LEASE AGREEMENT BETWEEN
THE CITY OF SANTA FE AND MARTY’S MEALS, INC.

This LEASE AGREEMENT ("Lease Agreement") is made and entered into as of the date of
the last signature ("Effective Date"), by and between the CITY OF SANTA FE, a municipal
corporation ("City" or "Lessor") and MARTY’S MEALS, INC., a New Mexico corporation
("Lessee"), collectively the "Parties".

WHEREAS, on January 9, 2019, Ordinance No. 2019-1 was approved adopting an
Economic Development Project Participation Agreement ("PPA") between the City and Lessee; and

WHEREAS, Lessee has been meeting and exceeding the terms of the PPA to the extent that
it is ready to expand its business; and

WHEREAS, the City owns several moveable storage containers that are now located on the
City’s Midtown Campus property; and

WHEREAS, Lessee has a need for temporary dry goods storage while a new production
facility is constructed; and

WHEREAS, the City supports the economic growth of Santa Fe businesses and
entrepreneurs; and

WHEREAS, the City desires to lease storage containers for the purpose of storing dry
goods.

WITNESSETH:
In consideration of the Lessee’s promises herein, Lessor hereby gives Lessee a Lease
Agreement, revocable and terminable as hereinafter provided, to enter on, make use of, (and develop)
the real property of Lessor as follows:

1. PREMISES
Lessor allows Lessee to use and occupy, subject to the terms and conditions of this Lease
Agreement, two (2) 8’x40’ storage containers now located a certain parcel of land known as the
Midtown Campus, located at 1600 Saint Michaels Drive (the "Premises"). The location of the
Premises may change at the discretion of the City.
Lessee accepts the Premises in its present state and agrees that it is in good condition, without any
representation or warranty by Lessor as to the condition of the Premises.

2. LEASE TERM
a. **Initial Term.** The initial term of this Lease Agreement shall commence at 12:00 a.m. on the Effective Date. The term of this Lease Agreement shall consist of an "Initial Term" of twelve (12) months with two (2) "Option Terms" of six (6) months each.

b. **Option Term.** Lessee's exercise of any Option Term is contingent upon compliance with this Lease Agreement and with proper written notice by Lessee to Lessor at least ninety (90) days prior to the expiration of the Initial Term and shall be at Lessor's sole discretion. All terms, covenants and conditions of this Lease Agreement, excepting the amount of rent to be paid, shall remain in full force and effect during any extension of the term.

c. **Hold Over.** In the event Lessee remains in possession of the Premises after the expiration of the Term of this Lease Agreement, such possession may, at the sole option of Lessor, be continued as a month-to-month tenancy. During any such month-to-month tenancy, the Rent due shall be prorated and payable on a monthly basis, and the terms and conditions of the Lease Agreement shall be otherwise applicable.

3. **RENT**

   a. **Base Rent.** **Annual rent** of $1,520.00 ($760.00/each), is due on the Effective Date and there after due in full on the anniversary of the Effective Date during the Term without notice or demand and without deduction or offset for any cause whatsoever. Lessee shall make payments to; City of Santa Fe, Treasury Division, 200 Lincoln Ave., Room 114, Santa Fe, NM, 87504.

   b. **Optional Terms Rent.** The amount of rent to be paid during each exercised Option Term shall be the then-prevailing fair market rental value of the Premises (less the value of Lessee’s improvements and inventory on the Premises), as determined by Lessor, and in no event shall the amount of annual rent be less than the amount of annual rent paid during the previous year.

   c. **Penalty for Late Rent Payment.** If money payable to Lessor as a condition of this Lease Agreement is not paid in full when due, a penalty of 10% of the amount due and unpaid shall be added to the amount due, and the total sum of the then-due rental payment plus penalty shall become immediately due and payable to Lessor. A further penalty of 10% of the amount due and unpaid, including previously assessed penalties, shall be added for each additional month that said amount remains unpaid. The assessment and collection of the 10% penalty is in addition to any other rights of Lessor, if Lessee does not faithfully perform the terms, covenants and conditions of this Lease Agreement.

4. **USE OF PREMISES**

   a. **Conditions of Use.** Lessee shall use the Premises solely for the specific purpose of dry goods storage.

   b. **Improvement of the Premises.** Lessee may, with the prior written consent of Lessor and at no cost to Lessor, make improvements to the Premises which are required to comply with the City of Santa Fe Land Use Code, which includes the Historic District Development Rules, and other applicable local, state and federal regulations. Lessee shall upon Lessor's request, remove all such improvements made to the Premises at the termination of this Lease Agreement.

   c. **Trade Fixtures.** All trade fixtures installed by Lessee after the Effective Date of this Lease Agreement shall remain the property of Lessee, who may remove the same upon termination of this Lease Agreement, provided that removal shall be done in such a manner as not to injure
or damage the Premises. In the event that Lessee fails to remove said trade fixtures after receipt of notice from Lessor to do so, Lessor may remove and dispose of the same as it sees fit and Lessee agrees to sell, assign, transfer and set over to Lessor all of Lessee's right, title and interest in and to said trade fixtures and any personal property not removed by Lessee. Lessee further agrees that should Lessor remove said trade fixtures pursuant to this paragraph. that Lessee shall pay Lessor upon demand the cost of such removal, plus the cost of transportation and disposal thereof.

d. Compliance with Laws. Lessee's use of the Premises shall at all times be in compliance with the City of Santa Fe Municipal Code and other applicable local, state and federal regulations including but not limited to compliance with the City of Santa Fe Integrated Pest Management Policy (§ 10-7 SFCC 1987) (the Pest Management Policy).

