



**MINUTES OF MEETING**  
**THURSDAY, JULY 16, 2020, 4:00 PM**  
**311 W. WOODARD STREET, DENISON, TEXAS**  
**ZOOM ONLINE MEETING SOFTWARE**

*The public could also join the meeting from a computer, tablet or smartphone Zoom at <https://us02web.zoom.us/j/85079548447?pwd=L3ZvaEdZcFN4S2dTNWQ4VIZXYWttUT09>*

*Meeting ID: 850 7954 8447*

*Password: 7txd2m*

**MEMBERS PRESENT:** Brett Evans, Mark Kuneman, Matthew Looney, David Spindle

**MEMBERS ABSENT:** Jared Johnson

**STAFF PRESENT:** Tony Kaai, CEcD – President, Loretta Rhoden – VP of Operations, William Myers, CEcD – VP of Business Development

**MEETING WAS CALLED TO ORDER BY MATTHEW LOONEY, CHAIRMAN AT 4:13 PM AND IT WAS AFFIRMED A QUORUM WAS PRESENT VIA ZOOM’S ONLINE MEETING SOFTWARE.**

- I. CONSIDER APPROVAL OF THE REGULAR CALLED MEETING MINUTES HELD JUNE 18, 2020:** Reviewed by members. David Spindle motioned to approve the regular called meeting minutes as submitted by staff. Mark Kuneman seconded. Motion was unanimously approved.
- II. REVIEW MONTHLY INVESTMENT REPORT:** Staff reported the changes to this month’s investment report was the accrued interest and any obligated incentive payments made during the month. Reviewed by Board members. No action needed.
- III. MONTHLY STAFF REPORT:** Presented by DDA staff members. No action needed.
- IV. CONSIDER APPROVAL OF AMMEDING/MODIFYING FLORESTONE’S LEASE CONTRACT, AND APPROVE THEIR OPTION TO SUBLEASE PER LEASE REQUIREMENTS (Attachment A):** After review of Florestone’s request for Board approval to amend and sublease the Florestone building, Mark Kuneman moved to accept the amended/modified Second Lease Amendment as submitted, and the additional Sublease contract. David Spindle seconded, and the motion was unanimously approved.

**ANNOUNCEMENT BY PRESIDING OFFICER:** “As authorized by Section 551.087 and 551.072 of the Texas Government Code, Chairman Looney announced the Denison Development Alliance will adjourn into closed Executive Session on this 16<sup>th</sup> day of July, 2020, at 4:39 PM to consider the following:

**a) 551.087 - DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS**

Consider incentives, if any, for Project UPGRADE and Project WHEN.

**b) 551.072 - DELIBERATIONS ABOUT REAL PROPERTY**

Following the closed Executive Session the Board reconvened in open and public session at 5:17 PM.

**a) 551.087 - DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS**

Consider incentives, if any, for Project UPGRADE and Project WHEN.

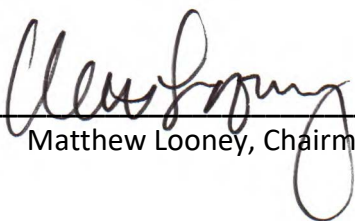
**Project UPGRADE (Attachment B)** – Staff informed Board members CJ’s Roastery, with Principal Nancy Gentry, is purchasing a small-batch commercial coffee roaster, which will be installed in the southeast corner of CJ on the Blvd. This new investment will produce local roasted, fresh coffee in a one-of-a-kind setting unique in Texoma. The beans will be used at all three CJ’s locations as well as bagged and sold online. Total investment in roaster equipment and installation is estimated at \$52,595 which is part of an approximate \$300,000 build-out for CJ’s on the Blvd.

David Spindle motioned to provide CJ’s Roastery a Micro-manufacturing Equipment Incentive up to fifteen percent (15%) of the total manufacturing equipment investment, which is approximately fifty three thousand Dollars (\$53,000) upon receipt of Reimbursement Request from CJ’s Roastery after equipment installation and after CJ’s Roastery receives a City of Denison Certificate of Occupancy. Motioned seconded by Brett Evans. Motion was unanimously approved.

**Project WHEN** – No action taken.

**b) 551.072 - DELIBERATIONS ABOUT REAL PROPERTY** – No action taken.

**THERE BEING NO FURTHER BUSINESS THE MEETING WAS ADJOURNED AT 5:20 PM.**

  
\_\_\_\_\_  
Matthew Looney, Chairman

August 20, 2020  
\_\_\_\_\_  
Date Approved

# **ATTACHMENT A**

**SECOND AMENDMENT, MODIFICATION AND RATIFICATION OF LEASE**

THIS SECOND AMENDMENT, MODIFICATION AND RATIFICATION OF LEASE (this “**Second Amendment**”) is executed to be effective as of July 13, 2020 (the “**Effective Date**”) by and between BUSINESS AND INDUSTRIAL CORPORATION OF DENISON, INC. d/b/a DENISON DEVELOPMENT ALLIANCE, a Texas corporation (“**Lessor**”), and FLORESTONE PRODUCTS CO., a California corporation (“**Lessee**”) and f/k/a Florestone Products Company. This Second Amendment clarifies and supersedes the Amendment to Lease Agreement dated January 17, 2019 (“**First Amendment**”).

Pursuant to the terms of that certain Lease Agreement, executed July 27, 2004, by and between Lessor and Lessee (the “**Original Lease**”), Lessor leased to Lessee approximately 8.463 acres of land (“**Land**”) and 122,130 rentable square feet of industrial space (the “**Building**,” collectively with the Land and all improvements, the “**Leased Premises**”) in the project commonly known as Foundation Business Park, 1215 Wayne Cabaniss Drive, Denison, TX 75020. The Original Lease as amended by Commercial Lease Addendum for Extension of Term dated [undated] and the First Amendment is herein referred to as the “**Lease**”. Lessee and Lessor have agreed to modify and amend the Lease in accordance with the terms of this Second Amendment.

In consideration of the premises and the mutual obligations and benefits contained herein, Lessor and Lessee agree as follows:

1. Term. The Term of the Lease is hereby clarified as follows: The original lease term was for a period of ten (10) years from July 5, 2005 to July 4, 2015, with three (3) optional five (5) year extension periods (the “**Extension Terms**”). The first two (2) Extension Terms have been exercised by Lessee and accepted by Lessor, and the current expiration date of the Lease is July 4, 2025. The third Extension Term may be exercised by Lessee on or before June 20, 2025. The parties acknowledge and agree that Lessee’s normal operating hours fluctuate. Lessee shall be free to adjust Lessee’s normal operating hours and days from time to time in Lessee’s sole discretion. Lessee shall also be entitled, in Lessee’s sole discretion, to operate Lessee’s business at the Leased Premises up to 24 hours per day.

