

STATE OF ALABAMA
MADISON COUNTY

620 PEARL AVE.

LEASE AGREEMENT

THIS AGREEMENT, made and entered into on the 1st day of March, 2022, between VanValkenburg Properties, LLC. (hereinafter called "Landlord") and City of Huntsville, (hereinafter called "Tenant") is to witness that: Landlord does this day lease unto Tenant and Tenant does lease from Landlord the following described real property (hereinafter called "Premises"): Office warehouse located at 620 Pearl Avenue, Huntsville, Alabama 35801, containing approximately 8,113 rentable square feet.

The term of this Lease shall be for five (5) years , commencing on the 1st day of March , 2022 and ending on the 28th day of February, 2027 with the Tenant having the option to renew the said lease annually for up to a total of five (5) additional twelve-month terms. As rental, Tenant shall pay the Landlord the sum of \$42,000.00 per annum at a rate of three thousand five hundred dollars (\$3,500.00) per month, which sum shall be payable in advance on the first day of each month during the rental period of this Lease, or sooner accelerated under the subsequent provisions hereof. The first month's rent shall be paid contemporaneously with the execution of this Lease by both parties hereto. In the event the rental to be paid hereunder is not paid when due, the Landlord shall the right to impose a late penalty of five percent (5%) of the amount past due. Said five percent (5%) late rent penalty shall be payable by Tenant immediately.

IT IS FURTHER AGREED AND COVENANTED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. Tenant will use and occupy the Leased Premises on behalf of the Department of Community Development for storage and or light industrial use and for no other use or purpose. The Tenant agrees that it will safely and quietly occupy the Premises and will in no way allow or commit any noxious or offensive activity to occur as a result of the Tenant's occupancy and business. Furthermore, nothing shall be done on the Premises which may be or may become an annoyance or nuisance to adjoining tenants, their employees or customers. A violation of this covenant will be deemed an item of default and be grounds for termination pursuant to the Default Provisions of this Lease.

2. Tenant may not, without the prior written consent of Landlord, assign this Lease or any interests hereunder, pledge the leasehold interest for any reason or sublet the Leased Premises or any part thereof, or permit the use of the Leased Premises by any party other than Tenant. Any such consent shall require, as a condition thereto (i) that the original Tenant shall remain fully liable hereunder for the full term of this Lease; (ii) that if the said assignment or subletting involves a higher total rent than is provided for hereunder, the excess rent shall go to the Landlord; and (iii) that the Landlord shall retain the right of consent or non-consent as to any further such assignments, subletting and pledges. Any decision by Landlord withholding consent shall not be based on any standards of reasonableness.

President of the City Council of the City of
Huntsville, Alabama
Date: 2/24/2022

3. The Landlord agrees to deliver and Tenant agrees to take possession of the Premises upon substantial completion thereof (subject to completion of any punch list items), and it is agreed that the Tenant's act of taking possession of the Premises shall be regarded as conclusive proof that the same are substantially complete, in "good repair", and in satisfactory condition. The Landlord makes no representation or warranty that the Premises are suitable for the purposes for which the same are rented.

4. If this Lease is executed before the Premises herein become ready for occupancy and Landlord cannot acquire and/or deliver possession of the herein Leased Premises by the time the term of this Lease is fixed herein to begin, Tenant waives any claim for damages due to such delay, and any right to terminate this Lease as a result of such delay, and Landlord waives the payment of any rental until Landlord delivers possession to Tenant. If there shall be a delay in the construction or repair of the Premises including, without limitation, delays caused by strikes, lockouts, riots, acts of God, shortages of labor or materials, national emergency, governmental restrictions laws or regulations, or any other cause or causes, beyond Landlord's control, such delay shall not be a violation of this Lease, and the time period set forth in the Lease for any such work shall at Landlord's option be extended for a period of time equal to the period of delay.

5. If there is a delay in delivery of the Premises to the Tenant as detailed in Paragraph 4 above, a Supplementary Letter Agreement will be issued setting forth the commencement and ending dates of this Lease. Both Landlord and Tenant agree to execute such Supplementary Letter Agreement.

6. Tenant will make no alterations, additions, or improvements in or to the Premises without the written consent of Landlord. All alterations, additions, and improvements, except only office furniture and equipment, which shall be readily removable without injury to the Premises, shall be and remain a part of the Premises at the expiration of this Lease, unless Landlord demands their removal, in which case Tenant shall immediately cause the removal thereof and shall be responsible for the cost thereof and also for any damage to the Leased Premises caused by such removal.

