

SUBLEASE

35339

THIS SUBLEASE is made and entered, in duplicate, as of August 13, 2019, pursuant to a minute order of the City of Long Beach adopted at its meeting held on August 13, 2019 by and between LINC-PALACE HOTEL APARTMENTS HOUSING INVESTORS, L.P., a California limited partnership, whose address is 110 Pine Avenue, Suite 500, Long Beach, California 90802, Attention: President ("Landlord"), and the CITY OF LONG BEACH, a public agency, whose address is 411 W. Ocean Boulevard, 10th Floor, Long Beach, California 90802, Attention: Economic Development Department ("Tenant").

Landlord and Tenant, in consideration of the mutual terms, covenants, and conditions herein, agree as follows:

1. Premises. Landlord hereby leases to Tenant and Tenant hereby accepts and leases from Landlord those certain premises consisting of approximately 1,000 square feet located on the first floor of the building currently existing at 2640 E. Anaheim Street (the "Building"), as more particularly described and/or depicted in Exhibit "A" attached hereto (the "Premises"). The Premises shall be leased in "as is" condition. Tenant shall have no access rights or any obligations with respect to areas of the Building other than the Premises. Landlord currently leases the real property on which the Building sits from the Long Beach Community Investment Company, a nonprofit corporation wholly-owned by the City of Long Beach, pursuant to a Ground Lease dated May 28, 2010 (the "Master Lease") executed by and between Landlord, as tenant, and the LBCIC, as landlord.

2. Term. The term of this Lease shall commence on September 1, 2019 ("Commencement Date"), and shall terminate on August 31, 2020. Tenant shall have one option to extend the term of this Lease for an additional one (1) year period (to August 31, 2021), by providing written notice of its intent to exercise such option no later than thirty (30) days prior to the expiration of the initial term, and, in that event, the parties shall execute an amendment to this Lease that extends the term. Notwithstanding anything to the contrary contained herein, Tenant shall have the right to terminate this Lease at any

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4664

1 time during the term for any reason, upon thirty (30) days' advance written notice to the
2 other party, but in such event Landlord shall not be obligated to refund any previously paid
3 rent.

4 3. Rent. On or before the date which is thirty (30) days after the
5 Commencement Date, Tenant shall pay to Landlord an annual rent payment in the amount
6 of Three Thousand Six Hundred Dollars (\$3,600). If Tenant exercises its extension option
7 or otherwise remains in possession of the Premises as of the first anniversary of the
8 Commencement Date, then beginning on such anniversary date and continuing monthly
9 thereafter Tenant shall pay monthly rent to Landlord in the amount of Three Hundred
10 Dollars (\$300). If Tenant has not paid rent ten (10) days after such rent is due, then Tenant
11 shall be assessed a late fee equal to five percent (5%) of the late monthly rent amount.

12 4. Use. The Premises shall be used for (i) pop-up retail businesses as
13 determined and licensed by Tenant in its sole discretion, and (ii) other periodic City-
14 supported programming, including without limitation arts, music, and social events.
15 Landlord reserves the right to use the Premises on Tuesdays, Wednesdays and
16 Thursdays, up to 10 days per calendar month, for the provision of community-based
17 programming. Landlord shall schedule such use with Tenant in advance, subject to
18 Tenant's reasonable approval, and such use by Landlord shall be without compensation
19 by Landlord to Tenant.

20 5. Improvements and Reimbursement. Landlord has recently completed
21 certain improvements to the Premises to accommodate Tenant's proposed use. On or
22 before the date which is thirty (30) days after the Commencement Date, Tenant shall make
23 a one-time payment to Landlord in the amount of Ten Thousand Dollars (\$10,000) as
24 reimbursement to Landlord for Tenant's share of the costs of such improvements. Tenant,
25 at its own cost, may make additional improvements to the Premises in order to
26 accommodate its use, subject to the approval of Landlord, which such approval shall not
27 be unreasonably withheld.

28 6. Maintenance Obligations. Landlord shall provide, at Landlord's cost,

1 commercially reasonable janitorial services to the Premises. Tenant shall otherwise keep
2 the Premises in a neat, safe and sanitary condition. Landlord shall be responsible for all
3 maintenance to the Premises and the Building.

4 7. Utilities. On or before the date which is thirty (30) days after the
5 Commencement Date, Tenant shall make a one-time payment to Landlord in the amount
6 of Six Hundred Dollars (\$600) for utilities used at the Premises. If Tenant exercises its
7 extension option or otherwise remains in possession of the Premises as of the first
8 anniversary of the Commencement Date, then beginning on such anniversary date and
9 continuing monthly thereafter Tenant shall pay monthly utilities to Landlord in the amount
10 of Fifty Dollars (\$50). Landlord shall use commercially reasonable efforts to ensure that
11 such utilities are available at the Premises.

12 8. Taxes. Landlord shall be responsible for payment of all real property taxes
13 and any other taxes which may be assessed against the Premises or the Building, including
14 without limitation possessory interest taxes.