2. Extension Rent. During the Extension Terms, Lessee shall pay Base Rent as follows:

<b>Period of Extension Term</b>	<b>Annual Base Rent</b>	<b>Monthly Base Rent</b>
July 5, 2020 – July 4, 2025	\$406,214.76	\$33,851.23
July 5, 2025 – July 4, 2030	\$0	\$0

3. Additional Rent. During the Extension Terms, Lessee shall continue to pay Additional Rent as set forth in the Lease, including, without limitation, all ad valorem Taxes and Insurance.

4. First Amendment.

(a) **Security Deposit**: The First Amendment required the return of the security deposit, totaling \$67,702.46, to Lessee. This obligation is not altered by this Second Amendment, and the security deposit under the Lease is \$0.00.

(b) **Option to Purchase:** The First Amendment erroneously purported to transfer the Option to Purchase, described in Article 18 of the Lease, from Lessor to Ron Flores and Carol Flores Deaver individually. The parties agree that, for numerous reasons, the purported transfer of the option to purchase was ineffective, and the option to purchase has remained and continues to remain with Lessee.

5. **Entire Agreement.** The Lease, as amended by this Second Amendment, contains all of the agreements of the parties hereto with respect to any matter described in this Second Amendment. No contemporaneous oral or written agreement, understanding, or representation relating or pertaining to any such matter shall be effective for any purpose.
6. **Counterparts.** This Second Amendment may be executed in multiple counterparts each of which, when so executed, shall be deemed to constitute one and the same instrument.
7. **Ratification of Existing Lease.** Except to the extent expressly modified by this Second Amendment, the Lease is hereby ratified and affirmed in all respects and shall remain in full force and effect.
8. **Defined Terms.** Capitalized terms not otherwise defined herein, shall have the meanings given to such terms in the Lease.
9. **Amendment Controls.** The terms of this Second Amendment shall be reconciled to the terms of the Lease to the fullest extent reasonably possible. However, in the event of any irreconcilable conflict between the terms of the Lease and the terms of this Second Amendment, the terms herein shall control.
10. **Severability.** If any term or provision of this Second Amendment is to any extent deemed invalid, illegal, or incapable of being enforced, such term or provision shall be excluded to the extent of such invalidity, illegality, or unenforceability, and all other terms and provisions hereof shall remain in full force and effect.
11. **Section Headings.** The captions and section headings used herein are for convenience only and shall not be deemed to construe or limit the meaning of the language of this Second Amendment.
12. **Parties Bound.** This Second Amendment is binding upon and shall inure to the benefit of Lessor, Lessee, and their respective heirs, representatives, successors, and assigns.
13. **Governing Law.** This Second Amendment shall be governed by the law of the State of Texas, without regard to conflict of law principles.

*[Remainder of page intentionally left blank; signature page follows.]*

IN WITNESS WHEREOF, the parties have executed this Second Amendment as of the Effective Date.

**LESSOR:**

**BUSINESS AND INDUSTRIAL CORPORATION OF DENISON, INC. d/b/a DENISON DEVELOPMENT ALLIANCE,**  
a Texas corporation

By: Tony Kaar  
Name: TONY KAAR  
Title: President

**LESSEE:**

**FLORESTONE PRODUCTS CO.,**  
a California corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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**SUBLEASE**

**1. Names.** This Sublease (this “Sublease” or “Agreement”) is made by FLORESTONE PRODUCTS CO., a California corporation (“Sublessor”) and f/k/a Florestone Products Company, and FLORESTONE, LLC, a Delaware limited liability company (“Sublessee”). Sublessor and Sublessee may be referred to herein individually as a “Party” and together as the “Parties.”

**2. Property Subleased.** Sublessor hereby subleases to Sublessee, and Sublessee hereby subleases from Sublessor, approximately 8.463 acres of land (“Land”) and 122,130 rentable square feet of industrial space (the “Building,” collectively with the Land and improvements on the Land, the “Leased Premises”) in the project commonly known as Foundation Business Park, 1215 Wayne Cabaniss Drive, Denison, TX 75020. Sublessor has the right to possession of the Leased Premises pursuant to the Lease (as defined below and attached hereto as **Exhibit A**).

**3. Original Lease.** This sub-tenancy is subject to all of the terms and conditions of the attached Lease Agreement dated July 27, 2004, together with the Commercial Lease Addendum for Extension of Term dated [undated], as amended by the Amendment to Lease Agreement dated January 1, 2019, and the Second Amendment, Modification and Ratification of Lease dated as of July 13, 2020 (collectively, the “Lease”), executed between BUSINESS AND INDUSTRIAL CORPORATION OF DENISON, INC. D/B/A DENISON DEVELOPMENT ALLIANCE, a Texas corporation, as lessor, (the “Master Landlord”) and Sublessor, as lessee. Sublessee will promptly perform, satisfy and observe all of the terms, obligations and conditions of the Lease as if Sublessee were named as Lessee in the Lease with regard to the Leased Premises. Sublessee will do nothing that constitutes, after notice and the expiration of any cure periods set forth in the Lease, an event of default by Sublessor or Sublessee of any of the terms or conditions of the Lease. Except as may be specified in this Sublease, Sublessor shall have all the rights and remedies of Master Landlord under the Lease as if Sublessor were named as Lessor in the Lease, and Sublessee shall have all the rights and remedies of Sublessor under the Lease as if Sublessee were named as Lessee in the Lease, specifically excluding any right to exercise the purchase option referenced in Section 4 below. Sublessor hereby grants to Sublessee the right to receive all of the services and benefits with respect to the Leased Premises that are to be provided by Master Landlord under the Lease from and after the Commencement Date of this Sublease. The parties contemplate that Master Landlord shall perform its obligations under the Lease, and Sublessor shall use all responsible measures to insure Master Landlord performs said obligations. In the event of any default or failure of such performance by Master Landlord at any time after the Commencement Date of this Sublease, Sublessor agrees that Sublessor will, upon notice from Sublessee, make demand upon Master Landlord to perform its obligations under the Lease, and Sublessor will, upon request from Sublessee and at Sublessee’s expense, take appropriate legal action to enforce the terms of the Lease.

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SUBLEASE

FLORESTONE PRODUCTS COMPANY to  
FLORESTONE, LLC



**4. Option to Purchase Leased Premises.** Under Article 18 of the Lease, Sublessor was granted an option to purchase the Leased Premises and the adjacent 6.056 acres of land. This right is retained exclusively for the Sublessor, and no provision of this Sublease shall be construed to assign or otherwise transfer this right. Sublessor or any assignee of Sublessor, shall provide notice to Sublessee of its intent to exercise its option to purchase the Leased Premises contemporaneously with the exercise of such option. If this Sublease is still in effect at the time Sublessor exercises such option, the parties shall enter into a new lease for the Leased Premises in the form of **Exhibit B** (the “New Lease”). The New Lease shall commence concurrently with Sublessor acquiring title to the Leased Premises. Sublessee’s or Sublessor’s failure to promptly execute and deliver the New Lease shall be deemed to be a material default. From and after the date Sublessor acquires title to the Leased Premises, the terms of the New Lease shall apply and govern the parties duties and obligations, whether or not Sublessee has executed and delivered the New Lease to Sublessor as required.

