

COMMERCIAL LEASE

This lease agreement is made and entered into by and between Koenig and Sons, LLC (Landlord) and _____ (Tenant). Landlord hereby leases to Tenant and Tenant hereby leases from Landlord that certain property with the improvements thereon, containing approximately ____ square feet, hereinafter called the "leased premises", known as _____, City of Fort Smith, Sebastian County, Arkansas.

The primary term of this lease shall be ____ years commencing on the ____ day of _____, 20__ and ending on the ____ day of _____, 20__ upon the following terms, conditions and covenants:

1. TAXES. Each year during the term of this lease, Landlord shall pay real estate taxes assessed against the leased premises for the fair assessed replacement value of the leased premises. If Landlord pays real estate taxes, Landlord shall pay an amount equal to the total real estate taxes assessed against the leased premises in the base year, and in such event, each year during the term of this lease, Tenant shall pay as additional rental, upon receipt of a statement from Landlord together with copies of tax statements or other verification from the proper taxing authority, his pro rata share of an increase in real estate taxes over the base year on the property of which the leased premises is a part. Any increase in real estate taxes for a fractional year shall be prorated. The base year shall be 20__.

2. UTILITIES. Tenant shall pay all charges for utility services to the leased premises.

3. HOLDING OVER. Failure of Tenant to surrender the leased premises at the expiration of the lease constitutes a holding over which shall be construed as a tenancy month to month at a rate of \$_____ per month. Either party may cancel said month to month tenancy on one month's advance written notice to the other party.

4. RENT. Tenant agrees to and shall pay Landlord at P.O. Box 999, County of Sebastian, Arkansas, 72902 or at such other place Landlord shall designate from time to time in writing, as rent for the leased premises, the total sum of \$_____ payable without demand as follows: Months 1_ through ____, the sum of \$_____ per month. Each such payment of rent shall be paid in advance on or before the first day of each month commencing on _____ and continuing thereafter until the total sum shall be paid.

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Rent received after the first day of the month shall be deemed delinquent. If rent is not received by Landlord by the 5th day of each month, Tenant shall pay a late charge of five (5%) percent of the amount due plus a penalty of \$5.00 per day thereafter until rent is received in full. Tenant shall pay \$40.00 for each returned check. Landlord has the right to require payment in certified funds.

5. USE: Tenant shall use the leased premises for the following purpose and no other: _____ Offices under the name of _____.

6. SECURITY DEPOSIT. Tenant shall pay to Landlord a security deposit in the sum of \$2000.00, payable on or before the commencement of this lease for Tenant's faithful performance hereunder. Landlord shall refund the security deposit to Tenant upon Tenant's full performance of its obligations under this lease and vacation of the premises, provided, however, that the Landlord may deduct from the security deposit any unpaid assessments, expenses incurred for repairing damages to the premises, or cleaning expenses necessary to restore the premises to the condition they were in upon commencement of the lease, ordinary wear and tear excepted.

7. INSURANCE. Landlord shall pay for fire and extended coverage insurance on the buildings and other improvements in an amount equal to the maximum insurable replacement value of the improvements on the leased premises. Said fire and extended coverage insurance policy shall be issued for the benefit of Landlord and any proceeds there from shall be payable to Landlord. If Landlord provides any insurance herein, Tenant shall pay to Landlord, during the term hereof, the amount of any increase in premiums for the insurance required over and above such premiums paid during the first year of this lease. Tenant shall provide public liability and property damage insurance for its business operations on the lease premises in the amount of \$1,000,000.00 which policy shall cover the Landlord as well as the Tenant. Said insurance policies required to be provided by Tenant herein shall name Landlord as an additional insured and shall be issued by an insurance company approved by Landlord. Tenant shall provide Landlord with certificates of insurance evidencing the coverage required herein. Tenant shall be solely responsible for fire and casualty insurance on Tenant's property on or about the leased premises. If Tenant does not maintain such insurance in full force and effect, Landlord may notify Tenant of such failure and if Tenant does not deliver to Landlord within 10 days after such notice certification showing all such insurance to be in full force and effect,

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Landlord may at his option, take out the necessary insurance to comply with the provision hereof and pay the premiums on the items specified in such notice, and Tenant covenants thereupon on demand to reimburse and pay Landlord any amount so paid or expended in the payment of the insurance premiums required hereby and specified in the notice, with interest thereon at the rate of ten (10%) percent per annum from the date of such payment by Landlord until repaid by Tenant.

