

License Agreement between City of Berwyn and _____
Premises at 6931 West Roosevelt Road and 1212 Clinton Avenue, Berwyn, Illinois

This License Agreement made as of the Date of License set forth in the following Schedule of Significant Terms (“Schedule”), by and between the City of Berwyn (the “Licensor”) and _____ (the “Licensee”) of a certain Berwyn Shop located at 6931 West Roosevelt Road and 1212 Clinton Ave, Berwyn, Illinois, 60402. Under no circumstances shall this agreement be considered a lease of real property.

SCHEDULE OF SIGNIFICANT TERMS

For purposes of this License, the terms set forth below shall have the meanings or be assigned the amounts as follows:

Date of License: _____, 20__

Term of License: _____, 20__ from 12:00 a.m. (the “Commencement Date”) to 11:59 p.m. on _____, 20__ (the “Expiration Date”).

Base License Fee: \$2500 for the 2023 season.

Initial Deposit: A deposit of \$500 will be required at the time of execution of this License. Deposit is part of the regular rent and is not refundable.

Premises/Usage: Retail space at 6931 West Roosevelt Road and 1212 Clinton Avenue, Berwyn, Illinois (the “Property”) measuring approximately twelve feet by fifteen feet (12’ by 15’) (hereinafter referred to as the “Premises” or “Building”).

Project Manager: The Premises and the Property shall be managed by the City of Berwyn’s acting agent, the Berwyn Development Corporation (hereinafter referred to as the “Project Manager”). All notices, communications, and payments shall be provided to the Project Manager unless otherwise indicated in writing.

WITNESSETH:

Licensors hereby grants to Licensee, and Licensee hereby accepts the use of the Premises for a term (herein called the "Term") commencing on the Commencement Date and ending on the Expiration Date, paying as License Fees therefore the sums hereinafter provided, without any setoff, abatement, counterclaim, or deduction whatsoever, except as herein expressly provided.

IN CONSIDERATION THEREOF, THE PARTIES HERETO COVENANT AND AGREE:

1. Term. The Term of this License shall commence at 12:00 a.m. on _____, 20__ and shall extend until 11:59 p.m. on _____, 20__.

2. Base License Fee. Licensee shall pay to the Berwyn Development Corporation, the acting agent of the City of Berwyn, (as otherwise referred to as the "Property Manager") for use of the Premises in the amount stipulated in the Schedule of Significant Terms, payable in monthly installments which shall be due no later than the first (1st) day of each calendar month from June to October of license year ("Base License Fee"). Base License Fee and all other amounts becoming due from Licensee to Project Manager (herein collectively called the "License Fees") shall be paid in lawful money of the United States to the Berwyn Development Corporation at its office or as otherwise designated by written notice from Project Manager to Licensee. The obligation to pay License Fees hereunder is independent of each and every other covenant and agreement contained in this License. All License Fees not paid when due and payable shall bear interest from the date due until paid at the rate of eighteen percent (18%).

3. Use of Premises.

a. Licensee hereby acknowledges that the Premises are owned by a governmental body. Licensee shall use the Premises for retail operations ("Permitted Use"). Licensee shall not abandon or leave vacant the Building and shall not allow anyone other than Licensee, its employees, or agents to occupy it. Licensee shall not conduct an auction, going-out-of business sales, bankruptcy sales, or similar practice. The Permitted Use shall only occur continuously and uninterruptedly during the following hours unless permission for shortened or extended hours has been granted in writing by the Project Manager.

Fridays: 10am to 7pm
Saturdays: 10am to 6pm
Sundays: 11am to 4pm

b. If use or possession of the Premises by Licensee is temporarily restricted by Project Manager, for reasons beyond those provided in Sections 3.a., 4 and 10, Project Manager shall provide Licensee with a temporary location (the "Temporary Premises") of similar size and nature, to the extent available, to enjoy until such time as the full use and possession of the Premises is returned to the Licensee. Such relocation to Temporary Premises shall not be deemed an eviction and shall not relieve Licensee from paying License Fees or performing any of its obligations under this License.

c. If use or possession of the Premises by Licensee is temporarily restricted by an Act of God or government mandate, the License Fee shall be prorated.