**5. Term of Sublease.**

**(A)** The term of this Sublease shall commence on July 13, 2020 (the “Commencement Date”), and shall continue until the earlier of (a) July 12, 2030, (b) the expiration or earlier termination of the Lease (other than due to a purchase of the Leased Premises by Sublessor), or (c) the date Sublessor acquires title to the Leased Premises and this Sublease is replaced and superseded with the New Lease as described above. Sublessor shall deliver the Leased Premises to Sublessee on or before the Commencement Date.

**(B)** Provided Sublessee is not then in default of this Sublease beyond any applicable notice and cure period and the Lease is still in full force and effect, Sublessee shall have three (3) successive options to extend the term of this Sublease for a period of five (5) years each (each a “Renewal Term”), provided Sublessee notifies Sublessor, in writing, of its intention to exercise its option at least one hundred eighty (180) days prior to the expiration of the current term (whether the initial term or an extended term, as applicable). The terms and conditions of each Renewal Term shall be on the same terms and conditions as this Sublease, except that (i) the Base Rent shall increase as provided in Section 6(A) of this Sublease, and (ii) there shall be no further options to extend beyond the third Renewal Term. It is expressly agreed that these options are only for the benefit of Sublessee and any Related Entity (as such term is defined in Section 10(A) hereof), and may not be assigned, transferred or sold to any other person without the express written consent of Sublessor first had and obtained, which consent may be withheld at Sublessor’s sole discretion.

**6. Rent.** The base rent (“Base Rent”) initially due to Sublessor by Sublessee is \$406,214.76 per year to be paid in monthly payments of \$33,851.23, through the term of this Sublease. In addition, Sublessee shall pay Additional Rent comprising all ad valorem taxes and insurance as described in the Lease (“Additional Rent”). Additional Rent shall be paid on a monthly basis by Sublessee based on the current appraised value of the Land and the Building. Sublessor has the right to notify Sublessee of any adjustments to the Additional Rent within sixty (60) days of its receipt of the actual costs attributable to

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FLORESTONE PRODUCTS COMPANY to  
FLORESTONE, LLC



such items and Sublessee is obligated to pay the adjusted costs of such Additional Rent beginning with the next monthly payment of Rent as it becomes due and owing and for the remainder of the next 11 months. The Base Rent and Additional Rent shall be collectively referred to as “Rent.” Rent shall commence upon delivery of the Leased Premises, with the first month’s Rent due concurrently with signing of this Sublease. Rent under this Sublease is payable to Sublessor in such manner and at such location as may be directed by Sublessor from time to time upon prior written notice to Sublessee. Sublessee’s rental payment will be due on or before the first (1<sup>st</sup>) day of each month during the term of this Sublease. Sublessee must pay all rent timely without demand, deduction, or offset. Unless otherwise designated by Sublessor in writing, all Rent payable to Sublessor will be paid pursuant to a monthly scheduled electronic payment to an account designated by Sublessor. If Sublessor does not actually receive a Rent payment at the designated place of payment within five (5) days after the due date, Sublessee shall pay Sublessor a late charge, which acts as liquidated damages and not as a penalty, equal to five percent (5%) of the overdue amount plus any attorneys’ fees incurred by Sublessor by reason of Sublessee’s failure to pay the charges when due hereunder. In addition to the late charge described above, any amounts owing hereunder (but not the late charge of 5%) which are not paid within five (5) business days of the due date shall bear interest from the date when due until paid at a rate per annum equal to the lesser of (i) five percent (5%) per annum or (ii) the highest rate permitted by applicable law. This late charge was calculated based on the uncertainty of the amount of damages Sublessor would incur if Sublessee fails or refuses to timely pay Rent, and the Parties agree that the late charge is a reasonable, good-faith estimate of the damages that would result. Monies received by Sublessor from Sublessee will first be applied to all current late charges and then to past due Rent. At the end of the fifth (5th) year on the initial Adjustment Date (defined below), the Base Rent shall be increased as provided below.

(A) Base Rent Increase. On each Adjustment Date (defined below), the Base Rent shall increase by an amount equal to the product of the then-current Base Rent, multiplied by the CPI Increase (defined below), if any (each an “Increase Amount”). Thereafter, until the next Adjustment Date, Base Rent shall be equal to the sum of the then-current Base Rent plus the applicable Increase Amount. Such increase shall commence at the end of the 5th year (the first Adjustment Date) and continue on an annual basis thereafter for the remainder of the term of the Sublease. Sublessor shall make a reasonable, good faith determination of the applicable Increase Amount, and deliver written notice thereof to Sublessee, at least thirty (30) days prior to each Adjustment Date. For purposes of this Section 6, the following capitalized terms shall have the meaning specified below.

(i) “Adjustment Date” shall mean July 13, 2025, and each annual anniversary thereof, including during a Renewal Term, if any.

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FLORESTONE PRODUCTS COMPANY to  
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(ii) “Base Index” shall mean, (i) with respect to the first Adjustment Date, the CPI for the month in which the Commencement Date occurred, and (ii) with respect to each following Adjustment Date, the CPI for the month in which the immediately preceding Adjustment Date occurred.

(iii) “CPI” shall mean the Consumer Price Index published by the Bureau of Labor Statistics of the United States Department of Labor, US City Average, All Items and Major Group Figures for Urban Wage Earners and Clerical Workers (1982-84 = 100), or if such index is not available, a comparable index reasonably selected by Sublessor and approved by Sublessee which is published by a governmental institution or a nationally recognized publisher of statistical information.

(iv) “CPI Increase” shall mean, with respect to any Adjustment Date, the percentage increase between the Base Index and the Current Index. In the event that the CPI contemplated herein is not reported for the months required for the calculation set forth above, the parties agree to utilize the CPI reported for the month(s) nearest preceding the month(s) required for such calculation. In the event that the Current Index is less than the Base Index with respect to any particular Adjustment Date, the CPI Increase for such Adjustment Date shall be zero (0).

(v) “Current Index” shall mean, with respect to any Adjustment Date, the CPI for the month that is two (2) months prior to such Adjustment Date.

7. **Utilities.** Sublessee is responsible for setting up its separate accounts, including utility meters, if needed or required, directly with the utility service company for the following: sewer, water, electric, gas, telephone, cable, internet, and trash. Sublessee will be responsible for all utility charges and pay such charges directly to the utility service company.