8. **CONDITION OF PREMISES.** Tenant has examined and accepts the leased premises in its present "as is" condition as suitable for the purposes for which the same are leased, and does hereby accept the leased premises regardless of reasonable deterioration between the date of this lease and the date Tenant begins occupying the leased premises unless Landlord and Tenant agree to repairs or refurbishment as noted in Section 43, Special Provisions.

9. **MAINTENANCE AND REPAIRS.** Landlord shall keep the foundation, the exterior walls (except glass; windows; doors; door closure devices; window and door frames, molding, locks, and hardware) and exterior painting or other treatment of exterior walls, and the roof of the leased premises in good repair except that Landlord shall not be required to make any repairs occasioned by the act or negligence of Tenant, its employees, subtenants, licensees and concessionaires. Tenant is responsible for maintenance of the common area and common area equipment. If Landlord is responsible for any such repair and maintenance, Tenant agrees to give Landlord written notice of needed repairs. Landlord shall make such repairs within a reasonable time. Tenant shall notify Landlord immediately of any emergency repairs. Tenant shall keep the leased premises in good, clean condition and shall at its sole cost and expense, make all needed repairs and replacements, including replacement of cracked or broken glass, except for repairs and replacements required to be made by Landlord under this section. If any repairs required to be made by Tenant hereunder are not made within ten (10) days after written notice delivered to Tenant by Landlord, Landlord may at its option make such repairs without liability to Tenant for any loss or damage which may result by reason of such repairs, and Tenant shall pay to Landlord upon demand as additional rent hereunder the cost of such repairs plus interest. At the termination of this lease, Tenant shall deliver the leased premises in good order and condition, normal wear and tear excepted. Normal wear and tear means deterioration which occurs without negligence, carelessness, accident or abuse.

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10. ALTERATIONS. All alterations, additions and improvements, except trade fixtures, installed at expense of Tenant, shall become the property of Landlord and shall remain upon and be surrendered with the leased premises as a part thereof on the termination of this lease. Such alterations, additions, and improvements may only be made with the prior written consent of Landlord, which consent shall not be unreasonably withheld. If consent is granted for the making of improvements or alterations to the leased premises, such improvements and alterations shall not commence until Tenant has furnished to Landlord a certificate of insurance showing coverage in an amount satisfactory to Landlord protecting Landlord from liability for injury to any person and damage to any personal property, on or off the leased premises, in connection with the making of such improvements or alteration. No cooling tower, equipment, or structure of any kind shall be placed on the roof or elsewhere on the leased premises by Tenant without prior written permission of Landlord. If such permission is granted, such work or installation shall be done at Tenant's expense and in such a manner that the roof shall not be damaged thereby. If it becomes necessary to remove such cooling tower, equipment or structure temporarily so that repairs to the roof can be made, Tenant shall promptly remove and reinstall the cooling tower, equipment or structure at Tenant's expense and repair at Tenant's expense any damage resulting from such removal or reinstallation. Upon termination of this lease, Tenant shall remove or cause to be removed from the roof any such cooling tower, equipment or structure if directed to do so by Landlord. Tenant shall promptly repair at its expense any damages resulting from such removal. At the termination of this lease, Tenant shall deliver the leased premises in good order and condition, natural deterioration only excepted. Any damage caused by the installation of trade fixtures shall be repaired at Tenant's expense prior to the expiration of the lease term. All alterations, improvements, additions, and repairs made by Tenant shall be made in good and workmanlike manner.

11. COMPLIANCE WITH LAWS AND REGULATIONS. Tenant shall, at its own expense, comply with all laws, orders, and requirements of all governmental entities with reference to the use and occupancy of the leased premises. Tenant and Tenant's agents, employees, and invitees shall fully comply with any rules and regulations governing the use of the buildings or other improvements to the leased premises as required by Landlord. Landlord may make reasonable changes in such rules and regulations from time to time as deemed advisable for the safety, care and cleanliness of the leased premises, provided same are in writing

and are not in conflict with this lease.