4. Alterations. Licensee shall not, without the prior written consent of Project Manager in each instance, make any alterations, improvements, or additions to the Premises. If Project Manager consents to said alterations, improvements, or additions, it may impose such conditions with respect thereto as Project Manager deems appropriate, including, without limitation, requiring Licensee to furnish Project Manager with security for the payment of all costs to be incurred in connection with such work or the construction of temporary structures, insurance against liabilities which may arise out of such work or the

construction of temporary structures, plans and specifications and permits necessary for such work, as may be applicable.

5. Utilities/Services. Licensee agrees that Licensor and its beneficiaries and their agents shall not be liable in damages, by abatement of License Fees or otherwise, for failure to furnish or delay in furnishing any service when such failure or delay is occasioned, in whole or in part, by repairs, renewals, or improvements, by any strike, lockout, or other labor trouble, by inability to secure electricity, gas, water, or other fuel at the Premises after reasonable effort to do so, by any accident or casualty whatsoever, by the act or default of Licensee or other parties including, without limitation, Licensee's failure to maintain the Premises in good condition and repair, or by any cause beyond the reasonable control of Licensor; and such failures or delays shall never be deemed to constitute an eviction or disturbance of the Licensee's use and possession of the Premises or relieve the Licensee from paying License Fees or performing any of its obligations under this License. Licensee agrees to cooperate fully, at all times, with Licensor in abiding by all reasonable regulations and requirements which Licensor or Project Manager may prescribe for the proper functioning and protection of all utilities and services reasonably necessary for the operation of the Premises and the Property.

a. Electricity is provided and included in fees up to a total of \$400 per month for all shops combined. A \$25 per month Electric Escrow fee will be charged to each Licensee to cover any possible electric excess usage. Should none be used, the fee will be returned at the end of the season.

b. Licensee shall make arrangements directly with the telephone/internet company servicing the Premises for such telephone/internet service in the Premises as may be desired by Licensee. Licensor will attempt to provide free WiFi for payment processing, but this service is not guaranteed. Licensor and their agents are not responsible for any missed sales that may happen from the lack of internet.

c. Licensee is responsible for their own security measures to keep their Building and inventory secure. Licensor will attempt to provide security cameras, but this service is not guaranteed. If Licensor provides cameras, Licensee is responsible for monthly fees and maintenance. Licensor and its agents are not responsible for any damaged or stolen property.

d. If Licensee desires telegraphic, telephonic, internet, burglar alarm, computer installations or signal service (which service shall be installed and maintained at Licensee's sole expense), Project Manager shall, upon request, direct where and how all connections and wiring for such service shall be introduced and run. Project Manager additionally shall have the right to approve or disapprove all plans and specifications for such service prior to any installation and to refuse permission for such installation if Project Manager determines same could adversely affect an existing system. In the absence of such directions, Licensee shall make no borings or cutting or install any wires or cables in or about the Premises and/or the Property.

6. Condition and Care of Premises. Licensee shall, at its own expense and to the extent of its licensed use of the Premises, keep the Premises in good repair and condition and shall promptly and adequately repair all damage to the Premises caused by Licensee or any of its employees, agents, or guests, including replacing or repairing all damaged or broken glass, fixtures, scuffed or damaged flooring or walls, and appurtenances resulting from any such damage, under the supervision and with the approval of Project Manager and within any reasonable period of time specified by Project Manager. Licensee shall take special care to keep all areas of the Premises which are visible by or accessible to the public in good order and appearance.

7. Option to Terminate. Licensor shall have the option to terminate this Agreement, at its sole discretion, upon written notice to the Licensee. Upon termination, Licensee shall pay all License Fees due and owing to Licensor and shall vacate and return the Premises as set forth in Section 8 below. Please note, excessive tardiness, understaffed hours, or early closures may result in termination of the agreement with final decision made by the Licensor or its agents.

8. Return of Premises. At the termination of this License by lapse of time or otherwise or upon termination of Licensee's right to use the Premises without terminating this License, Licensee shall surrender possession of the Premises to Licensors and deliver all keys to the Premises to Licensors and make known to the Licensors the combination of all locks of vaults then remaining in the Premises, and shall return the Premises and all equipment and fixtures of the Licensors therein to Licensors in as good condition as when Licensee originally used such Premises, ordinary wear, loss or damage by fire or other insured casualty, damage resulting from the wanton or negligent act of Licensors or its employees and agents excepted, failing which Licensors may restore the Premises and such equipment and fixtures to such condition and Licensee shall pay the cost thereof to Licensors on demand.

