



**COFFEE SHOP/CAFE LEASE AGREEMENT
PARK CITY LIBRARY**

This Coffee Shop/Café Lease Agreement – Park City Library (hereinafter the “Agreement” or the “Lease Agreement”) is made and entered into as of this 11th day of July, 2023, by and between **PARK CITY MUNICIPAL CORPORATION**, a Utah municipal corporation, (hereinafter the "City"), and **LUCKY ONE’S COFFEE LLC**, a Utah limited liability company, (hereinafter "Concessionaire").

WITNESSETH:

WHEREAS, the City owns a building known as the Park City Library located at 1255 Park Avenue, Park City, UT 84060, (hereinafter "Library"), which is open and available to the residents and visitors of Park City for public use; and

WHEREAS, the City desires to have at the Library food and beverage refreshments available to the users of the Library and members of the community; and

WHEREAS, Concessionaire desires to sell food and beverage refreshments at the Library; and

WHEREAS, Concessionaire agrees to conduct said food and beverage refreshment business in a professional manner pursuant to the terms and conditions herein set forth.

NOW, THEREFORE, in consideration of the covenants and agreements of the respective parties herein contained, the parties hereto do hereby agree as follows:

1. **Description of Concession.** During the term of the Lease Agreement, the Concessionaire will be granted the right at the Library, in the location described below, to operate a food and beverage concession business, serving food and beverages to patrons of said Library and members of the community. Food preparation shall be done off site. The menu and pricing are subject to review and approval by the Library Director.

(a) Concessionaire is permitted to be open during private Santy rentals.

(b) Any lessee of 3rd floor/ Santy auditorium is allowed to preclude outside food and beverage on the third floor at their discretion during their rentals.

(c) Concessionaire shall not offer fresh or bagged popcorn.

(d) Concessionaire shall provide wholesale coffee beans to the City at a rate of \$14.50 per pound through December 30, 2025. After December 30, 2025, and through the duration of the lease, Concessionaire shall provide the City with no less than three months' notice in advance of increasing pricing, at which time the City may choose to negotiate pricing for wholesale coffee beans or cease this section of the Agreement.

(e) Concessionaire is permitted to be open during private rentals of non-exclusive areas described in Section 2 herein during typical Library hours (M-Th: 9:00 a.m.-8:00 p.m.; Fri-Sat: 9:00 a.m.-5:00 p.m.; Sun: 1:00 p.m.-5:00 p.m.). The Library Director may restrict operation during private rentals of non-exclusive use areas when the Library is typically closed.

(f) Concessionaire hours shall be 8:00 a.m. to 3:00 p.m. Monday to Sunday. Any modifications to this schedule will need to be approved in writing by the Library Director.

(g) Failure to open, failure to open on time, or early closure (more than 15 minutes later than or earlier than approved hours in subsection (e) above) will result in a Fifty Dollar (\$50.00) fine for each occurrence.

(h) The Concessionaire will secure the building before and after Library hours, including setting and turning off the alarm system. A Twenty-Five Dollar (\$25.00) fine may be assessed if the Concessionaire sets off the building alarm., or if the Failure to Open on time causes the alarm to be set off. This fine will be assessed by the Library Facilities Manager.

2. **Property.** The property hereby leased is the main floor coffee shop/café space, located at the Library, 1255 Park Avenue, Park City, Utah, (the "Premises"), including exclusive use of the coffee shop (285 square feet), and non-exclusive use of decks (1,350 square feet) and restrooms (460 square feet), as further described in **Exhibit "A"** attached hereto and made a part hereof.

3. **Term.** The term of this Lease Agreement shall run for five years beginning June 1, 2023, through June 30, 2028. Each party reserves the right to request renegotiation of any section(s) of this Lease Agreement, provided sixty (60) days written notice is provided to the other party. The Concessionaire shall coordinate with the Special Event Manager to give the City a progress update every six (6) months.

4. **Rent.** The rent will be \$0.

(a) **Security Deposit.** Before occupying the Premises, the Concessionaire must make a damage deposit of One Thousand Dollars (\$1,000.00).