5. REPAIRS & MAINTENANCE
a. During the term of this Lease and any extension or renewal thereof, Lessee shall not cause or permit any waste, damage or injury to the Premises or to any improvements made to the Premises.

b. During the term of this Lease and any extension or renewal thereof, Lessee shall, at its sole expense, keep and maintain the Premises in good and clean condition at all times and shall be responsible for the costs of any and all required repairs, replacements, and capital improvements that arise during the Term of this Lease Agreement.

c. Repairs and replacements required to be made by the Lessee shall be made promptly as and when necessary and shall be at least equal in quality of materials and workmanship to that originally existing in the Premises.

d. Lessee shall at all times During the term of this Lease and any extension or renewal thereof, and in a timely manner, provide a safe Premises by eliminating conditions caused by, including and not limited to, snow, ice, debris, mold and standing water.

e. Lessor reserves the right to inspect the Premises at any time during the Term of this Lease Agreement to verify Lessee's compliance with this Section 5. In the event Lessee fails to maintain the Premises at a standard acceptable to the Lessor, as determined in Lessee's sole discretion, Lessor may terminate this Lease Agreement in accordance with Section 13 herein.

f. Repair and maintenance shall be to the sole satisfaction of Lessor, and if Lessee fails to fulfill any duty imposed under this Section 5 within a reasonable period of time, City may, and is not required to, perform those duties at Lessee’s sole cost. Lessee shall promptly cooperate with Lessor if Lessor undertakes to perform such duties. No action by Lessor taken pursuant to this Section 5 shall constitute a waiver of Lessee’s obligations. Lessee’s obligations under this Section 5 shall survive the expiration or termination of this Lease Agreement.

6. UTILITIES & SERVICES
Lessee, at Lessee’s sole cost and expense, agrees to provide the following:

a. Janitorial supplies and services; and

b. Pest control services; and

c. Snow removal services.
7. TAXES
   Lessee shall pay all taxes levied and assessed, if any, upon any personal property, fixtures and improvements belonging to Lessee and located upon the demised Premises, and all leasehold and possessory interest taxes levied or assessed by any proper taxing authority.

8. SUBLEASE, ASSIGNMENT OR TRANSFER
   Lessee shall not sublet, assign or otherwise transfer this Lease Agreement, without the prior written consent of Lessor, which Lessor may withhold for any or no reason. Any such actions taken by Lessee without Lessor’s consent shall result in the immediate termination of this Lease Agreement.

9. INSURANCE
   Lessee shall at all times maintain and provide adequate insurance coverage which includes, without limitation, each of the following:
   a. Property Insurance. Lessee shall carry and maintain in full force and effect during the term of this Lease Agreement casualty insurance ("extended coverage" and "additional extended coverage") as may be available for all improvements to the Premises in an amount sufficient to restore and replace existing structures and improvements if lost or damaged by any form of casualty. Lessee shall cause the City of Santa Fe to be named as an additional insured on such policy of insurance.
   b. Commercial General Liability Insurance which shall be written on an occurrence basis and be at least as broad as the latest version of ISO form CG 00 01 with limits of not less than $1,000,000 per occurrence and $2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Such policy shall include Broad Form Contractual Liability coverage and shall be endorsed to include the City, its, directors, officials, officers, employees, agents, and volunteers as additional insureds on all primary and excess policies for ongoing and completed operations performed by, or behalf of Contractor. Such additional insured coverage shall be as broad as that provided by ISO form CG 20 10 (ongoing operations) and CG 20 37 (completed operations).
   c. Workers’ Compensation Insurance with statutory limits, and Employer’s Liability insurance with limits of not less than $1,000,000 per accident or disease. The Workers’ Compensation policy shall be endorsed with a waiver of subrogation in favor of the City, its directors, officials, officers, employees, agents, and volunteers.
   d. Certificates of Insurance. Prior to the Effective Date of this Lease Agreement, and thereafter at any time during the Term of this Lease Agreement that Lessor requests, Lessee shall provide Lessor with certificates of insurance for each policy evidencing that the coverage required hereunder is current. Such policy shall provide that the coverage evidenced thereby shall not be terminated or modified for any reason without thirty (30) days prior written notice to the Lessor. A certificate or policy which states that failure to give such notice imposes no obligation on the part of the insurer shall be unacceptable to Lessor, and Lessee shall be responsible for removing such language from such certificate or policy.