9. Holding Over. The Licensee shall pay Licensors for each day Licensee retains possession of the Premises or any part thereof after termination of this License, by lapse of time or otherwise, an amount which is fifty dollars (\$50) per day. Nothing in this Section contained, however, shall be construed or operate as a waiver of Licensors's right of re-entry or any other right of Licensors.

10. Waiver of Certain Claims; Indemnity by Licensee.

a. To the extent not expressly prohibited by law, Licensee releases Licensors, its elected officials, officers, agents, servants, and employees, including the Berwyn Development Corporation, from and waives all claims for damages to person or property sustained by the Licensee or by any occupant of the Premises or the Property, or by any other person, resulting directly or indirectly from fire or other casualty, cause, or any existing or future condition, defect, matter, or thing in or about the Premises, the Property or any part of it, or from any equipment or appurtenance therein, from any activity or accident related to the Permitted Use, or from any accident in or about the Property, or from any act or neglect of any Licensee or other occupant of the Property or any part thereof or of any other person. This Section 10(a) shall not operate as a release of Licensors from liability for the negligent or intentionally wrongful conduct of Licensors or its agents or employees. This Section 10 shall apply especially, but not exclusively, to damage caused by water, snow, frost, steam, excessive heat or cold, sewerage, gas, odors, or noise, or the bursting or leaking of pipes or plumbing fixtures, broken glass, sprinkling or air conditioning devices or equipment, outside the Premises and shall apply without distinction as to the person whose act or neglect was responsible for the damage and whether the damage was due to any of the acts specifically enumerated above, or from any other thing or circumstance, whether of a like nature or of a wholly different nature. If any damage to the Premises or the Property or any equipment or appurtenances therein, whether belonging to Licensors or to other licensees or occupants of the Property or otherwise, results from any negligent or wrongful acts of the Licensee, its employees, agents, vendors, or invitees, Licensee shall be liable therefore and Licensors may, at its option, repair such damage and Licensee shall upon demand by Licensors reimburse Licensors for all reasonable costs of such repairs and damages in excess of amounts, if any, paid to Licensors under insurance covering such damages. All personal property belonging to the Licensee or any occupant of the Property shall be there at the risk of the Licensee or other person only and Licensors shall not be liable for damage thereto or theft or misappropriation thereof.

b. To the extent not expressly prohibited by law, Licensee agrees to hold Licensors and its elected officials, officers, employees, beneficiaries, and their agents, servants, and employees, including the Berwyn Development Corporation, harmless and to indemnify each of them against claims and liabilities, including reasonable attorneys' fees, for injuries to all persons and damage to or theft or misappropriation or loss of property occurring in or about the Premises arising from Licensee's negligence or wrongful acts, or any negligence or wrongful acts on the part of any entertainer, vendor, or invitee of Licensee relating to the Permitted Use, or from any breach or default on the part of Licensee in the performance of any covenant or agreement on the part of Licensee to be performed pursuant to the terms of this License or due to any other act or omission of the Licensee, its agents, or employees.

c. To the extent not expressly prohibited by law, Licensors releases Licensee from and waives all claims for damages to person or property sustained by the Licensors, resulting directly or indirectly from fire or other casualty, cause, or any existing or future condition, defect, matter, or thing in or about Premises, the Property or any part of it, or from any equipment or appurtenance therein, or from any accident on or about the Property, not caused by the negligence or misconduct of Licensee or its agents, employees, contractors, guests, or invitees.

d. Neither Licensors nor Licensee shall cause or permit any hazardous materials to be used, stored, released, handled or produced in, on or about the Premises or Property, including, but not limited to, substances used for pyrotechnics or other special effects, except in strict compliance with all applicable laws and as previously approved by Licensors. Licensors and Licensee each agree to indemnify and hold the other party harmless from all damages, liability, and expense (including reasonable attorneys' fees) arising from a breach of the foregoing covenant by the indemnifying party.