(b) Concessionaire will leave the Premises in same or better condition than the "as-is" condition. Damage deposit may be used for any damages.

(c) Commencement Date. This Lease Agreement shall commence upon execution of this Agreement, and Concessionaire shall close to conduct a deep cleaning and upgrades of the space. The Concessionaire shall open for business no later than June 19, 2023

(d) **Financials**. Concessionaire agrees to keep accurate books and records of expenditures related to its operation. The City or its independent auditor reserves the right to conduct its own annual audit of books and records during ordinary business hours at reasonable times and places. Concessionaire agrees to turn in all IRS forms, updated business plans, and other similar financial information by April 1 of each year if requested by City or within sixty (60) days if specifically requested.

(e) Concessionaire is to meet quarterly with the Special Event Manager to review financials and discuss business development and mentoring opportunities.

5. **Authorized Use**. Concessionaire may sell beer, wine, or any other alcoholic beverage provided that Concessionaire secures proper licenses, permits, or approvals and complies with all federal, State, and municipal laws and ordinances. Sales or service of beer, wine or any other alcoholic beverage requires liquor liability coverage of \$1,000,000 with a \$2,000,000 aggregate and may also require a Special Event Permit.

6. **Payment of Taxes and Other Assessments**. Concessionaire shall pay all taxes and other assessments for its business during the term of this Lease Agreement. Concessionaire shall pay all sales or other taxes assessed on the operation of the concession business.

7. **Utility Services**. City shall be responsible to provide most utilities including, but not limited to, natural gas, electricity, sewer, and water for the Premises. Concessionaire must enter into Agreements with providers for telephone, cable, and internet service. However, City shall reimburse the cost of these utilities. City shall provide plumbing infrastructure necessary for a dishwasher. City is not responsible to provide any dishwasher appliance.

8. **Use of Premises/Catering/Programming**. The Premises shall be used only for the purpose of a coffee shop. Food service or catering services outside of the Library building are not permitted. The Concessionaire may cater or provide food service in the Library building as allowed herein. Concessionaire may create or host its own programming in the leased property with the goal of driving more community participation and engagement. Concessionaire must request and receive from the Library Director advance, written approval before hosting any non-library programming including events, classes, seminars, promotional ideas, forums, etc. Concessionaire shall not program full length independent, documentary, and foreign films that compete with the

Park City Film Series program or Sundance Film Festival. The Library will endeavor to provide informal notice to Concessionaire of its intended programming of non-exclusive areas.

9. **Licensing.** The City and Concessionaire may also participate in other joint marketing efforts with the prior agreement of each. Concessionaire is responsible for obtaining all necessary licenses for its operation, including a Park City business license. Any private use that would close the Premises to the public requires advance, written approval by the Library Director.

10. **Care and Repair of Premises by Concessionaire.** Concessionaire has inspected the Premises and accepts it “AS IS” and as acceptable for the purpose of this Lease Agreement. The Concessionaire will not permit the use of the Premises in violation of any State law or County or municipal ordinance or regulation applicable thereto. Concessionaire, with the exception of a Leader CBK 48” Refrigerated Bakery Display Case, Counter Height, which City is responsible for, may, with the consent of the City but at the Concessionaire’s own cost and expense and in good workman like manner, make such alterations or improvements to the Premises, excluding common areas, as Concessionaire may require for the conduct of its business without materially altering the basic character of the structure or improvements, or weakening the structure of the Premises. Any permanent alterations or improvements to the Premises shall become the property of the City upon expiration or termination of this Lease Agreement.

Concessionaire shall have sole responsibility for maintaining and repairing all restaurant and kitchen equipment and facilities, including all sinks, microwaves, freezers, and refrigerators. All coffee shop/café equipment that the City owns may be used by the Concessionaire on an “AS IS” basis and the City makes no claim of its condition or life span.