8. **Security Deposit.** Sublessee shall deposit Thirty-Three Thousand Eight Hundred Fifty-One and 23/100 dollars (\$33,851.23) (the “Security Deposit”) with Sublessor as security for Sublessee’s performance of this Sublease. This amount shall be paid at the time of execution of this Sublease. The Security Deposit shall be held by Sublessor as security for the faithful performance by Sublessee of all the terms, covenants, and conditions of this Sublease to be kept and performed by Sublessee during the Term. If Sublessee defaults with respect to any provisions of this Sublease, including, but not limited to, the provisions relating to the payment of Rent, Sublessor may, but shall not be required to, use, apply or retain all or any part of the Security Deposit for the payment of any Rent or any other sum in default, or for the payment of any amount that Sublessor may spend or become obligated to spend by reason of Sublessee’s default, or to compensate Sublessor for any other loss or damage that Sublessor may suffer by reason of Sublessee’s default. If any portion of the Security Deposit is so used or applied, Sublessee shall, within fifteen (15) business days after written demand therefor and evidence of the Security Deposit’s use or application, deposit cash with Sublessor in an amount sufficient to restore the Security Deposit to its original amount, and Sublessee’s failure to do so shall be a default under this Sublease. If no default of Sublessee has occurred beyond any applicable notice and cure period and is then

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continuing, the Security Deposit, or any balance thereof, shall be returned to Sublessee, or, at Sublessor's option, to the last assignee of Sublessee's interest hereunder, within thirty (30) days following the expiration of the Term. Sublessee shall not be entitled to any interest on the Security Deposit.

**9. Lease Notices from/to Sublessee.** If Master Landlord notifies Sublessee in writing of any breach of the terms or conditions of the Lease that Sublessee is obligated to perform, Sublessee will immediately notify Sublessor in writing, and Sublessee will promptly cure any breach. If Master Landlord notifies Sublessor of any breach of the terms and conditions of the Lease that Sublessee is obligated to perform, Sublessor will immediately notify Sublessee in writing, and Sublessee will promptly cure any breach. Sublessor shall have the right to enter the Leased Premises at all reasonable times and upon at least two (2) business days' notice to Sublessee (except in the case of an emergency when no notice is required) to inspect the Leased Premises, to cure any alleged breach and/or to make any repairs. Provided, however, that Sublessor shall have no obligation to cure any alleged breach or to make any repairs. Sublessor shall use commercially reasonable efforts to not unreasonably interfere with Sublessee's business when Sublessor enters the Leased Premises.

**10. Subletting and Assignment.** Sublessee will not assign this Sublease or further sublet any part of the Leased Premises without the prior written consent of both Sublessor, which shall not be unreasonably withheld, and Master Landlord, as and to the extent as may be required in the Lease, which shall not be unreasonably withheld. Any such approved assignment or further sublease shall be subject to the terms and conditions of this Sublease and the Lease.

(A) Permitted Transfers. Notwithstanding anything in this Sublease to the contrary, Sublessee shall have the right, upon Master Landlord's prior written consent and at least thirty (30) days prior written notice to Sublessor, but without obtaining Sublessor's consent, to assign this Sublease or sublet all or part of the Leased Premises to (i) any affiliate, parent, subsidiary, divisional entity, partner, joint venture entity or related business entity of Sublessee, (ii) any entity arising by virtue of merger, consolidation or other business combination with Sublessee or Sublessee's parent entity, (iii) any purchaser of all or substantially all of Sublessee's stock, membership, equity or other ownership interests or assets (individually, a "Related Entity" and collectively, "Related Entities"), or (iv) any lender in connection with a loan to Sublessee or an affiliate of Sublessee (a "Permitted Transfer"). Any assignment, but not sublease, of this Sublease pursuant to subsection (ii) or (iii) of this Section 10(A) shall relieve (a) Sublessee of its obligations and liability under this Sublease if and only if the transferee's net worth is equal to or greater than Sublessee's Baseline Net Worth and (b) any guarantor of this Sublease of its obligations and liability under this Sublease if and only if the net worth of (x) the transferee is equal to or greater than the combined Baseline Net Worth of Sublessee and such guarantor of this Sublease (without duplication) or (y) any person providing a new guaranty on terms comparable to the then-existing guaranty is greater than or equal to the Baseline Net Worth of such guarantor of this

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Sublease. No other subletting or assignment shall relieve Sublessee or any guarantor of their obligations and liability under this Sublease without the express written consent of Sublessor. “Baseline Net Worth” means, with respect to Sublessee or any guarantor of this Sublease, the consolidated net worth of such person on the Commencement Date or the date immediately preceding the contemplated date of transfer. In connection with any assignment of this Sublease to a transferee, the transferee must assume the Sublease, in writing, in favor of Sublessor. Any new or replacement guarantor must execute a written guaranty in favor of Sublessor.

## **11. Insurance.**

(A) Sublessee shall maintain insurance as required by Section 8.06(A) of the Lease and as provided in this Sublease. Sublessee will carry public liability insurance. This policy will include Sublessor and Master Landlord as additional insured parties. The public liability coverage for personal injury will be at a minimum for the following amounts: \$1,000,000 per occurrence and \$2,000,000 annual aggregate.

(B) As an expense chargeable to Sublessee as Additional Rent, Sublessor shall carry and maintain comprehensive "all-risk" fire and casualty insurance covering the Building and other improvements in an amount equal to the full replacement value thereof, and comprehensive general liability insurance coverage in amounts held by reasonably prudent commercial landlords of comparable properties in Denison, Texas. Sublessor shall maintain such insurance, subject to reasonable changes in amounts which its institutional mortgagee(s) or the Master Landlord may require. Sublessor and Sublessee hereby waive all rights to recover against each other for any loss or damage arising from any cost covered by any casualty insurance required under this Sublease, or otherwise actually carried by each of them. Notwithstanding anything to the contrary contained herein, Sublessor and Sublessee hereby agree to look first to the proceeds of their respective insurance policies before proceeding against each other in connection with any claim relating to any matter covered by the Sublease. In addition, Sublessor and Sublessee agree to have their respective insurance companies issuing property damage insurance waive any rights of subrogation that such companies may have against Sublessor or Sublessee. Sublessor and Sublessee hereby waive any right that either may have against the other on account of any loss or damage to their respective property to the extent such loss or damage is insurable under policies of insurance for fire and all risk coverage, theft, or other similar insurance.

(C) Sublessee shall carry and maintain, at Sublessee's sole cost and expense, increased amounts of the insurance required to be carried by Sublessee pursuant to this Sublease, and such other reasonable types of insurance coverage and in such reasonable amounts covering the Leased Premises and Sublessee's operations therein, as may be reasonably requested by Sublessor, Master Landlord or either of the foregoing's lender from time to time.

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(D) Upon execution of this Sublease, and on each anniversary date for the remainder of the term, Sublessee shall provide Sublessor a certificate of insurance for all insurance policies that this Sublease requires Sublessee to obtain, and naming Sublessor and Master Landlord as additional insureds.

(E) Master Landlord and Sublessor may make reasonable modifications to the above insurance requirements from time to time.