11. Damage or Destruction by Casualty.

a. If the Premises or any part of the Property shall be damaged by fire or other casualty and if such damage does not render all or a substantial portion of the Premises or the Property unusable, then Licensors shall proceed to repair and restore the same to its prior existing condition with reasonable promptness, subject to reasonable delays for insurance adjustments and delays caused by matters beyond Licensors' control. If any such damage renders all or a substantial portion of the Premises or the Property unusable, Licensors shall, with reasonable promptness after the occurrence of such damage and in good faith, estimate the length of time that will be required to substantially complete the repair and restoration of such damage and shall by notice advise Licensee of such estimate. If it is so estimated that the amount of time required to substantially complete such repair and restoration will exceed ninety (90) days from the date such damage occurred, then either Licensors or Licensee (but as to Licensee only if all or a substantial portion of the Premises are rendered unusable and the estimated time to substantially complete the repair or restoration of the Premises will exceed such ninety (90) days from the date of the fire or other casualty) shall have the right to terminate this License as of the date of such damage upon giving notice to the other at any time within twenty (20) days after Licensors gives Licensee the notice containing said estimate (it being understood that Licensors may, if it elects to do so, also give such notice of termination together with the notice containing said estimate). Unless this License is terminated as provided in the preceding sentence, Licensors shall proceed with reasonable promptness and all due diligence to repair and restore the Premises, subject to reasonable delays for insurance adjustments and delays caused by matters beyond Licensors' control, and also subject to zoning laws and building codes then in effect. Licensors shall have no liability to Licensee, and Licensee shall not be entitled to terminate this License (except as hereinafter provided) if such repairs and restoration are not in fact completed within the time period estimated by Licensors, as aforesaid, or within said ninety (90) days, so long as Licensors shall proceed with reasonable promptness, and due diligence. Licensee shall not have the right to terminate this License pursuant to this Section 11 if the damage or destruction was caused by the intentional or negligent act of Licensee, its agents, employees, entertainers, vendors, guests or invitees.

b. In the event any such fire or casualty damage not caused by the intentional or negligent act of Licensee, its agents or employees, renders the Premises substantially unusable and Licensee is not occupying the Premises and if this License is not terminated pursuant to the foregoing provisions of Section 11 by reason of such damage, then License Fees shall abate during the period beginning with the date of such damage and ending with the date when Licensors substantially completes its repair and restoration work. Such abatement shall be in an amount bearing the same ratio to the total amount of License Fees for such period as the portion of the Premises being repaired and restored by Licensors and not heretofore delivered to Licensee from time-to-time bears to the entire Premises. In the event of termination of this License pursuant to this Section 11, License Fees shall be apportioned on a per diem

basis and be paid to the date of such fire or other casualty.

c. In the event of any such fire or other casualty, and if the License is not terminated pursuant to the foregoing provisions of this License, Licensee shall repair and restore any portion of alterations, additions or improvements made by or on behalf of Licensee in the Premises, and during any such period of Licensee's repair and restoration following substantial completion of Licensors' repair and restoration work, License Fees shall be payable as if said fire or other casualty had not occurred.

12. Eminent Domain. If all or a substantial part of the Property, or any part thereof which includes all or a substantial part of the Premises, shall be taken or condemned by any competent authority for any public or quasi-public use or purpose, the Term of this License shall end upon and not before the date when the possession of the part so taken shall be required for such use or purpose, and without apportionment of the award to or for the benefit of Licensee. If any condemnation proceeding shall be instituted in which it is sought to take or damage any part of the Property, the taking of which would, in Licensors' opinion, prevent the economical operation of the Property, or if the grade of any street or alley adjacent to the Premises is changed by any competent authority, and such taking or damage or change of grade makes it necessary or desirable to remodel the Property to conform to the taking or damage, Licensors shall have the right to terminate this License upon not less than thirty (30) days' notice prior to the date of termination designated in the notice. In either of the events above referred to, License Fees shall be apportioned as of the date of the termination. No money or other consideration shall be payable by the Licensors to the Licensee for the right of termination, and the Licensee shall have no right to share in the condemnation award or in any judgment for damages caused by such taking or the change of grade; provided, however, that Licensee shall have the right to pursue separately against the condemning authority any award available separately to Licensee for Licensee's moving and relocation expenses.