12. ASSIGNMENT AND SUBLETTING. Tenant shall not assign this lease nor sublet the leased premises or any interest therein without first obtaining the written consent of Landlord, which consent shall not be unreasonably withheld. An assignment or subletting without the written consent of Landlord shall be void and shall, at the option of Landlord, terminate this lease.

13. DESTRUCTION. In the event the leased premises is partially damaged or destroyed or rendered partially unfit for occupancy by fire or other casualty, Tenant shall give immediate notice to Landlord. Landlord may repair the damage and restore the leased premises to substantially the same condition as immediately prior to the occurrence of the casualty. Such repairs shall be made at Landlord's expense unless due to tenant's negligence. Landlord shall allow Tenant a fair reduction of rent during the time the leased premises are partially unfit for occupancy. If the leased premises are totally destroyed or deemed by the Landlord to be rendered unfit for occupancy by fire or other casualty, or if Landlord shall decide not to repair or rebuild, this lease shall terminate and the rent shall be paid to the time of such casualty.

14. TENANT DEFAULT AND REMOVAL OF ABANDONED PROPERTY. If Tenant abandons the premises or otherwise defaults in the performance of any obligations or covenants herein, Landlord may enforce the performance of the lease in any manner provided by law. This lease may be terminated at Landlord's discretion if such abandonment or default continues for a period of 10 days after Landlord notifies Tenant of such abandonment or default and of Landlord's intention to declare this lease terminated. Such notice shall be sent by Landlord to Tenant at Tenant's last know address by certified mail. If Tenant has not completely removed or cured default within the 10 day period, this lease shall terminate. Thereafter, Landlord or its agents shall have the right, without further notice or demand, to enter the leased premises, and remove all property without being deemed guilty of trespass and without waiving any other remedies for arrears of rent or breach of covenant. Upon abandonment or default by the Tenant, the remaining unpaid portion of the rental from paragraph 4 herein, shall become due and payable. For purposes of this section, Tenant is presumed to have abandoned the premises if goods, equipment, or other property, in an amount substantial enough to indicate a probable intent to abandon the premises, is being or has been removed from the premises and the removal is not within the normal course of Tenant's business. Landlord shall have the right to store any property of

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Tenant that remains on premises that are abandoned; and, in addition to Landlord's other rights, Landlord may dispose of the stored property if tenant does not claim the property within 60 days after the date the property is stored, provided Landlord delivers by certified mail to Tenant at Tenant's last known address a notice stating that Landlord may dispose of Tenant's property if Tenant does not claim the property within 60 days after the date the property is stored.

15. **INTERRUPTION OF UTILITIES.** Landlord or Landlord's agent may not interrupt or cause the interruption of utility service paid directly to the utility company by Tenant unless interruption results from bona fide repairs, construction, or an emergency. If any utility services furnished by Landlord are interrupted and continue to be interrupted despite the good faith efforts of Landlord to remedy same, Landlord shall not be liable in any respect for damages to the person or property of Tenant or Tenant's employees, agents, or guests, and same shall not be construed as grounds for constructive eviction or abatement or rent. Landlord shall use reasonable diligence to repair and remedy such interruption promptly.

16. **EXCLUSION OF TENANT.** Landlord may not intentionally prevent Tenant from entering the leased premises except by judicial process unless the exclusion results from: (a) bona fide repairs, construction, or an emergency; (b) removing the contents of premises abandoned by Tenant; or (c) changing the door locks of Tenant in the event Tenant is delinquent in paying rent, Landlord or Landlord's agent must place a written notice on Tenant's front door stating the name and the address or telephone number of the individual or company from which the new key may be obtained. The new key is required to be provided only during Tenant's regular business hours.

17. **LIEN.** Landlord is granted an express contractual lien, in addition to any lien provided by law, and a security interest in all property of Tenant found on the leased premises to secure the compliance by Tenant with all terms of this lease.