**12. Use Clause.** Sublessee shall use the Leased Premises exclusively for the operation of an industrial facility, including manufacturing, warehouse, general office and associated uses, and for no other purposes unless authorized by Sublessor and Master Landlord. Sublessee shall ensure that it has obtained all the required licensing, permitting, and other requirements of local, state, and federal government agencies necessary to operate its business as provided in this Sublease. Failure of Sublessee to maintain compliance with regulatory requirements for the operation of such business after the notice and cure period provided under Section 21 hereof shall be considered a material and substantial breach of this Sublease. Sublessor makes no warranties expressed or implied that the Leased Premises are suitable for Sublessee's use.

**13. Condition of Leased Premises.** Sublessee has inspected the Leased Premises and Sublessee accepts the Leased Premises in its current "as is" condition. **SUBLESSEE AGREES THAT UPON ITS EXECUTION OF THIS SUBLEASE IT WILL BE DEEMED TO HAVE ACCEPTED THE LEASED PREMISES IN ITS THEN EXISTING CONDITION. EXCEPT AS EXPRESSLY SET FORTH IN THIS SUBLEASE, SUBLESSOR HAS MADE NO REPRESENTATION OR WARRANTY HEREUNDER AS TO THE SUITABILITY OF THE LEASED PREMISES FOR THE CONDUCT OF SUBLESSEE'S BUSINESS, AND SUBLESSEE WAIVES ANY IMPLIED WARRANTY THAT THE LEASED PREMISES SHALL BE SUITABLE FOR SUBLESSEE'S INTENDED PURPOSES. IN NO EVENT SHALL SUBLESSOR HAVE ANY OBLIGATION FOR ANY DEFECTS IN THE LEASED PREMISES OR ANY LIMITATION ON ITS USE. THE TAKING OF POSSESSION OF THE LEASED PREMISES SHALL BE CONCLUSIVE EVIDENCE THAT SUBLESSEE ACCEPTS THE LEASED PREMISES AND THAT THE LEASED PREMISES WERE IN GOOD CONDITION AT THE TIME POSSESSION WAS TAKEN.**

**14. Building Improvements.** Sublessee shall provide any plans for altering or improving the Leased Premises, if any, to Sublessor and Master Landlord. Sublessee must obtain the prior written consent of Sublessor and Master Landlord to any improvements or alterations of the Leased Premises, excluding solely cosmetic alterations. Approval will be at the sole discretion of Master Landlord and Sublessor, except consent for non-structural alterations, additions, or improvements shall not be unreasonably withheld by Sublessor. If Sublessor fails to notify Sublessee that it approves or

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disapproves the requested alterations within fifteen (15) days after Sublessee's request to Sublessor thereof, then Sublessor (but not Master Landlord) shall be deemed to have approved such alterations.

**15. Repairs.** Sublessor will not be liable to Sublessee for any repairs or maintenance for the Leased Premises. Sublessee shall maintain and repair, at its sole cost and expense, the Leased Premises in accordance with the Lease as if Sublessee was the named lessee in the Lease.

**16. HVAC and Utility Meters.** Sublessee shall maintain the HVAC serving the Leased Premises in accordance with the Lease as if Sublessee was the named lessee in the Lease. Sublessee shall maintain a service contract for the HVAC system that includes maintenance of the HVAC unit and changing out air filters not less than quarterly. Sublessee shall be responsible for ensuring it has a meter, setting up its utility account, and paying its utility costs.

**17. Master Landlord's Consent.** This Sublease will not be effective unless Master Landlord consents to this Sublease in writing.

**18. Sublessor's Lien and Security Interests.** Sublessor waives all contractual, statutory and constitutional liens held by Sublessor on Sublessee's personal property, goods, equipment, inventory, furnishings, chattels, accounts and assets ("Sublessee's Property") to secure the obligations of Sublessee under this Sublease until such time as Sublessor may obtain an enforceable judgment against Sublessee from a court with jurisdiction of Sublessee or Sublessee's Property, at which time Sublessor shall have such lien rights at law and in equity to enforce and collect such judgment and Sublessee's obligations under this Sublease.

**19. Hazardous Material.** As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material or waste which is or becomes regulated by, or is dealt with in, any local governmental authority, the State of Texas or the United States Government. Sublessee acknowledges that Master Landlord and/or Sublessor may incur costs (A) for complying with laws, codes, regulations or ordinances relating to Hazardous Material, or (B) otherwise in connection with Hazardous Material including, without limitation, the following: (i) Hazardous Material present in soil or ground water; (ii) Hazardous Material that migrates, flows, percolates, diffuses or in any way moves onto or under the Leased Premises; (iii) Hazardous Material present on or under the Leased Premises as a result of any discharge dumping or spilling (whether accidental or otherwise) on the Leased Premises; and (iv) material which becomes Hazardous Material due to a change in laws, codes, regulations or ordinances which relate to hazardous or toxic material, substances or waste. Sublessee agrees that the costs incurred by Master Landlord and/or Sublessor with respect to, or in connection with, the Leased Premises for complying with laws, codes, regulations or ordinances relating to Hazardous Material shall not be incurred by Sublessee, and Sublessee shall have no liability therefor, unless the cost of such compliance, as between Master Landlord and/or Sublessor and Sublessee, is made the responsibility of

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SUBLEASE

FLORESTONE PRODUCTS COMPANY to  
FLORESTONE, LLC

Sublessee under this Sublease due to Sublessee (or Sublessee's agents, contractors, employees or invitees) introducing the Hazardous Material to or permitting the Hazardous Materials on the Leased Premises. Sublessee shall not use or knowingly allow another person or entity to use any part of the Leased Premises for the storage, use, treatment, manufacture or sale of Hazardous Material, other than those stored in compliance with applicable law or otherwise present in non-reportable quantities and, in both instances, are customarily used in connection with the operation and maintenance of buildings similar to the Leased Premises. The term "permitting" does not mean inaction on the part of Sublessee, unless Sublessee becomes aware of the action of an unrelated party and then does not stop such activity. Sublessee shall be responsible for all costs, expenses and damages which arise from or relate to any Hazardous Materials brought onto or permitted on the Leased Premises by or for Sublessee or Sublessee's agents, contractors, employees or invitees. Without duty of investigation, Sublessor hereby warrants and represents that it has no actual knowledge of any Hazardous Materials in or about the Leased Premises, (the Building or the Land), which are environmentally hazardous or harmful, or which violate any applicable federal, state or local laws, codes, statutes, ordinances, guidelines, rules and regulations (collectively, "Environmental Laws"). Said Hazardous Materials include, without limitation, asbestos, radon, PCB's or petroleum products. Notwithstanding anything to the contrary contained herein, Sublessee shall have no liability whatsoever in connection with any and all Hazardous Materials (and any related equipment such as, but not limited to, underground storage tanks) not deposited or created by Sublessee. Sublessor, at its sole cost and expense, shall comply with all Environmental Laws in connection with any Hazardous Materials in or about the Leased Premises not deposited or created by Sublessee or Sublessee's agents, contractors, employees or invitees.