If only a part of the Premises shall be so taken or condemned, but the balance of the Premises can still be used for the same purpose and with substantially the same utility to Licensee as immediately prior to such taking, this License shall not terminate and Licensors shall repair and restore the Premises and all improvements thereon, except that Licensors shall not hereby be required to expend for repair and restoration any sum in excess of the award. Any portion of the award which has not been expended by Licensors for such repairing or restoration shall be retained by Licensors as Licensors' sole property. The License Fees shall be equitably abated following delivery of possession to the condemning body. If fifty percent (50%) or more of the Property shall be so taken or condemned, Licensors may terminate this License by giving written notice thereof to Licensee within thirty (30) days after such taking. In such event, the award shall be paid to or be the sole property of Licensors.

13. Default; Rights and Remedies.

a. The occurrence of any one or more of the following matters constitutes a Default by Licensee or Licensors under this License:

- (i) Failure by Licensee to pay License Fees or any installment thereof when due;
- (ii) Failure by Licensee to pay within five (5) days after notice from Project Manager of Licensee's failure to pay any other moneys required to be paid by Licensee under this License;
- (iii) Failure by Licensee or Licensors to observe or perform any covenant, agreement, condition or provision of this License; and
- (iv) The occurrence of any illegality on the part of Licensee, its employees, vendors, contractors, or guests.

b. If a Default occurs which has not been cured or remedied during the applicable grace period,

either party shall have the rights and remedies hereinafter set forth, which shall be distinct, separate and cumulative and shall not operate to exclude or deprive each party of any other right or remedy allowed it by law, the respective party may terminate this License by giving to the other party written notice of the their election to do so, in which event the Term of this License shall end, and all right, title and interest of the respective party hereunder shall expire, on the date stated in such notice.

14. Insurance. Upon execution of this agreement, Licensee shall provide the Project Manager with a certificate of insurance naming the City of Berwyn and its elected and non-elected officials, employees, and agents, including the Berwyn Development Corporation, as additional insureds using the language "Additional Insured: City of Berwyn and Berwyn Development Corporation, all elected and appointed officials, all employees and volunteers, all boards, commissions, and/or authorities and board members, including employees and volunteers thereof." Licensee shall carry insurance during the entire term hereof, insuring Licensee and Licensor and Licensor's agents and beneficiaries as Additional Insureds, as directed by the Licensor, with terms, coverages, and levels of insurance and carriers acceptable to the Licensor, including but not limited to, Liability and Workers' Compensation, with the following coverages in the following amounts:

- a. Comprehensive commercial general liability coverage for general liability and also including contractual liability insuring the indemnification provisions contained in this License, on an occurrence basis, a minimum combined single limit of an amount not less than \$1,000,000.00 combined single limit per occurrence;
- b. "All risk" physical damage insurance, including sprinkler leakage, for the full replacement cost of all additions, improvements, and alterations to the Premises and of all furniture, trade fixtures, office equipment, entertainment equipment, including, but not limited to, light fixtures or displays, merchandise, and all other items of Licensee's property on the Premises;
- c. Workers' Compensation Insurance, as required by Illinois law, and Employers' liability coverage of \$500,000.00 per occurrence.
- d. The foregoing insurance may be provided by a company-wide blanket insurance policy or policies maintained by or on behalf of Licensee, provided that the same is reasonably satisfactory to Licensor.

Any company writing any insurance which Licensee is required to maintain or cause to be maintained pursuant to the terms of this License (all such insurance as well as any other insurance pertaining to the Premises or the operation of Licensee's business therein being referred to as "Licensee's Insurance"), as well as the form of such insurance, shall at all times be subject to Licensor's reasonable approval, and each such insurance company shall have an A.M. Best rating of "A-" or better and shall be licensed and qualified to do business in the state of Illinois. All policies evidencing Licensee's Insurance (except for Workers' Compensation Insurance) shall specify Licensee as named insured and the Additional Insureds as additional insureds. Provided that the coverage afforded Licensor and any designees of Licensor shall not be reduced or otherwise adversely affected, all of Licensee's Insurance may be carried under a blanket policy covering the Premises and any other of Licensee's locations. All policies of Licensee's Insurance shall contain endorsements that the insurer(s) will give to Licensor and its designees at least thirty (30) days' advance written notice of any change, cancellation, termination or lapse of said insurance. Licensee shall be solely responsible for payment of premiums for all of Licensee's Insurance.