11. **Maintenance.** The City shall be responsible for all structural maintenance of the Premises, including the roof, foundation, structural members, and exterior wall surfaces. Concessionaire shall be responsible for all interior maintenance, including mechanical and electrical fixtures, lighting fixtures, janitorial service including trash and mopping resulting from the Concessionaire’s use, and glass maintenance (both cleaning and replacement in the event of damage) which is within the exclusive and non-exclusive use areas of Premises or solely serves the Premises, excluding the restrooms and utility closet. The City shall be responsible for mechanical systems which serve portions of the building other than, or in addition to the Concessionaire’s space, as reasonably necessary to maintain the structure and to service common utility facilities.

12. **Access to other space.** Concessionaire shall not interfere with the access to other spaces within the building or obstruct the entrances to those spaces in any way. The City shall have access through Concessionaire's space as reasonably necessary to maintain the structure and to service common utility facilities. The City shall have the right to inspect the Premises at any time, with or without notice.

13. **Signs.** All exterior signs require affirmation from City Council prior to final approval. All signs must meet criteria of the City's Sign Code. The following restrictions apply to exterior building signs:

- (a) **Patio Window Signs** - No window signs on patio windows or any other part of the patio or patio furniture.
- (b) **Front Door Window Signs**— Concessionaire may replace existing front door window vinyl signs for coffee vendor and customize the signs with specific hours. No other sizes or font allowed. Concessionaire may state either their business name or website in 1" letters. Concessionaire may add their logo below their name or website. Logo Sign not to exceed 4.25"x 5.5".
- (c) **Monument Sign on Park Avenue** – If signage is allowed to be placed or continue on the Monument Sign, then Sign and the signage must conform to the Sign Code and any City Council approval must be received.

14. **Insurance and Indemnity.** The Concessionaire shall indemnify and hold the City and its agents, employees, and officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City arising out of, in connection with, or incident to the execution of this Lease Agreement and/or the Concessionaire's defective performance or failure to perform any aspect of this Lease Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the City, its agents, employees, and/or officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Concessionaire; and provided further, that nothing herein shall require the Concessionaire to hold harmless or defend the City, its agents, employees, and/or officers from any claims arising from the sole negligence of the City, its agents, employees, and/or officers. The Concessionaire expressly agrees that the indemnification provided herein constitutes the Concessionaire's limited waiver of immunity as an employer under Utah Code Section 34A-2-105; provided, however, this waiver shall apply only to the extent an employee of Concessionaire claims or recovers compensation from the City for a loss or injury that Concessionaire would be obligated to

indemnify the City for under this Lease Agreement. This limited waiver has been mutually negotiated by the parties and is expressly made effective only for the purposes of this Lease Agreement. The provisions of this section shall survive the expiration or termination of this Lease Agreement. No liability shall attach to the City by reason of entering into this Lease Agreement except as expressly provided herein.

The Concessionaire shall provide a Certificate of Insurance evidencing:

The Concessionaire shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Concessionaire, their agents, representatives, employees, or subcontractors. The Concessionaire shall provide a Certificate of Insurance evidencing:

- (a) General Liability insurance written on an occurrence basis with limits no less than One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) aggregate for personal injury, bodily injury and property damage. The Concessionaire shall increase the limits of such insurance to at least the amount of the Limitation of Judgments described in Section 63G-7-604 of the Governmental Immunity Act of Utah, as calculated by the state risk manager every two years and stated in Utah Admin. Code R37-4-3.
- (b) Automobile Liability insurance with a combined single limit of not less than Two Million Dollars (\$2,000,000) each accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of owned, hired, and non-owned motor vehicles. This policy must not contain any exclusion or limitation with respect to loading or unloading of a covered vehicle.
- (c) Workers Compensation insurance and Employers Liability coverage with Workers Compensation limits complying with statutory requirements, and Employer's Liability Insurance limits of at least One Million Dollars (\$1,000,000) each accident, One Million Dollars (\$1,000,000) for bodily injury by accident, and One Million Dollars (\$1,000,000) each employee for injury by disease. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the Entity for all work performed by the Concessionaire, its employees, agents, and subcontractors.
- (d) Liquor Liability insurance as applicable with limits of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate.

