

SECOND AMENDMENT TO PHASE R4 SPACE LEASE

THIS SECOND AMENDMENT TO PHASE R4 SPACE LEASE (“**Second Amendment**”) is dated as of _____, and is between the **CITY OF POMPANO BEACH, FLORIDA**, a Florida municipal corporation (“**City**”), whose address is 100 West Atlantic Boulevard, 4th Floor, Pompano Beach, Florida 33060, Attn: City Manager, and **PPA-R4, LLC**, a Florida limited liability company, (“**Tenant**”) whose address is 398 NE 6th Avenue, Delray Beach, Florida 33483.

RECITALS

City and Tenant have entered into a Lease for Phase R4 dated April 15, 2016, for the lease to Tenant of the R4 Space described in the Lease, as amended by that certain First Amendment to Phase R4 Space Lease, dated November 3, 2017 (collectively, the "**R4 Lease**").

During the course of certain financings involving the Parcel, Tenant has learned that there are certain inconsistencies within the continuous operation provisions in Section 28.4.3 and Section 44.2 of the R4 Lease.

City and Tenant desire to eliminate any conflicts between the provisions and ensure that any present conflicts between the provisions do not prevent Tenant and any subtenants from obtaining financing in order to construct and operate the business located on the Parcel.

City and Tenant have agreed to make the clarifying changes to the R4 Lease as set forth in this Second Amendment.

AGREEMENT

For Ten Dollars and other good and valuable consideration, the receipt of which is hereby acknowledged by the parties, City and Tenant agree as follows:

1. **Sublease Requirements.** Section 28.4.3 of the R4 Lease is amended to read as follows (added language is underlined, deleted language has a line through it):

28.4.3 Require the Subtenant to remain in continuous operation throughout the term of its Sublease, and to provide written notice to Tenant ~~and City~~ if of the date on which Subtenant (1) intends to cease operations for a period in excess of ten (10) days in order to make renovations or repairs to the sublease premises or (2) cease operations altogether. Completion of renovations and repairs to the sublease premises pursuant to 28.4.3(1) shall not exceed eighteen (18) months. Such period may be extended if the repairs and renovations cannot be completed within such time period due to matters of force majeure or matters beyond the reasonable control of Subtenant. ~~for a period not to exceed 10 days in order to make renovations or repairs to the sublease premises;~~

2. **Continuous Operation.** Section 44.2 of the R4 Lease is amended to read as follows (added language is underlined, deleted language has a line through it):

44.2 Continuous Operation. Tenant acknowledges that it is important to City that the Project remains in full operation at all times. Tenant agrees to use ~~best~~ commercially reasonable efforts to keep the Parcel in continuous operation throughout the Lease Term. Tenant agrees to include in its Subleases a provision obligating each Subtenant to use commercially reasonable efforts to remain in continuous operation throughout its respective Sublease term, provided that (i) Subtenant may cease operations in order to make renovations and repairs to the sublease premises as permitted under Section 28.4.3 and (ii) subject to 28.4.3(2) above, in no event shall any space within the Improvements on the Parcel cease continuous operation for more than eighteen (18) months. Tenant must provide written notice to City ~~if~~ within ten (10) days of the date on which a Subtenant vacates its premises—intends to cease continuous operation pursuant to paragraph 28.4.3(1) or ceases operations altogether pursuant to 28.4.3(2) in violation of its Sublease. If a Subtenant ceases continuous operation altogether, Tenant shall use commercially reasonable efforts to satisfy the following deadlines:

<u>Advertise Premises</u>	<u>New Sublease Execution Date</u>	<u>Obtain Permits</u>	<u>Commence Construction</u>
<u>30 Days from the date continuous operations cease</u>	<u>4 months from the date Premises is Advertised</u>	<u>10 months from the New Sublease Execution Date</u>	<u>12 months from the New Sublease Execution Date</u>

3. **Ratification of R4 Lease.** The R4 Lease, as amended by this Second Amendment, remains in full force and effect on the date hereof.

City and Tenant have signed this Second Amendment to Phase R4 Space Lease on the dates set forth below their respective signatures

Witnesses:

CITY:

CITY OF POMPANO BEACH, FLORIDA

By: _____
REX HARDIN, MAYOR

Print Name_____

Dated:_____

Print Name_____

By: _____
GREG HARRISON, CITY MANAGER

Dated:_____

(SEAL)

Attest:

ASCELETA HAMMOND, CITY CLERK

Approved as to form by:

MARK E. BERMAN, CITY ATTORNEY

TENANT:

Witnesses:

PPA- R4, LLC, a Florida limited liability company

Signature: _____

By:

Print Name: _____

Richard Caster, Manager

Signature: _____

Date: _____

Print Name: _____

ACKNOWLEDGMENT

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this ___ day of _____, 20___ by Richard Caster, as Manager of PPA-R4, LLC, on behalf of the company. He is personally known to me or produced a Florida driver's license as identification.

NOTARIAL SEAL

Notary Public, State of Florida

Print Name: _____

My commission expires: _____