

**STATE OF NORTH CAROLINA
ROWAN COUNTY**

LEASE

THIS LEASE, made this the __ day of _____, 2020, by and between **ROWAN COUNTY**, a body politic, hereinafter called "Landlord", and **PERKINS CAFETERIAS, LLC**, a North Carolina limited liability company, hereinafter called "Tenant";

WITNESSETH:

WHEREAS, Landlord is the owner of the premises located at 1925 Jake Alexander Boulevard West, Salisbury, North Carolina 28147; and,

WHEREAS, Landlord is desirous of entering into this Lease Agreement with the Tenant for the rental of the above-described premises, and Tenant is likewise desirous of entering into this Lease Agreement;

NOW, THEREFORE, for and in consideration of the mutual undertakings hereinafter set forth, the parties hereto mutually agree as follows:

1. PROPERTY LEASED: The Landlord, for and in consideration of the rents, covenants and agreements hereinafter specified to be paid, kept and performed by the Tenant, hereby leases the following described premises: approximately 7,000 square foot cafeteria building together with non-exclusive parking spaces to support a cafeteria on approximately 2.3 acres, all as shown on the attached Exhibit A "Leased Area" (the "Leased Area").

2. TENANT'S ACCEPTANCE OF PROPERTY: At the commencement of the term, Tenant has had access to the building and improvements and parking areas pursuant to a separate Access Agreement with Landlord for purposes of cleaning, installing equipment and fixtures, setting up and using the building and the Tenant accepts the same in its existing condition. No representation, statement or warranty, express or implied, has been made by or on behalf of the Landlord as to such condition, or as to the use that may be made of such property. In no event shall the Landlord be liable for any defect in such property or for any limitation of its use.

3. TERM OF LEASE AND OPTION TO EXTEND: The Initial Term of this Lease shall commence on December 8, 2020 and shall terminate at midnight on December 7, 2025, subject to being extended as provided herein. Tenant shall have two (2) options to extend the

Lease for two (2) years each by providing written notice of Tenant's intent to exercise such option provided to Landlord at least ninety (90) days prior to the end of the Term. Rent for any such subsequent Extension Term shall be at then prevailing Fair Market Rent to be determined by the parties based. In the event the parties cannot agree on Fair Market Value, each party shall retain its own MAI certified appraiser to provide an opinion report of rent value. If the appraisals are within ten percent (10%) of each other, the Fair Market Rent shall be the average of the two. If the appraisals are more than ten percent (10%), the parties may either (1) agree to average the two, or (2) the appraisers shall agree to appoint a third appraiser who shall determine Fair Market Value based on the two reports, which shall then be considered Fair Market Value.

4. **RENT AND ANNUAL ADJUSTMENTS:** Beginning December 8, 2020, the Tenant shall pay as rent:

- A. The sum of five thousand and no/100 dollars (\$5,000.00) per month as Base Rent; and
- B. The sum of two hundred fifty and no/100 dollars (\$250.00) per month as Common Area Maintenance.

The amounts in A and B above shall be adjusted **annually** by 2.5% during the Initial Term and any extensions thereof.

5. **TAXES:** Tenant shall pay any license, taxes or fees assessed or imposed in connection with the operation of its own business and shall declare, list and pay all taxes and levies assessed by any taxing authority upon (1) its leasehold interest value, and (2) its business personal property (BPP) located within the leased property.

6. **USE OF LEASED PROPERTY:** The Tenant may use and operate the leased premises as a restaurant/cafeteria for dine in and takeout services and all other uses incidental thereto.

7. **MAINTENANCE AND REPAIRS:**

a. **By Landlord:** During the term and any renewal of the Lease, Landlord shall maintain and keep in a good state of repair the structural portion of the premises, including roof, foundation and walls. Landlord shall likewise maintain and keep in a good state of repair the heating and air conditioning, all driveways, parking areas, those portions of the exterior plumbing lines that are not exposed and readily accessible and the exterior of the premises.

b. **By Tenant:** During the term and any renewal of this Lease, Tenant shall keep and

maintain the interior of the premises in a good state of repair, including interior electrical, and plumbing, windows, ceilings, walls, and all BPP.