- (e) Park City Municipal Corporation, its officers, officials, employees, and volunteers are to be covered as additional insureds on general liability and auto liability insurance policies, with respect to work performed by or on behalf of the Concessionaire including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of the Concessionaire and a copy of the endorsement naming the City as an additional insured shall be attached to the Certificate of Insurance. For any claims of this Agreement, the Concessionaire's insurance coverage shall be primary insurance coverage as respects to PCMC, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by PCMC, its officers, employees, or volunteers shall be in excess of the Concessionaire's insurance and shall not contribute with it.

15. **City Liable Only for Negligence and Intentional Acts.** Except where caused by City's negligence or intentional act, City shall not be liable for any failure of water supply, natural gas supply, or electrical supply; or for any injury or damage to persons or property caused by gasoline, oil, steam, gas or electricity; or hurricane, tornado, flood, wind or similar storms or disturbances; or water, rain or snow which may leak or flow from the street, sewer, gas mains, or any subsurface area or from any part of the building or buildings or for an interference with light.

16. **Nondiscrimination.** Concessionaire will not discriminate against any recipient of any services or benefits provided for in this Lease Agreement on the grounds of race, color, religion, sex (including pregnancy, childbirth, pregnancy-related conditions, breastfeeding, or medical conditions related to breastfeeding), national origin, age (40 or older), disability, genetic information, sexual orientation, gender identity, or protected expressions.

17. **Waiver of Covenants.** It is agreed that the waiver of any of the covenants of this Lease Agreement by either party shall be limited to the particular instance and shall not be deemed to waive any other breaches of such covenant or any provisions herein contained.

18. **Type of Operation.** Concessionaire agrees to maintain and operate the coffee shop/cafe in a first-class manner and will keep the Premises in a safe, clean, orderly, and inviting condition at all times. All surfaces shall be regularly wiped down and be kept clean. The coffee shop/cafe is to be operated as a convenience to the Library patrons; therefore, all food, drinks, beverages, confections, and other items sold or kept for sale at the

coffee shop/cafe will be of high quality. All food and merchandise kept for sale will be subject to inspection by the City. The service will be prompt, sanitary, courteous, and efficient.

19. **Concessionaire's Employees.**

During hours of operation, the Concessionaire agrees to retain an active, qualified, competent, and experienced employee at the coffee shop/cafe to supervise the concession operations. The Concessionaire agrees to be an equal opportunity employer. The employees must be authorized to represent and act on behalf of the Concessionaire.

20. **Laws, Ordinances, Etc.** The Concessionaire will obey all the laws, ordinances, regulations, and rules of the federal, State, County, and municipal governments which may be applicable to its operations. The Concessionaire will further agree to follow recommendations of the County Board of Health.

21. **Garbage Disposal and Recycling.** The City will provide and the Concessionaire shall use suitable covered receptacles for all garbage, trash, and other refuse on or in connection with the coffee shop/cafe. Piling of boxes, cartons, barrels, or other similar items in an unsightly or unsafe manner, on or about the Library or surrounding premises, will not be permitted and must be removed daily to a designated dumpster. When public trash receptacles become full, Concessionaire will empty these into designated dumpsters. City shall provide receptacles for recycling and Concessionaire shall dispose of the items appropriately.

22. **Political Activity Prohibited.** None of the funds, materials, property, or services provided directly or indirectly under the Lease Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

23. **Improvements.** The City will provide infrastructure to operate a coffee concession including but not limited to counters, millwork, storage, sink, plumbing, garbage cans, electrical, and other utility connections. City will provide locks and door hardware for the cabinets. City will provide a water line for a dishwasher. City will not provide specialty equipment or machines such as refrigerators or coffee machines, with the exception of a Leader CBK 48" Refrigerated Bakery Display Case, Counter Height. The café will not have a commercial kitchen. There is not a drain line, floor drain, or running water at or under the front counter tops. Running water and a sink can be found in the back of house/storage area. Immediate drainage to an espresso machine will need to be held in a temporary catch basin prior to being disposed of in the back sink. City will provide a one-time budget of Fifteen Thousand Dollars (\$15,000.00) for fiscal year 24 (FY24) for furniture and other fixtures and equipment. The City will also install and provide a hood vent estimated at Sixty Thousand Dollars

(\$60,000.00) to help mitigate the smell of food to the rest of the Library Building. The Library Director must approve all purchases as negotiated. Any furniture, fixtures, and equipment will remain property of the City. The budget shall not be used for any advertising or marketing, paint, signage, or special flooring, other than outlined above.