7. In case the Leased Premises are damaged by fire or other cause as to be rendered untenantable, Landlord shall have the right, at its option, within one hundred eighty (180) days to either terminate this Lease or to repair and restore the Premises to a tenantable condition, and the rent shall abate during the period said Premises are untenantable. Should said Premises not be restored within one hundred eighty (180) days from the date of the fire or other cause rendering them untenantable, the Tenant shall have the option to terminate this Lease by giving fifteen (15) days written notice of his intent to do so (with the notice period beginning on the one hundred eightieth [180th] day and this Lease shall be terminated on the one hundred ninety-fifth (195th) day unless the Landlord makes the Premises tenantable in the interim. Where the use of the Leased Premises is affected by any damages thereto, there shall be an abatement or an equitable reduction in rent depending on the period for which and the extent to which the Leased Premises are not usable for the purposes for which they are leased hereunder.

8. Tenant shall promptly execute and comply with all laws, statutes, ordinances, rules, orders, regulations and requirements of the federal, state, county and city governments, and of any and all their departments and bureaus, applicable to said Premises and shall also promptly comply with and execute all rules, orders regulations of the Fire

Underwriter's Association for the Prevention of Fires at Tenant's own cost and expense. Tenant agrees to pay any increases in the amount of insurance premiums over and above the rate now in force that may be caused by Tenant's use or occupancy of the Premises. Said payments shall be in addition to any amounts due Landlord pursuant to other provisions herein.

9. In the event:

- (a) The rent specified herein is not paid at the time (within five [5] days) and place due;
- (b) The Leased Premises shall be deserted or vacated;
- (c) the Tenant shall fail to comply with any terms, provision, condition, or covenant of this Lease, other than payment of rent, or any of the Rules and Regulations now or hereafter established for the government of the Building, and shall not cure such failure within five (5) days after notice to the Tenant of such failure within 5 days after notice to the Tenant of such failure to comply;
- (d) Any petition is filed by or against Tenant under any section or chapter of the National Bankruptcy Act, as amended;
- (e) Tenant shall make an assignment for benefit of creditors;
- (f) Tenant shall become insolvent or make a transfer in fraud of creditors;
- (g) A receiver is appointed for a substantial part of the assets of Tenant; and
- (h) The leasehold interest is levied or underexecution.

In any such event, except pursuant to Section 9 (c) herein above, upon giving twenty-four (24) hours written notice to Tenant, Landlord and/or its Agent shall have the option to do any of the following, in addition to, but not in limitation of, any other remedy permitted by law or by this Lease:

- (i) Terminate this Lease, in which event Tenant shall immediately surrender the Premises to Landlord; but if Tenant shall fail to do so, Landlord may, without further notice and without prejudice to other remedy Landlord may have for possession or arrearages in rent or damages for breach of contract, enter upon the Premises and expel or remove Tenant and his effects, by force if necessary, without being liable to prosecution or any claim for damages therefore, and to the extent authorized by Alabama State law and subject to the limitations of Alabama Code Section 11-47-190 (1975), Tenant agrees to indemnify Landlord for all loss and damage which Landlord may suffer by reason of such lease termination, whether through inability to relet the Premises or through decrease in rent, or otherwise; in the event of such termination, Landlord may, at its option, declare the entire amount of the rent which would be due and payable during the remainder of the term of this Lease to be due and payable immediately, in which event Tenant agrees to pay the same at once, together with all rents theretofore due, at the office of the Landlord or at such other place as designated in writing by Landlord, provided, however, that such payments shall not constitute a penalty or forfeiture or liquidated damages, but shall merely constitute a payment in advance of the rent for remainder of said term. In such case, Tenant shall receive from Landlord all rents received by Landlord from other tenants on account of said Premises during the remaining term of this Lease, provided, however, that the monies to which the Tenant shall become so entitled shall in no event exceed the entire amount paid by Tenant to Landlord under the preceding sentence of this subparagraph; OR
- (ii) Enter the Leased Premises, by force if necessary, without being liable to prosecution or any claim for damages therefore, and expel or remove Tenant and Tenant's effects and re-let the Premises, and receive the rent therefore, and the Tenant shall pay the Landlord any deficiency that may arise by reason of such re-letting, on demand, at any time and from time to time at the office of 614 Pearl Ave., Attention: VanValkenburg

Properties, LLC., Huntsville, AL 35801 or at such other place as designated in writing by Landlord.

Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law.

10. Tenant agrees to pay any reasonable attorney's fees and expenses the Landlord incurs in enforcing any of the obligations of the Tenant under this Lease, or in any litigation or negotiation in which the Landlord shall, without his fault, become involved through or on account of this Lease.

11. No waiver of any condition or covenant of this Lease by Landlord shall be deemed to imply or constitute a further waiver by Landlord of any other condition or covenant of this Lease. The rights and remedies created by this Lease are cumulative and the use of one remedy shall not be taken to exclude or waive the right to the use of another.

12. Landlord, or any of its agents, shall have the right to enter said Premises during all reasonable hours to examine the same or to make such repairs, additions or alterations as may be deemed necessary for the safety, comfort or preservation thereof, or of said Building, or to exhibit said Premises at any time for the purpose of reletting. Said right of entry shall likewise exist for the purpose of removing plaques, signs, fixtures, alterations or additions which do not conform to this Agreement.

13. All personal property in the Leased Premises shall be and remain Tenant's risk, and Landlord shall not be liable for any damages to nor loss of such personal property arising from acts of negligence of any other persons; nor from the leaking of the roof; nor from the bursting, leaking or overflowing of water, sewer or steam pipe; nor from the heating or plumbing fixtures; nor from electric wires or fixtures; nor from any other cause whatsoever.

Subject to the provisions of Section 6 hereof, if the Tenant shall not remove all his effects from said Premises at any termination of this Lease, same shall be deemed abandoned and Landlord may, at its option and without notice, remove all or part of said effects in any manner that Landlord shall choose and store or dispose of same without liability to Landlord. Landlord may cause effects to be sold to satisfy the costs of storing said effects and payment of past due rents and any other amounts due Landlord under this Lease. Upon any termination of the Lease wherein Tenant shall be liable in any amount to Landlord, Landlord shall have a lien upon the personal property and effects of Tenant on said Premises and Landlord may, at its option, without notice, sell at private sale all or part of said property and effects for such price as Landlord may deem best and apply the proceeds of such sale upon any amount due under this Lease from Tenant to Landlord, including the expenses of the removal and sale.

14. To the extent authorized by Alabama State law and subject to the limitations of Alabama Code Section 11-47-190 (1975), Tenant covenants and agrees to indemnify, defend, protect and save harmless the Landlord, its servants, agents and employees from any and all liability which in any way arises out of claims based upon damages to property, or injury to persons, or death, sustained by the acts or failures to act of the Tenant, his agents, assigns or employees, or of any third party, in, on or about the Leased Premises during the term of this Lease, any extension hereof, or any holding over period.

15. Tenant will keep said Premises in good order, repair and condition and surrender same at the expiration of the term herein or the renewal date hereof in broom clean condition and in the same condition in which they were received at the commencement of this Lease, usual wear and tear only excepted. Landlord shall not be obligated or required to make any repairs or to do any work on or about said Premises, or any part thereof; or on or about any Premises connected therewith but not hereby leased, except to the extent herein specifically agreed. Tenant and Landlord agree that the Landlord shall be responsible for making timely repairs as needed to the functional parts of the Premises including the structural, mechanical, electrical, plumbing, roofing, climate control (HVAC) features of the Premises. Should Tenant fail to make repairs agreed to by him under this Lease, the Landlord may enter the Premises and make such repairs and collect the cost thereof, plus reasonable overhead costs, from the Tenant as additional rent, such rent being due and payable at the next ensuing regularly monthly rental payment date.

16. This Lease and attachments hereto, if any, constitute the entire agreement between the parties hereto and all previous negotiations leading thereto, and it may be modified only by an agreement in writing, signed and sealed by Landlord and Tenant. No surrender of the Leased Premises or of the remainder of term of this Lease shall be valid unless expressly accepted, in writing, by the Landlord.

17. It is understood and agreed between the parties hereto that time is of the essence in all of the terms and provisions of this Lease.