**20. Indemnity.** Sublessee hereby agrees to protect, defend, indemnify, and hold Sublessor and Master Landlord harmless from and against any and all liabilities, expenses, losses, and damages, including, without limitation, reasonable attorneys' fees and disbursements incurred by Sublessor, to the extent caused by the failure of Sublessee to perform any of the covenants, agreements, terms, provisions or conditions contained in this Sublease which Sublessee is obligated to perform under this Sublease, provided that the terms of the foregoing indemnity shall not apply to the gross negligence or willful misconduct of Master Landlord or Sublessor. The provisions of this Section shall survive the expiration or termination of the Lease and/or this Sublease.

**21. Event of Default.** The occurrence of any of the following shall constitute a material default of this Sublease by Sublessee: 1) any failure by Sublessee to pay any Rent or any other charge required to be paid by Sublessee under this Sublease or the Lease, or any part of any of the foregoing, within five (5) days of the due date; 2) any failure by Sublessee to observe or perform any other provision, covenant or condition of this Sublease or the Lease to be observed or performed by Sublessee where such failure continues for twenty (20) days after written notice thereof from Master Landlord and/or Sublessor to Sublessee; provided however, if the nature of such default is such that the same cannot reasonably be cured within a twenty (20)-day period, Sublessee shall not be deemed to be in default if it diligently

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SUBLEASE

FLORESTONE PRODUCTS COMPANY to  
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commences such cure within such period and thereafter diligently proceeds to rectify and cure such default as soon as possible (provided, however, in no event shall Lessee's right to cure under this Sublease be longer than the applicable right to cure under the Lease); 3) to the extent permitted by law, a general assignment by Sublessee or any guarantor of the Sublease for the benefit of creditors, or the filing by or against Sublessee or any guarantor of any proceeding under an insolvency or bankruptcy law, unless in the case of a proceeding filed against Sublessee or any guarantor the same is dismissed within sixty (60) days, or the appointment of a trustee or receiver to take possession of all or substantially all of the assets of Sublessee or any guarantor, unless possession is restored to Sublessee or such guarantor within thirty (30) days, or any execution or other judicially authorized seizure of all or substantially all of Sublessee's assets located upon the Leased Premises or of Sublessee's interest in this Lease, unless such seizure is discharged within thirty (30) days; or 4) the hypothecation or assignment of this Sublease or subletting of the Leased Premises, or attempts at such actions, in violation of this Sublease.

**22. Remedies.** Upon the occurrence of any event of default by Sublessee and during the continuation thereof, Sublessor may, in addition to any other remedies available at law or in equity: 1) terminate Sublessee's right to occupy the Leased Premises by providing Sublessee with at least a five (5) calendar day written notice; and 2) accelerate all rents which are payable during the remainder of the Sublease term without notice or demand. If Sublessee is in default beyond any applicable cure period, then Sublessee is liable for lost rent, and, to the extent such costs are actually incurred by Sublessor, cost of reletting the Leased Premises (including brokerage and advertising fees), repairs to Leased Premises beyond normal wear and tear, costs associated to lawfully evict Sublessee (including court and reasonable attorney's fees), cost of collecting past due rent (including collection firm fees), cost of moving Sublessee's personal property out of the Leased Premises (including fixtures and equipment), cost of selling Sublessee's personal property (including auction and marketing fees), cost of storage of Sublessee's personal property, cost of rekeying the Leased Premises' locks, and any other recovery to which Sublessor may be reasonably entitled under this Sublease. Sublessor shall also be entitled to any and all damages and remedies provided in the Lease.

**23. Intentionally Deleted.**

**24. Representations and Warranties of Sublessor.** Sublessor represents and warrants to Sublessee that as of the date of executing this Sublease Sublessor has neither given nor received a notice of default pursuant to the Lease that remains uncured. Sublessor covenants not to amend or modify any portion of the Lease affecting, relating, or pertaining to the Leased Premises without Sublessee's consent, which consent shall not be unreasonably withheld or delayed. Provided, however, that the foregoing covenant does not prevent the Sublessor from exercising the option to purchase under the Lease.

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SUBLEASE

FLORESTONE PRODUCTS COMPANY to  
FLORESTONE, LLC

- 25. Entire Agreement.** Except as set forth in the Asset Purchase Agreement between Sublessor, as seller, Ron Flores and Carol Flores Deaver, as equityholders, and Sublessee, as buyer, dated on or about the Commencement Date (the “APA”) (specifically including Section 5.11 titled “Parent Guarantee”), this is the entire agreement between the Parties. It replaces and supersedes any and all oral agreements between the Parties, as well as any prior writings, except the APA.
- 26. Ordinances & Statutes.** Sublessee shall comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force or that may hereafter be in force as it pertains to this Sublease.
- 27. Successors and Assignees.** This Sublease binds and benefits the successors and permitted assigns of the Parties.
- 28. Notices.** All notices must be in writing. A notice may be delivered to a Party at the address that follows a Party’s signature or to a new address that a Party designates in writing. A notice may be delivered: (i) in person, (ii) by Certified Return Receipt Mail, or (iii) by overnight courier.
- 29. Governing Law/Exclusive Jurisdiction and Venue.** This Sublease will be governed by and construed in accordance with the laws of the State of Texas. The parties agree to the exclusive personal jurisdiction and venue Grayson County, Texas with regards to the enforcement, interpretation, and/or other litigation that may result from any disputes of this Agreement.
- 30. Signage.** Sublessee shall be allowed to install signage, to the extent allowed by municipal code and the Lease, as applicable. All such signage is subject to Master Landlord approval as provided in Lease.
- 31. Counterparts.** This Sublease may be signed by the Parties in different counterparts and the signature page combined will create a document binding on all the Parties.
- 32. Modification.** This Sublease may be modified only by a written agreement signed by all Parties.
- 33. Waiver.** If one Party waives any term or provision of this Sublease at any time, that waiver will only be effective for the specific instance and specific purpose for which the waiver was given.
- 34. Delay is Not a Waiver.** No failure or delay by either Party in exercising any right, power or remedy under this Sublease, except as specifically provided in this Sublease, shall operate as a waiver of any such right, power or remedy.

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SUBLEASE

FLORESTONE PRODUCTS COMPANY to  
FLORESTONE, LLC

**35. Severability.** If any court determines that any provision of this Sublease is invalid or unenforceable, any invalidity or unenforceability will affect only that provision and will not make any other provision of this Sublease invalid or unenforceable and this Sublease shall be modified, amended, or limited only to the extent necessary to render the provision valid and enforceable to the fullest extent of the law.