10. INDEMNIFICATION
    Lessee shall indemnify, hold harmless and defend Lessor from all losses, damages, claims or judgments, including payment of all attorney's fees and costs, on account of any suit, judgment, execution, claim, action or demand whatsoever arising from damages occurring on the Premises and
Lessee's use of the Premises hereunder, including use of the Premises by Lessee's employees, agents, representatives, contractors, agents, guests, invitees or permitted assigns.

Lessee shall cause any and all agreements that Lessee enters into with any of the above parties to contain language indemnifying Lessor as provided in this Section.

11. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by Lessor in connection with the Lease Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et seq. NMSA 1978, as amended. The City and its “public employees” as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense, and do not waive any limitation of liability pursuant to law. No provision of this License modifies or waives any provision of the New Mexico Tort Claims Act.

12. EASEMENTS

Lessor reserves the exclusive right to grant access, utility or other easements on or through the Premises. Lessor shall notify Lessee in writing prior to Lessor's grant of any easement through the Premises.

13. TERMINATION

a. Lessor may terminate this Lease Agreement upon Lessee's failure to comply with any provisions contained herein. Prior to termination, Lessor shall hand deliver or mail notice to Lessee via certified or registered mail specifying:
   i. the breach;
   ii. the action required to cure the breach;
   iii. a date, not less than fifteen (15) days from the date the notice is hand delivered or mailed to Lessee, by which such breach must be cured; and
   iv. that failure to cure such breach on or before the date specified in the notice will result in termination of the Lease Agreement.

b. Lessee may terminate this Lease Agreement with written notice to Lessor at least thirty (30) days prior to the termination date.

c. At the termination of this Lease Agreement Lessee shall surrender the Premises in the condition in which they were at the inception of this Lease Agreement, excepting:
   i. Deterioration caused through reasonable use and ordinary wear and tear;
   ii. Alterations, improvements or conditions made with Lessor’s written approval.

14. NOTICE

Any required notice will be deemed delivered, given and received (i) when personally hand delivered, or (ii) five days after the same are deposited in the United States mail, postage prepaid, registered, addressed to the applicable party at the address indicated below for such party, or at such other address as may be designated by either party in a written notice to the other party:

To Lessor: City of Santa Fe To Lessee: Sandra Bosben
          Attn. City Manager       Marty’s Meals, Inc.
15. NO WAIVER
No waiver of a breach of any of the provisions contained in this Lease Agreement shall be construed to be a waiver of any succeeding breach of the same or any other provisions.

16. SEVERABILITY
In the event that one or more of the provisions contained in this Lease Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

17. ENTIRE AGREEMENT
The foregoing constitutes the entire Lease Agreement between the Parties, represents their entire understanding, and defines all of their respective rights, title, and interests as well as all of their duties, responsibilities and obligations. Any and all prior lease agreements and understandings between the Parties related to the Premises, if any, are merged herein. This Lease Agreement shall not be modified or amended except by a written document signed by the Parties.

18. BINDING EFFECT
This Lease Agreement shall be binding upon and insure to the benefit of the Parties hereto and their respective successors and permitted assigns.

19. LITIGATION EXPENSE
In the event of litigation between the Parties, Lessee shall pay any necessary costs, including reasonable attorney's fees, expenses and other costs of collection or otherwise, which Lessor shall incur in enforcing this Lease Agreement or in recovering any and all damages caused to the Premises by Lessee, or Lessee's contractors, agents, employees or permitted assigns.

20. HEADINGS
The section headings contained in this Lease Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Lease Agreement.

21. APPLICABLE LAW; VENUE
In any action, suit or legal dispute arising from this Lease Agreement, Lessee agrees that the laws of the State of New Mexico shall govern. The Parties agree that any action or suit arising from this Lease Agreement shall be commenced in a federal or state court of competent jurisdiction in
New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

22. AMENDMENT

This Lease Agreement shall not be altered, changed or modified except by an amendment in writing executed by the Parties hereto.

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[SIGNATURES APPEAR ON THE FOLLOWING PAGE]
IN WITNESS WHEREOF, the parties have executed this Lease Agreement as of this 13th day of May, 2022.

LESSOR: CITY OF SANTA FE

John Blair
JOHN BLAIR, CITY MANAGER

ATTEST:

Kris Yasaka
KIRSTINE BUSTOS MIHELSCIC, CITY CLERK

CITY ATTORNEY'S OFFICE:

Andrea Salazar
ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Alexis Lotero
ALEXIS LOTERO, INTERIM FINANCE DIRECTOR
Object Org. Code 2122800-460350

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STATE OF NEW MEXICO)  
COUNTY OF SANTA FE )

The foregoing instrument was acknowledged before me this 26 day of 
April, 2022.

My commission expires: 05/14/2025

LESEES MARTY'S MEALS, INC.

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