18. In the event Landlord, during the term of this Lease shall be required by any governmental authority, the order or decree of any court, to repair, alter, remove, condemn, reconstruct or improve any part of the Demised Premises, then such repairing, alterations, removal, reconstruction or improvement may be made by and at the expense of the Landlord, and shall not in any way affect the obligations or covenants of the Tenant herein contained, and the Tenant hereby waives all claims for damages or abatement of rent because of such repairing, alteration, removal, reconstruction or improvement; provided, if the repairs, alterations, removal, reconstruction or improvements required, ordered or decreed shall render said Premises, or the Building wherein they are located, untenable thereby, then unless said repairs, alterations, removal, reconstruction or improvements made within ninety (90) days after the date of the notice of requirements, order or decree, then either party hereto upon written notice to the other party, given not later than one hundred (100) days after the date of said notice of requirement, order or decree, may terminate this Lease, in which case rent shall be apportioned and paid the date said Premises or Building were rendered untenable. The Landlord shall be entitled to receive all of the proceeds of any total or partial taking of the Demised Premises by eminent domain or condemnation, including any part of such award as may be attributable to the unexpired leasehold interest or other rights of the Tenant in the Premises, and the Tenant hereby assigns, and transfers to the Landlord all the Tenant's rights to receive any part of such proceeds.

19. Tenant agrees to surrender to Landlord, at the end of the term of this Lease and/or upon any cancellation or termination of this Lease, said Leased Premises in broom clean condition, and in as good condition as said Leased Premises were at the beginning of the term of this Lease, ordinary wear and tear excepted. Tenant agrees that, if Tenant does not surrender to Landlord said Leased Premises at the end of the term of this Lease, or upon any cancellation or termination of the term of this Lease, then Tenant will pay to Landlord all damages the Landlord may suffer on account of Tenant's failure to so surrender to Landlord possession of said Leased Premises, and will indemnify Landlord for all damages (of whatever type and nature) it might suffer on account of delay of Landlord in delivering

possession of said Premises to any succeeding Tenant so far as such delay is occasioned by failure of Tenant to so surrender said Premises.

20. If the Tenant shall remain or continue to be in possession of the Leased Premises or any part thereof after the termination of this Lease, Tenant shall pay to Landlord, as liquidated damages for each month or portion thereof that such possession is withheld, a sum equal to the monthly rental during the remainder of the possession of the Premises, as determined by the provisions of this Lease.

21. No sign, advertisement or notice of Tenant's shall be painted on any part of the inside or outside of the Building in which the Demised Premises are located.

22. Tenant agrees that he shall incur all expenses related to the operation and use of city utilities (gas, electric, water, sewer). There are four separate systems which provide heating and cooling:

1. Offices: two ton unit/heat pump/cool
2. Front of warehouse- Electric strip heater- has been the only source used to heat warehouse
3. Left side of warehouse: Four ton gas pack- Heat/Cool
The gas not hooked. up for heat (never used)
4. Right side of building: Five ton gas pack -Heat/Cool

23. Lessee agrees to keep the premises clean and generally cared for. The Landlord shall not be liable for damages by abatement of or otherwise, in part by any strike, labor controversies, lockouts, acts of God, accident or casualty whatsoever, by the act or fault of e Tenant or other parties, or other tenants of the Building, or by any cause or causes beyond the reasonable control of the Landlord; nor shall the Landlord be liable for any act or default not authorized by the Landlord, of the janitors or other employees of the Lessee;

24. Should the roof of the Building leak at any time during said term., due to no fault on the part of Tenant, the Landlord will repair the same within a reasonable time after being requested in writing by the Tenant to do so, but in no event shall the Landlord be liable for damages or injuries arising from the failure to make said repairs after being so notified, except to the extent of the reasonable cost of repairing said roof; nor shall the Landlord be liable for damages or injuries arising from defective workmanship or materials, the Tenant hereby expressly waiving the same. Landlord and its agents shall not be liable for any deaths, injury, loss or damage resulting from any repair or improvement undertaken, voluntarily or involuntarily, by or on behalf of the Landlord, other than willfully wrongful acts of Landlord. Landlord shall not be responsible for making any repairs to the Leased Premises whatsoever, unless specially so provided in this Lease.

25. Tenant will replace all keys lost or broken. Tenant will comply, at all times and in all respects, with all the applicable laws and ordinances relating to nuisance, insofar as the Building and the Premises hereby let, and the Tenant will not by any act or omission, render the Landlord liable for any violation thereof. Tenant shall give to Landlord, or his agents, prompt written notice of any accidents to or defects in water pipes, gas pipes, air conditioning and heating systems. Tenant shall, upon discovery of any other substantial defect in or injury to said Premises. or any need of other substantial repairs, promptly report the same to the Landlord in writing, or Landlord's agent in writing, provided, however, that Landlord shall be under no duty to remedy such defects or to make such repairs unless otherwise expressly required to do so by this Lease.