24. **Termination.** Either party may terminate this Lease Agreement with sixty (60) days' written notice to the other for any reason. However, notice may not be given before four (4) months from the execution of this Lease Agreement.

25. **Party at Fault.** In the event either party shall enforce the terms of this Lease Agreement by suit or otherwise, the party found to be at fault by a court of competent jurisdiction shall pay the costs and expenses of the prevailing party, including reasonable attorney's fees.

26. **Failure to Perform Covenant.** Any failure on the part of either party to this Lease Agreement to perform any obligation hereunder, and any delay in doing an act required hereby shall be excused if such failure or delay is caused by any strike, lockout, governmental restriction, or act of God, or any similar cause beyond the control of the parties so failing to perform.

27. **No Assignment or Sublet.** The covenants and agreements contained within this Lease Agreement shall apply to the benefit of and be binding upon the parties hereto and shall not be assigned.

28. **Sublease.** Concessionaire shall not sublease Premises.

29. **Time.** Time is of the essence of this Lease Agreement and every term, covenant, and condition herein contained.

30. **Paragraph Headings.** The paragraph headings as to the contents of particular paragraphs herein are inset only for convenience and are in no way to be construed as part of such paragraphs or as a limitation in the scope of the particular paragraph to which they refer.

31. **Notices.** Any notice required or permitted to be given hereunder shall be deemed sufficient if given by a communication in writing by United States mail, postage prepaid and registered and addressed to the below-listed address of the party or to such other address as the parties may from time to time designate in writing.

As to City:

Park City Municipal Corp.
City Attorney
P O Box 1480
Park City UT 84060

As to Concessionaire:

Lucky Ones Coffee
Taylor Matkins and/or Katie Manhart
P O Box 681745
Park City, UT 84068

32. **Independent Contractor Relationship.**

(a) The parties intend that an independent Concessionaire/City relationship will be created by this Lease Agreement. No agent, employee, or representative of the Concessionaire shall be deemed to be an employee, agent, or representative of the City for any purpose, and the employees of the Concessionaire are not entitled to any of the benefits the City provides for its employees. The Concessionaire will be solely and entirely responsible for its acts and for the acts of its agents, employees, or representatives during the performance of this Lease Agreement.

(b) In the performance of the services herein contemplated, the Concessionaire is an independent contractor with the authority to control and direct the performance of the details of the coffee shop/cafe; however, the service and products contemplated herein must meet the approval of the City and shall be subject to the City's general rights of inspection and review to secure the satisfactory fulfillment thereof.

33. **Prohibited Interest.** No member, officer, or employee of the City shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

34. **Severability.**

(a) If, for any reason, any part, term, or provision of this Lease Agreement is held by a court of the United States or any State thereof to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Lease Agreement did not contain the particular provision held to be invalid.

(b) If it should appear that any provision hereof is in conflict with any statutory provision of the State of Utah, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform in such statutory provisions.

35. **Entire Agreement.** This Lease Agreement constitutes the entire and only agreement between the parties and it cannot be altered except by written instrument, signed by both parties.

36. **Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument.

37. **Electronic Signatures.** Each party agrees that the signatures of the parties included in this Agreement, whether affixed on an original document manually and later electronically transmitted or whether affixed by an electronic signature through an electronic signature system such as DocuSign, are intended to authenticate this writing and to create a legal and enforceable agreement between the parties hereto.