18. **SUBORDINATION.** Landlord is hereby irrevocably vested with full power and authority to subordinate this lease to any mortgage, deed of trust, or other lien hereafter placed on the demised premises and Tenant agrees on demand to execute such further instruments subordinating this lease as Landlord may request, provided such subordination shall be on the express condition that this lease shall be recognized by the mortgagee, and the rights of Tenant shall remain in full force and effect during the term of this lease so long as Tenant shall continue

to perform all of the covenants and conditions of this lease.

19. INDEMNITY. Landlord and its employees and agents shall not be liable to Tenant or to Tenant's employees, patrons, visitors, invitees, or any other persons for any such injury to any such persons or for damage to personal property caused by an act, omission, or neglect of Tenant or Tenant's agents or of any other tenant of the premises of which the leased premises is a part. Tenant agrees to indemnify and hold Landlord and its employees and agents harmless from any and all claims for such injury and damages, whether the injury occurs on or off the leased premises.

20. TENANT SIGNS. Tenant shall not post or paint any signs at, on, or about the lease premises or paint the exterior walls of the building except with prior written consent of the Landlord. Landlord shall have the right to remove any sign or signs in order to maintain the leased premises or to make any repairs or alterations thereto.

21. TENANT BANKRUPTCY. If Tenant becomes bankrupt or makes voluntary assignment for the benefit of creditors or if a receiver is appointed for Tenant, Landlord may terminate this lease by giving five (5) days written notice to Tenant of Landlord's intention to do so.

22. CONDEMNATION. If the whole or any substantial part of the leased premises is taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain or should the leased premises be sold to a condemning authority under threat of condemnation, this lease shall terminate and the rent shall be abated during the unexpired portion of the lease effective from the date of the physical taking of the leased premises.

23. HAZARDOUS MATERIALS. Landlord warrants and represents that the Property does not contain "Hazardous Materials", as that phrase is defined herein. For purposes of this provision, the phrase "Hazardous Materials" shall mean and include any toxic contaminated or other hazardous materials including, without limitation, unmanaged asbestos, PCB, transformers, underground storage containers, materials containing any radioactive substances, petroleum base products, paints, solvents, lead, cyanide, DDT, acids, pesticides, ammonium compounds, and any other substance forming a component part of the improvements which has heretofore or may in the future be determined to contain toxic wastes, hazardous materials, or undesirable substances injurious to the health of occupants living or working in or around the subject Property.

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Landlord acknowledges that current and future federal, state, and local laws and regulations may require the clean up of any such Hazardous Materials at the expense of those persons who in the past, present, or future may have had or continue to have any interest in the Property including, but not limited to, current, past, and future owners and users including tenants, of the Property. The cost and expense of such clean up may be substantial. Tenant shall clean up and mitigate the effect of any Hazardous Substances and/or toxic waste which shall have been brought into the premises by Tenant after the commencement date of the lease and shall indemnify Landlord from all liability there from.

24. **BROKER'S FEE.** No Broker's Fee is applicable to this agreement.

25. **NOTICES.** Notices to Tenant shall be by certified mail or other delivery to: _____ Fort Smith, AR 72901. Notices to Landlord shall be by certified mail to the place where rent is payable.

26. **DEFAULT BY LANDLORD.** In the event of breach by Landlord of any covenant, warranty, term or obligation of this lease, then Landlord's failure to cure same or commence a good faith effort to cure same within 10 days after written notice thereof by Tenant shall be considered a default and shall entitle Tenant either to terminate this lease or cure the default and make the necessary repairs and any expense incurred by Tenant shall be reimbursed by the Landlord after reasonable notice of repairs and expenses incurred.

27. **SIGNS.** During the last 90 days of this lease, a "For Sale" sign and/or a "For Lease" sign may be displayed on the leased premises and the leased premises may be shown at reasonable times to prospective purchasers or tenants.

28. **RIGHT OF ENTRY.** Landlord shall have the right during normal business hours to enter the leased premises; (a) to inspect the general condition and state of repair thereof, (b) to make repairs required or permitted under this lease, or (c) for any other reasonable purpose.

29. **WAIVER OF BREACH.** The waiver by Landlord of any breach of any provision of this lease shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or a different provision of this lease.

30. **TIME OF ESSENCE.** Time is expressly declared to be of the essence in this lease.