Licensee shall deliver to Project Manager at least fifteen (15) days prior to the time Licensee's Insurance is first required to be carried by Licensee and upon renewals at least fifteen (15) days prior to the expiration of any such insurance coverage, a certificate of insurance of all policies procured by

Licensee in compliance with its obligations under this License. The limits of Licensee's Insurance shall in no event limit Licensee's liability under this License.

15. Signage and Marketing. Licensee also agrees to participate in cooperative marketing endeavors with the Licensors, Project Manager, and fellow licensees of the Property.

16. Licensee Equipment. Any and all equipment brought onto the Premises by the Licensee shall be solely for a Permitted Use. Such equipment is the exclusive property of the Licensee.

17. Property Taxes. Property taxes shall not be levied against the Property.

18. Training. Licensee shall attend monthly training sessions with business leaders. Trainings will be facilitated by Project Manager. Failure to attend two or more training sessions unless prior written approval is given will constitute a breach of this License Agreement

19. Successful Graduation from Cohort Program. To successfully graduate from the cohort program, the Licensee must: (1) Pay all fees as required unless prior written exemption was given by the Executive Director (2) Maintain the hours as detailed in Section 3(a) unless prior written approval was given by the Executive Director, and (3) Attend all training sessions as mentioned in Section 18 unless prior written approval was given by the Executive Director.

20. Miscellaneous. All understandings and agreements, oral or written, heretofore made between the parties hereto are merged in this License, which alone fully and completely expresses the agreement between Licensors (and its beneficiary and their agents) and Licensee. Additionally, Licensee will secure and keep in good standing the appropriate business licenses and permits as required by local, state, and federal laws.

Licensee shall not transfer or assign this License, or sub-license its rights hereunder, to a third party, without first obtaining Project Manager's written consent, which may be withheld if the Project Manager believes the transferring party does not meet the same standards as Licensee; provided, however, Project Manager's consent shall not be required for any assignment, transfer or sub-license of this License to a third party who or which is: (a) the surviving entity in a merger between Licensee and such third party; or (b) the result of a corporate reorganization or consolidation with Licensee.

Licensee shall act, when designated by the Project Manager, as "Site Manager" of the Property. As Site Manager, Licensee shall remove trash, leaves, and/or snow, keeping the area clean, neat, and safe; unlock the bathroom and gates to start each day and report absences or early closures to Project Manager; and lock the bathroom, maintenance shed, and gates to end each day.

21. Notice. All notices, certificates, approvals, consents or other communications desired or required to be given hereunder shall be in writing and shall be deemed received when delivered on a "Business Day" (defined as Monday through Friday, excluding Saturday, Sunday and all nationally and Illinois recognized holidays) or the next Business Day if the day of delivery is not a Business Day, and if delivered by (1) registered or certified mail, postage and fees prepaid, return receipt requested, (2) nationally recognized overnight courier, (3) direct messenger, or (4) hand delivery and in all cases to that address as set forth in this Agreement.

22. Execution in Counterpart. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall be the signatures of the parties reflected hereon as the signatories.

(SIGNATURE PAGE TO FOLLOW.)

IN WITNESS WHEREOF, the parties have caused this License to be executed on the date first above written.

City of Berwyn, (Licensor):

(Name)

(Street Address)

By: _____
Print Name and Title

(City Address)

Date: _____

(Telephone)

(Facsimile)

(Email)

(Initial)

(Licensee):

(Name)

(Street Address)

By: _____
Print Name and Title

(City Address)

Date: _____

(Telephone)

(Facsimile)

(Email)

(Initial)

ACKNOWLEDGED:

**Berwyn Development Corporation,
(Property Manager):**

By: _____
Print Name and Title

Date: _____

(Name)

(Street Address)

(City Address)

(Telephone)

(Facsimile)

(Email)

(Initial)