26. All notices herein authorized or required to be given to the Landlord shall be sent by Registered or Certified Mail, addressed to Pit Bull Products Inc, Attention VanValkenburg Properties, LLC., 614 Pearl Ave. Huntsville, Alabama 35801 or to such other place as the Landlord may from time to time designate in writing to the Tenant. All notices herein authorized or required to be given to the Tenant shall be addressed to the Tenant at 620 Pearl Ave., Huntsville, Alabama 35801 or to such other place as the Tenant may from time to time designate in writing to the Landlord. Written notice from the Landlord, mailed or delivered to the Premises leased hereunder, after delivery of the Premises hereunder to Tenant, shall constitute sufficient notice to Tenant to comply with the terms of this Agreement.

27. The Tenant agrees that this Lease shall remain subject to and subordinate to all present and future mortgages affecting the Premises of which the Leased Premises are a part, and the Tenant shall promptly execute and deliver to the Landlord such certificate or certificates in writing as the Landlord may request, showing the subordination of this Lease to such mortgage or mortgages, and in default of the Tenant's so doing, the Landlord shall be and is hereby authorized and empowered to execute such certificate in the name of and as the act and deed of the Tenant, this authority being hereby declared to be coupled with an interest and to be irrevocable. Notwithstanding such subordination, Tenant's Right to Quiet Possession of the Premises shall not be distributed if Tenant is not in default and so long as Tenant shall pay the rent and observe and perform all of the provisions of the Lease unless this Lease is otherwise terminated pursuant to its terms and further Tenant agrees to attorn to any new Landlord. This subordination, attornment and non-disturbance provision is to be effective and self-operative without the execution of any further provision instruments on the part of any of the parties hereto, immediately upon the mortgage or other successor to Landlord's estate succeeding to the interest of the Landlord in the Leased Premises.

28. Notwithstanding anything to the contrary provided in this Lease or by law, it is specifically agreed and understood between the parties hereto that there shall be absolutely no personal liability on the part of the Landlord or any of its employees or any of its respective heirs, executors, administrators, personal representatives, successors, assignees, nominees or designees, with respect to any of the terms, covenants, and conditions of this Lease, and Tenant or any other party claiming by, through or under the Tenant shall look solely to the interests of the Landlord in the building development, as its respective interest may appear, for the collection of any claim, demand, cost, expense, judgment or other judicial process requiring the payment of money for any default or breach by Landlord or any of its employees shall be subject to levy, execution or other judicial process for the satisfaction of any claim of Tenant.

29. This Agreement and all covenants, obligations, and conditions hereof shall inure to the benefit of and shall be binding upon Landlord, and Landlord's successors and assigns. This Agreement and all its covenants, obligations, and conditions shall also inure to the benefit and be binding upon Tenant and Tenant's heirs, executors, administrators, successors, and assigns.

30. The tenant will pay rent on a monthly basis of Three Thousand Five Hundred Dollars (\$3,500.00) a month.

31. Tenant may purchase said property within the thirty-sixth month lease period at the price established by a certified appraisal which both parties shall agree upon.

32. Tenant accepts the Lease Premises in an "AS IS" condition.

33. Tenant shall be entitled to park on any front portion of the lot and or driveway. Parking will be available 24 hours per day seven days per week.

34. Provided either Landlord or Tenant gives the other party thirty (30) days prior written notice of its intent, either party has the option at each anniversary date to terminate the lease with no penalty.

Presentation of this instrument by Landlord or its Agency does not constitute an offer to lease. This instrument is not a binding agreement until executed by both Landlord and Tenant and delivered to all parties.

The Parties agree that any form of electronic signature, including but not limited to signatures via fax, scanning, or electric mail, may substitute for the original signature and shall have the same legal effect as the original signature.

IN WITNESS WHEREOF, Landlord and Tenant have signed and sealed these presents as of the day and year first above written.

Witness:



Landlord

BY: 
VanValkenburg Properties, LLC.
ITS: Owner

Date: 12/14/2022

Witness:

Kenneth Benion
Clerk-Treasurer

Tenant

CITY OF HUNTSVILLE

BY: _____
Tommy Battle
ITS: Mayor

Date: 2/24/2022