8. COMPLIANCE WITH APPLICABLE LAWS: The Tenant shall, throughout the term of this Lease, at Tenant's sole expense, promptly comply with all laws and regulations of all federal, state and municipal governments, and appropriate departments, commissions, boards and officers thereof.

9. ALTERATIONS, ETC.: No alteration, addition or improvement to the leased property shall be made by the Tenant without written consent of the Landlord. Any alteration, addition or improvement made by the Tenant after such consent shall have been given, and any fixtures installed as part thereof, shall, at the Landlord's option, become the property of the Landlord upon the expiration or other sooner termination of this Lease; provided, however, that the Landlord shall have the right to require the Tenant to remove such alteration, addition or improvement at the Tenant's cost upon such termination of this Lease.

10. UTILITIES: The Tenant shall pay for its own standard utilities used in connection with the demised premises.

11. SERVICE: No janitorial services are provided by Landlord.

12. TERMINATION BY LANDLORD UPON TENANT'S DEFAULT: If the Tenant shall desert or vacate the leased property, or if proceedings are commenced against the Tenant in any court under a bankruptcy act, or for the appointment of a trustee or receiver of the Tenant's property, either before or after the commencement of the lease term, or if there shall be a default in the payment of rent or any part thereof for more than five (5) days after written notice of such default by the Landlord, or if there shall be default in the performance of any other covenant, agreement, condition, rule or regulation herein contained or hereafter established on the part of the Tenant for more than twenty (20) days after written notice of such default by the Landlord, this Lease (if the Landlord so elects) shall thereupon become null and void, and the Landlord shall have the right to re-enter or repossess the leased property, either by summary proceedings, surrender or otherwise, and dispossess and remove therefrom the Tenant, or other occupants thereof and their effects without being liable to any prosecution therefore.

13. RIGHT OF ENTRY: The Landlord, or its agents, shall have the right to enter the

leased property at all times, upon reasonable notice, in order to examine it, to show it to prospective purchasers or lessees, or to make such decoration, repairs, alterations, improvement or additions as the Landlord may deem necessary or desirable.

14. DAMAGE TO LEASED PROPERTY BY FIRE AND OTHER CASUALTY:

If the leased property is completely destroyed or so damaged by fire or other casualty covered by insurance as to render it unfit for use, and such damage is so extensive that the repair or restoration cannot be completed within one hundred twenty (120) days, which fact shall be certified by a competent general contractor licensed as such in the State of North Carolina, either the Landlord or the Tenant may terminate this Lease on notice of at least ten (10) days and no more than thirty (30) days. Such notice shall be given within sixty (60) days after the date of such damage or destruction. If the Lease shall be terminated, the rent shall be terminated. All rent shall be apportioned to the date of termination, and all insurance proceeds relating to Landlord's policy shall belong to the Landlord. Otherwise, the Lease shall remain in full force and effect, and the Landlord shall make such repairs and replacements as shall be necessary to restore the premises to their condition at the time of the fire or to better condition, provided that Landlord's obligation hereunder shall not exceed the insurance proceeds available therefore; and the rent shall abate proportionately to the amount of the leased property which shall be untenantable during the time required for such repairs and restoration.

15. INSURANCE: The Landlord shall pay and provide for during the term of this Lease a policy of fire and extended coverage on the demised premises. Landlord shall not be liable for any damage to Tenant's fixtures or equipment caused by fire or other insurable hazards, regardless of the cause thereof; and Tenant hereby releases Landlord of and from all liabilities for such damage.

Liability: Tenant shall indemnify, defend and save harmless Landlord from and against any and all loss, cost, damages, expense and liability caused by any accident or other occurrence causing bodily injury, property damage or any other damage or injury to any person or property arising from the use or occupancy of the demise premises by the Tenant whether or not caused by a party indemnified under this contract.

Insurance: The Tenant, at his own expense, will carry bodily injury liability and property damage insurance in an amount of not less than one million dollars (\$1,000,000) per occurrence with an insurance company licensed to do business in the State of North Carolina and

shall provide a Certificate of Insurance consistent with the following requirements. All insurance policies shall be endorsed to include Rowan County Government, its officers, elected officials, employees, agents and volunteers as additional insureds, and shall not be reduced, canceled or materially changed without forty-five (45) days prior written notice to the County. Any deductible or self-insured retention must be disclosed. The cost of any claim payments falling within the deductible or self-insured retention shall be entirely the responsibility of the Tenant.