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

PARK CITY MUNICIPAL CORPORATION, a
Utah municipal corporation

DocuSigned by:
By: Nann Worrel
NANN WORREL, Mayor

Attest:

DocuSigned by:
Michelle Kellogg
Michelle Kellogg, City Recorder

Approved as to form:

DocuSigned by:
Margaret Plane
City Attorney

CONCESSIONAIRE:
LUCKY ONES COFFEE LLC, a Utah limited
liability company

DocuSigned by:
By: TAYLOR MATKINS
Name: TAYLOR MATKINS
Title: Co-Founder

STATE OF UTAH)

) ss.

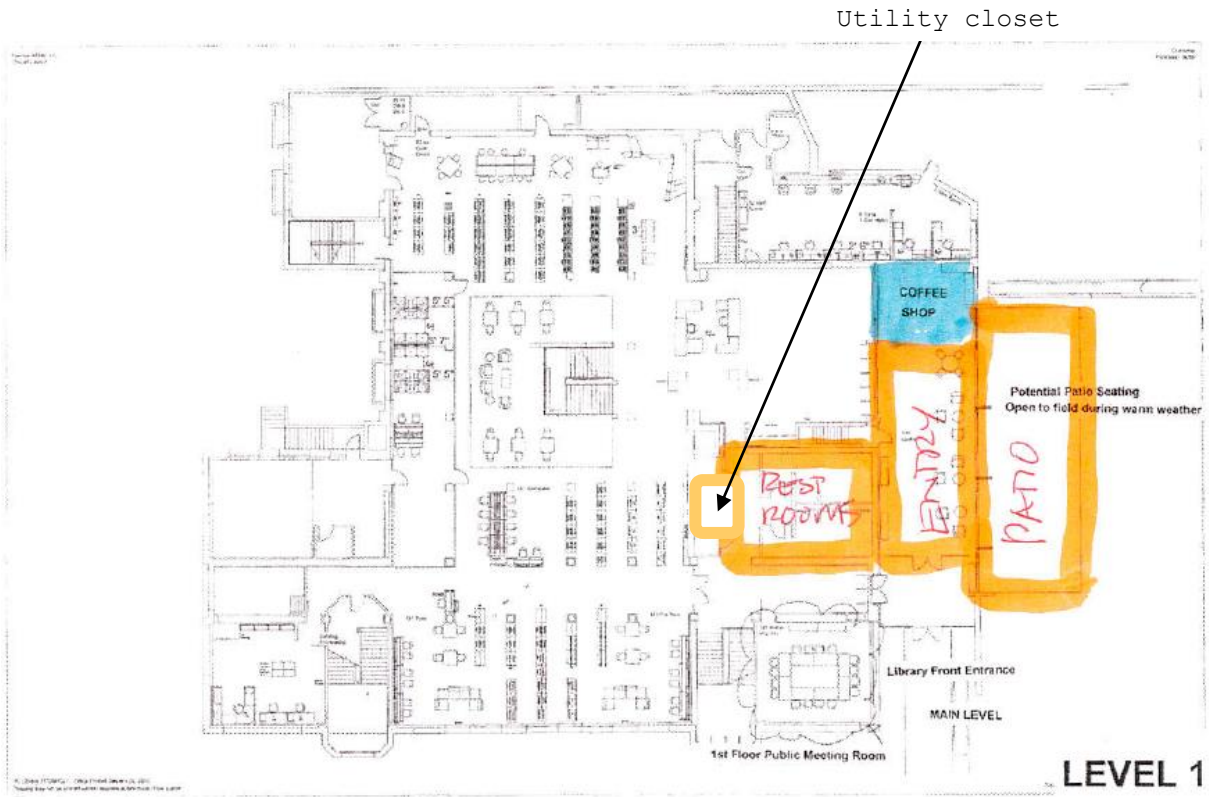
COUNTY OF SUMMIT)

On this _____ day of _____ 2023 before me, the undersigned notary public, personally appeared _____, as _____ of LUCKY ONES COFFEE LLC, a Utah limited liability company, personally known to me/proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed the same on behalf of the company..

Notary Public

My commission expires:

Exhibit A – Leased Spaces



- EXCLUSIVE



- Non EXCLUSIVE