31. **BINDING OF HEIRS AND ASSIGNS.** Subject to the provisions of this lease pertaining to assignment of the Tenant's interest, all provisions of this lease shall extend to and

bind, or inure to the benefit not only of the parties to this lease but to each and every one of the heirs, executors, representatives, successors, and assigns of Landlord or Tenant.

32. RIGHTS AND REMEDIES CUMULATIVE. The right and remedies by this lease agreement are cumulative and the use of anyone right or remedy by either party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

33. ARKANSAS LAW TO APPLY. This Agreement shall be construed under and in accordance with the laws of the State of Arkansas.

34. LEGAL CONSTRUCTION. In case anyone or more of the provisions contained in this agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions hereof and this agreement shall be construed as if such invalid, illegal, unenforceable provision had never been contained herein.

35. PRIOR AGREEMENTS SUPERSEDED. This agreement constitutes the sole and only agreement of the parties to this lease and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this lease.

36. AMENDMENT. No amendment, modification, or alteration of the terms hereof shall be binding unless it is in writing, dated subsequent to the date hereof, and duly executed by the parties.

37. ATTORNEY'S FEES. Any signatory to this lease agreement who is the prevailing party in any legal proceeding against any other signatory brought under or with relation to this lease agreement or this transaction shall be additionally entitled to recover court costs, reasonable attorney fees, and all other out-of-pocket costs of litigation, including deposition, travel and witness costs, from the nonprevailing party.

38. ADDITIONAL INSTRUMENTS. The parties hereto will execute any and all additional documents or instruments that may be necessary or convenient to carry out the intent and purposes of the parties to this agreement.

39. QUIET ENJOYMENT. Upon Tenant paying the rent for the premises and observing and performing all the covenants, conditions, and provisions on Tenant's part to be observed and performed hereunder, the Tenant shall have quiet possession of the premises for the entire term hereof, subject to all the provisions of this lease.

40. **AUTHORIZED PARTIES.** Any parties executing this lease on behalf of the Landlord and the Tenant represent and warrant to each other that they are fully authorized and legally capable of executing this lease on behalf of the Landlord and Tenant respectively.

41. **COMMON AREAS.** Tenant agrees that it will abide by, keep and observe all reasonable rules and regulations which may be established from time to time for the management, safety, care and cleanliness of the common area and grounds, the parking of vehicles, and the preservation of good order within and upon the common area, as well as for the convenience of other occupants and tenants sharing the common area. The violations of any such rules and regulations shall be deemed a material breach of this lease by Tenant.

42. **OPTION TO EXTEND.** Tenant shall have the option to extend the term of this lease agreement for two (2) additional and successive periods of _____ years each commencing upon the day following the expiration date of the primary term as set forth herein; provided, however, that Tenant shall give Landlord written notice not less than ninety (90) days prior to the expiration date of the primary term or last extended term, as the case may be, and provided further that Tenant shall not have been in default at the giving of such notice or on such expiration date. Each extended term shall be upon the same terms and conditions as during the primary term, except that Tenant shall have no further option to extend the term of this lease beyond the second extended term and the rent during each extended term shall be as follows:

1st Extended Term: \$_____ payable in ___ equal monthly installments
of \$_____ each.

2nd Extended Term: \$_____ payable in ___ equal monthly installments
of \$_____ each.

43. **RIGHT OF FIRST REFUSAL.** In the event that owner should place the premises for sale on the open market, tenant will be given a right of first refusal on the asking price for the premises.

44. **SPECIAL PROVISIONS.** (This section to include additional factual data not included above.) _____

THIS IS A LEGAL DOCUMENT. READ IT CAREFULLY. IF YOU DO NOT UNDERSTAND THE EFFECT OF ANY PART OF THE AGREEMENT, SEEK COMPETENT LEGAL ADVICE.

EXECUTED this _____ day of _____, 20____.

TENANT:

Name: _____

Title: _____

Address: _____

Phone: _____

Signature: _____

OWNER:

Name: A. S. Koenig for Koenig & Sons, LLC

Title: Managing Partner

Address: P.O. Box 999
Fort Smith, AR 72902

Phone: 501-727-6395

Signature: _____

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