- a. A policy of **Commercial General Liability Insurance**, written on an insurance industry standard occurrence form or equivalent, including all the usual coverage known as:

- Premises / operations liability
- Products / completed operations
- Personal / advertising injury
- Contractual liability
- Independent contractor's liability
- Fire damage legal

The policy (ies) must provide the following minimum limits and coverage:

\$1,000,000	Bodily injury and property damage per occurrence
\$1,000,000	Products and completed operations aggregate
\$1,000,000	Personal and advertising injury

- d. A copy of a "Separation of Insureds" or "Severability of Interest" clause, indicating essentially that — except with respect to the limits of insurance, and any rights or duties specifically assigned to the first named insured — this insurance applies as if each named insured were the only named insured, and separately to each insured against whom claim is made or suit is brought.

16. ASSIGNMENT AND SUB-LETTING: The Tenant shall not assign, mortgage or encumber this Lease, nor sublet or permit the leased property or any part thereof to be used by others, without the prior written consent of the Landlord in each instance.

17. EXCULPATORY PROVISIONS: The Landlord shall not be responsible or liable to the Tenant for any injury or damage resulting from acts or omissions of persons occupying the leased property, or property adjoining the leased property, or any part of the building of which the leased property is a part, or for any injury or damage to the Tenant or its property from bursting, stoppage or leaking of water, gas, sewer or steam pipes, except when such loss or damage arises from the willful or negligent misconduct of the Landlord, its agents, servants or employees, or from the Landlord's failure within a reasonable time after notice from Tenant to make the repairs which it is obligated to make hereunder.

18. INDEMNITY: The Tenant shall indemnify the Landlord against all liabilities, expenses, including reasonable attorney's fees, and losses incurred by the Landlord as a result of (a) failure by the Tenant to perform any covenant required to be performed by the Tenant hereunder; (b) any accident, injury or damage which shall happen in or about the leased property; (c) failure to comply with any requirements or any governmental authority; and (d) any mechanic's lien or security agreement or any materials used in the construction or alteration of any building or improvement thereon.

19. CORPORATE APPROVALS: Tenant hereby represents that it has followed all of its corporate bylaws in granting the proper authorization to enter into this Lease, and upon its execution this Lease shall be the binding obligation of the Tenant. Lack of corporate formalities shall not be a defense to any breach of terms of this Lease.

20. MISCELANEOUS. This Lease shall be governed by the laws of the State of North Carolina. Any provision(s) deemed illegal shall not destroy the entire agreement but may be severed therefrom with the rest and remainder of the Lease remaining in full force and effect. All notices shall be delivered in writing either by mail or electronic means addressed as follows:

Landlord: Rowan County Manager
 130 West Innes Street
 Salisbury, NC 28144

Tenant: Perkins Cafeterias, LLC
 ATT: Nicholas M. Perkins
 301 McCollough Drive Suite 520
 Charlotte, NC 28262.

WITNESS the hands and seals of the undersigned, the day and year first above written.

LANDLORD:

ROWAN COUNTY

Gregory C. Edds, Chair
Rowan County Board of Commissioners

TENANT:

PERKINS CAFETERIAS, LLC

<i>Nicholas M. Perkins</i>	dotloop verified 11/24/20 9:38 AM EST 5ZDQ-MGDQ-G1UC-VXVH
----------------------------	---

Name:
Its: ____ President

NORTH CAROLINA

ROWAN COUNTY

I, _____ a Notary Public of the County and State aforesaid, certify that Gregory C. Edds, Chair of the Rowan County Board of Commissioners, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official stamp or seal, this ____ day of December 2020.

Notary Public _____
(seal) Printed Name _____

My Commission Expires: _____

NORTH CAROLINA

_____ **COUNTY**

I, _____, a Notary Public of the County and State aforesaid, certify that _____ a Duly Authorized Representative **Perkins Cafeterias, LLC** personally appeared before me this day and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official stamp or seal, this ____ day of December 2020.

Notary Public _____
(seal) Printed Name _____

My Commission Expires: _____

EXHIBIT A
LEASED AREA
GIS AERIAL