**36. Drafting of Sublease.** All Parties have reviewed this Sublease and all Parties have the opportunity to utilize legal counsel for reviewing this Sublease. Accordingly, this Sublease shall not be construed more strictly against one Party on the basis of that Party's having drafted, or participated in drafting, this Sublease.

**37. Headings.** The titles and headings of the various sections in this Sublease are intended solely for convenience of reference and are not intended for any other purpose whatsoever, or to explain, modify or place any construction upon or on any of the provisions of this Sublease.

**38. Costs of Legal Action.** In the event any action is brought by either party to enforce the terms of this Agreement, the prevailing party shall be entitled to attorneys' fees related to such enforcement.

**39. Brokerage.** The Parties acknowledge, represent, and warrant that this Sublease is not bound to a brokerage commission or fee.

*[Signatures are on the following page]*

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SUBLEASE

FLORESTONE PRODUCTS COMPANY to  
FLORESTONE, LLC

**Understood, Agreed & Approved**

We have carefully reviewed this Sublease and the Lease attached hereto as Exhibit A, and we agree to and accept all of its terms and conditions. We are executing this Sublease as of the Commencement Date. The parties agree that this Sublease is legally binding, with the expectations of the Parties understood, and the sufficiency of the consideration accepted and received.

**SUBLESSOR:**

Florestone Products Co., a California corporation

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: Florestone Products Co.  
18056 Road 400  
Madera, CA 93636  
Attn: Ron Flores

and:

Florestone Products Co.  
32875 Digger Pine Road  
Raymond, CA 93653  
Attn: Carol Flores Deaver

**SUBLESSEE:**

Florestone, LLC, a Delaware limited liability company

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: Florestone, LLC  
c/o American Bath Group, LLC  
1521 North Cooper Street, #500  
Arlington, TX 76011  
Attn: Andy Iverson, General Counsel  
Email: aiverson@americanbathgroup.com

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SUBLEASE

FLORESTONE PRODUCTS COMPANY to  
FLORESTONE, LLC

Signature Page

**Master Landlord's Consent to Sublease**

Master Landlord, BUSINESS AND INDUSTRIAL CORPORATION OF DENISON, INC. d/b/a DENISON DEVELOPMENT ALLIANCE, hereby consents to the Sublease, however the consent to the Sublease shall not in any way reduce, modify or absolve the Sublessor from the obligations under the Lease. Master Landlord and Sublessor acknowledge that Master Landlord's consent to the Sublease shall not constitute a consent to further subleases, assignments and transfers by Sublessor of its interest in the Lease or the Leased Premises.

Master Landlord acknowledges and agrees that the Lease is in full force and effect. Master Landlord confirms that neither Master Landlord nor Sublessor has given nor received a notice of default pursuant to the Lease that remains uncured. Master Landlord is not aware of any event which with the giving of notice or the passage of time, or both, might constitute an event of default under the Lease.

Master Landlord agrees that the Leased Premises may be used for the operation of an industrial facility including manufacturing, warehouse, general office and associated uses.

Master Landlord shall provide Sublessor with written notice of any alleged breach of the Lease and an opportunity to cure the alleged breach in the same manner as provided in the Lease. Provided, however, in no event shall Sublessor have less than thirty (30) days to cure an alleged breach. If the breach cannot reasonably be cured within thirty (30) days, then the breach shall be deemed cured so long as Sublessor or Sublessee commences the cure within the thirty (30) day period and diligently proceeds to completion.

BUSINESS AND INDUSTRIAL CORPORATION  
OF DENISON, INC. d/b/a DENISON DEVELOPMENT  
ALLIANCE

By: Tony Kaai  
Print Name: TONY KAAI  
Title: President  
Date: 7-11-2020

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SUBLEASE

FLORESTONE PRODUCTS COMPANY to  
FLORESTONE, LLC

Master Landlord's Consent to Sublease

# **ATTACHMENT B**

## ECONOMIC DEVELOPMENT AGREEMENT

### THE STATE OF TEXAS

### COUNTY OF GRAYSON

THIS ECONOMIC DEVELOPMENT AGREEMENT (the "Agreement") is entered into by and between the Business and Industrial Corporation of Denison, Inc. ("BICD"), a Texas non-profit corporation, doing business as Denison Development Alliance ("DDA") whose mailing address is 311 W. Woodard, Denison, Texas 75020, and CJ's Roastery with Principal Nancy Gentry (COMPANY) whose mailing address is 514 W Main Street, Denison, Texas 75020.

### BACKGROUND

- A. DDA is a trade name for an Economic Development Corporation organized under the Texas Development Corporation Act of 1979, Article 5190.6 of Vernon's Texas Civil Statutes. DDA exists for the purpose of encouraging and assisting qualified service and manufacturing entities in the creation of jobs in Grayson County, Texas.
- B. CJ's Coffee Cafe was established in 2010 on Main Street in Downtown Denison and is in the process of opening their third location. CJ's on Main currently has 13 employees and is projecting an additional 20 employees at CJ's on the Blvd. COMPANY, a manufacturing entity, is being formed to provide product for all CJ's locations as well as online sales and distribution to third party wholesalers, retailers and consumers.
- C. CJ's Coffee Café and CJ's on the Blvd are also currently participating in DDA's E-commerce Accelerator Incentive Grant Program to enhance CJ's online presence and online sales capabilities.
- D. COMPANY has competed for the past two years in North American coffee roasting competitions and has earned a total of five medals using organic coffee beans with the Rain Forest Alliance seal.
- E. COMPANY is purchasing a small-batch commercial coffee roaster which will be installed in the southeast corner of CJ on the Blvd. This new investment will produce local roasted, fresh coffee in a one-of-a-kind setting unique in Texoma. The beans will be used at all three CJ's locations as well as bagged and sold online. Total investment in roaster equipment and installation is estimated at \$52,595 which is part of an approximate \$300,000 build-out for CJ's on the Blvd.
- F. The Board of Directors of DDA has determined that it is in the best interest of Denison, Texas that financial incentives be offered to COMPANY in order to encourage it to expand this manufacturing in Denison, Texas, and to create jobs and payroll in Denison, Grayson County, Texas.

**NOW, THEREFORE**, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration and the mutual covenants and agreements contained herein, the parties agree as follows:

1. DDA agrees to provide Micro-manufacturing Equipment Grant up to \_\_\_\_\_ percent (\_\_\_%) of the total manufacturing equipment investment which is approximately \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) upon receipt of Reimbursement Request from



COMPANY after equipment installation and after COMPANY receives a City of Denison Certificate of Occupancy.

