\$4,170,299)
28	\$ 461,689	9,986,151	(\$3,910,316)
29	\$ 463,123	10,449,274	(\$3,654,640)
30	\$ 464,585	10,913,859	(\$3,403,185)
31	\$ 496,077	11,409,937	(\$3,139,950)
32	\$ 497,599	11,907,535	(\$2,881,084)
33	\$ 499,151	12,406,686	(\$2,626,503)
34	\$ 500,734	12,907,420	(\$2,376,123)
35	\$ 502,348	13,409,768	(\$2,129,860)
36	\$ 533,995	13,943,763	(\$1,873,216)
37	\$ 535,675	14,479,439	(\$1,620,813)
38	\$ 537,389	15,016,827	(\$1,372,567)
39	\$ 539,137	15,555,964	(\$1,128,397)
40	\$ 540,919	\$ 16,096,883	(\$888,223)