2. COMPANY agrees to invest a minimum of Fifty Thousand Dollars (\$50,000) for roaster equipment and installation to expand their coffee roasting capabilities in Denison, Texas with equipment similar to what is described in the Exhibit A.
3. COMPANY agrees to install this roaster at CJ's on the Blvd and maintain operation of this roaster, the location at CJ's on Main, and the location at CJ's on the Blvd for a minimum of one year from CJ's on the Blvd Certificate of Occupancy also known as the Anniversary Date which will be documented below the signatures on the last page of this agreement. If operation of the roaster or either location discontinues before the first Anniversary Date then all Micro-manufacturing Equipment Grant funds shall be reimbursed to DDA within thirty (30) days of written DDA Notice of Claw-back.
4. COMPANY agrees to provide a Reimbursement Request including itemized lists, paid invoices, receipts, photographs, and other documentation necessary to confirm completed installation and operability of this new roasting equipment.
5. COMPANY agrees to include "Denison, Texas", "Roasted in Denison, TX" or variations thereof in marketing collateral and products where applicable.
6. COMPANY agrees to maintain operations on both Main Street and CJ's on the Blvd.
7. COMPANY specifically agrees that DDA shall only be liable to COMPANY for the actual amount of the money grants to be conveyed to COMPANY and shall not be liable to COMPANY for any other actual or consequential damages, direct or indirect, interest, attorney fees, or cost of court for any act of default by DDA under the terms of this agreement. It is further specifically agreed that DDA shall only be required to pay the grant amounts solely out of its sales tax revenue currently collected, allocated and budgeted and to be allocated, budgeted and collected for COMPANY during the term of this agreement. Payment by DDA is strictly limited to those funds so allocated, budgeted and collected solely during the grant term of this agreement. DDA shall use its best efforts to anticipate economic conditions and to budget accordingly. However, it is further understood and agreed that, should the actual total sales tax revenue collected for any one year be less than the total amount of grants to be paid to all contracting parties with DDA for that year, then, in that event, all contracting parties shall receive only their pro rata share of the available sales tax revenue for that year, less DDA's customary and usual costs and expenses, as compared to each contracting parties' grant amount for that year, and DDA shall not be liable to Company for any such deficiency at that time or at any time in the future. In this event, DDA will provide all supporting documentation, as requested. Payments to be made to COMPANY shall also require a written Reimbursement Request from COMPANY to be accompanied by all necessary supporting documentation. DDA shall have fifteen (15) days to make payment after receipt of such payment request. The Reimbursement Request request should be directed to the President of the Denison Development Alliance, 311 West Woodard, Denison, Texas 75020.
8. COMPANY will join and remain an active member of the Denison Chamber of Commerce for as long as they do business in Denison, Texas.

9. COMPANY will contribute a minimum of \$100.00 annually to a Denison based non-profit for as long as they do business in Denison, Texas.
10. COMPANY shall pay all real property, business personal property, sales tax and/or ad valorem taxes due and owing by it to Grayson County and all other taxing authorities having jurisdiction. In addition, COMPANY will pay all employment, income, franchise and all other taxes, due and owing by it to all local, state and federal entities.
11. In the event COMPANY should fail to pay ad valorem taxes owing to the Grayson County or any other taxing entity and such taxes should become delinquent, and provided that COMPANY is not contesting such taxes in good faith, DDA will have no further obligations under this Agreement and DDA may immediately terminate this Agreement.
12. It is agreed by and between the parties hereto that if during the term of this agreement any law, decision, regulation or condition exists, continues or is made effectual in the City of Denison, State of Texas or the United States, which prohibits COMPANY from continuing its regular business in this location this agreement may be cancelled without penalty by COMPANY by providing a 30 day written notice. If a fire, tornado, flood, or other natural disaster prevents the continuation of the project as determined by the DDA, COMPANY will not be required to return any of the funds provided by the DDA.
13. COMPANY hereby warrants to DDA that it had or will obtain all necessary rights, licenses, permits and authorities to carry on its business; that there are no bankruptcy proceedings or other proceedings currently pending or contemplated; and that the parties executing this Agreement on behalf of COMPANY are duly authorized.
14. COMPANY is aware of statutory limitations on this grant and the use of funds under Article 5190.6 of Vernon's Civil Statutes of Texas and acknowledges that the funds herein granted or guaranteed shall be utilized solely for purposes authorized under that law and by the terms of this Agreement. In the event that an audit determines that the financial incentives granted under this Agreement were not used for proper statutory purposes, COMPANY agrees to reimburse DDA for the sum of money spent for purposes not authorized by the statute or this Agreement.
15. Should any litigation be commenced between the parties to this Agreement, concerning this Agreement or the rights and duties of each party under this Agreement, the party prevailing in such litigation shall be entitled, in addition to any other relief granted, to recover its attorneys' fees and other reasonable expenses incurred in such litigation. Venue for any lawsuit arising under the terms of this Agreement shall be in the appropriate court in Grayson County, Texas.
16. All representatives, warranties, covenants and agreements, as well as rights and benefits for the parties to this Agreement shall survive the original execution date of this Agreement until sixty (60) days after the termination date of this Agreement, if it should be terminated.
17. COMPANY may not assign this Agreement without the prior written consent of DDA to such assignment, but such agreed assignment shall not relieve COMPANY of any of its obligations under this Agreement.
18. COMPANY represents and warrants to DDA that:
  - D. COMPANY is a corporation duly authorized to do business in the State of Texas and has requisite power and authority, corporate or otherwise, to conduct its

business and to own its present assets, and to execute and deliver all of its obligations under this Agreement.

- E. The execution, delivery and performance by COMPANY of this Agreement have been duly authorized by all necessary action, corporate or otherwise, and do not and will not violate any provision of the existing law, rule, regulation, contract or lien by which COMPANY or its property or assets is bound or affected.
- F. No litigation or governmental proceeding is pending or, to the knowledge of COMPANY or COMPANY's officers, threatened against or effecting COMPANY that may result in any material adverse change in COMPANY's business, properties or operation.
- G. No consent, approval or authorization of or registration or declaration with any governmental authority is required in connection with the execution of this Agreement or of the transactions contemplated hereby.

Executed on the date shown opposite the signature of each party. The "Effective Date" is the date of the final signature.

**Business and Industrial Corporation of Denison, Inc.,  
d/b/a Denison Development Alliance**

\_\_\_\_\_  
BY ITS CHAIRMAN

\_\_\_\_\_  
DATE

**Gateway Coffee, Inc**

\_\_\_\_\_  
BY ITS OWNER – Nancy Gentry

\_\_\_\_\_  
DATE

**ANNIVERSARY DATE - TO BE DETERMINED**

**Date of City of Denison Certificate of Occupancy will serve as the Anniversary Date on which the Claw-back provision will automatically expire:**

**ANNIVERSARY DATE:** \_\_\_\_\_

**The above official Anniversary Date is agreed upon by:**

**DDF President:** \_\_\_\_\_

**Nancy Gentry, Owner:** \_\_\_\_\_

**One Year Anniversary Confirmation of Operations by DDA Staff:**

**Roaster - Yes/No | CJ's on Main St – Yes/No | CJ's on the Blvd – Yes/No**

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_