15 9. Hazardous Materials. In the event any Hazardous Materials are detected
16 during the Lease term, such materials shall be removed promptly in accordance with
17 applicable law at the sole cost and expense of Landlord, except to the extent that such
18 materials result from the actions of Tenant. In the event Landlord determines it is cost
19 prohibitive to remove such materials, Tenant shall have the option of terminating this Lease
20 by giving written notice. No goods, merchandise, supplies, personal property, materials,
21 or items of any kind shall be kept, stored, or sold in or on the Premises which are in any
22 way explosive or hazardous. Tenant shall comply with California Health and Safety Code
23 Section 25359.7 or its successor statute regarding notice to Landlord on discovery by
24 Tenant of the presence or suspected presence of any hazardous material on the Premises.
25 "Hazardous Materials" means any hazardous or toxic substance, material or waste which
26 is or becomes regulated by the City, the County of Los Angeles, the State of California or
27 the United States government.

28 10. Indemnity. Tenant shall protect Landlord and shall hold, keep and save

1 Landlord from any and all suits, claims or less or liabilities to any person or damage to the
2 Premises or Landlord's personal property located thereon to the extent resulting from
3 Tenant's use of the Premises. Tenant agrees to indemnify and hold harmless Landlord
4 from all injuries to persons and property to the extent caused, in whole or in part, by the
5 following: a) any breach by Tenant or any undertaking or representation under this Lease,
6 or b) any negligent or willful acts by Tenant (or its employees or agents) in connection with
7 Tenant's activities on the Premises.

8 11. Insurance. Within five (5) days after the execution of this Lease, Tenant
9 shall deliver to Landlord a Certificate of Self-Insurance on Tenant's standard form providing
10 evidence of coverage for:

11 a. Commercial general liability self-insurance equivalent in
12 coverage scope to ISO CG 00 01 10 93 in an amount not less than One Million Dollars (US
13 \$1,000,000) per occurrence and Two Million Dollars (US \$2,000,000) in aggregate and

14 b. Special perils property coverage in an amount sufficient to
15 cover the full replacement value of Tenant's personal property, improvements, and
16 equipment on the Premises.

17 The self-insurance program shall not be suspended, voided, or canceled by
18 Tenant except after thirty (30) days prior written notice to Landlord, and shall be primary
19 and not contributing to any other insurance maintained by Landlord. The commercial
20 general liability shall name Landlord as an additional insured.

21 With respect to damage to property, Landlord and Tenant hereby waive all
22 rights of subrogation, one against the other, but only to the extent that collectible
23 commercial insurance is available for said damage.

24 Any modification or waiver of the insurance requirements herein shall be
25 made only with the written approval of the Tenant's Risk Manager or designee.

26 12. Default by Tenant. The occurrence of any of the following acts shall
27 constitute a default by Tenant:

28 a. Failure to pay rent when due after ten (10) days written notice;

1 b. Failure to perform any of the terms, covenants, or conditions of this
2 Lease if said failure is not cured within thirty (30) days after written notice of said failure; or

3 c. Any attempted assignment, transfer, or sublease except as
4 approved by Landlord or otherwise authorized pursuant to Section 15.

5 If Tenant does not comply with each provision of this Lease or if a default
6 occurs, then Landlord may terminate this Lease and Landlord may enter the Premises and
7 take possession thereof provided, however, that these remedies are not exclusive but
8 cumulative to other remedies provided by law in the event of Tenant's default, and the
9 exercise by Landlord of one or more rights and remedies shall not preclude Landlord's
10 exercise of additional or different remedies for the same or any other default by Tenant.

11 13. Default by Landlord. The occurrence of any of the following acts shall
12 constitute a default by Landlord:

13 a. Failure to perform any of the terms, covenants, or conditions of this
14 Lease if said failure is not cured within thirty (30) days after written notice of said failure.

15 If Landlord does not comply with each provision of this Lease or if a default
16 occurs, then Tenant may terminate this Lease, provided, however, that this remedy is not
17 exclusive but cumulative to other remedies provided by law in the event of Landlord's
18 default, and the exercise by Tenant of one or more rights and remedies shall not preclude
19 Tenant's exercise of additional or different remedies for the same or any other default by
20 Landlord.

21 14. Right of Entry; Reservation of Rights. Landlord shall have the right of
22 access to the Premises during normal business hours and with reasonable advance notice
23 to inspect the Premises, to determine whether or not Tenant is complying with the terms,
24 covenants, and conditions of this Lease, to serve, post, or keep posted any notice, and for
25 any other legal purpose. Landlord shall also have the right to enter in case of emergencies.

26 15. Condemnation. If the whole or any part of the Premises shall be taken
27 by any public or quasi-public authority under the power of eminent domain, then this Lease
28 shall terminate as to the part taken or as to the whole, if taken, as of the day possession of

1 that part or the whole is required for any public purpose, and on or before the day of the
2 taking Tenant shall elect in writing either to terminate this Lease or to continue in
3 possession of the remainder of the Premises, if any. All damages awarded for such taking
4 shall belong to Landlord.

5 16. Assignment. Tenant shall not assign or transfer this Lease or any
6 interest herein, nor sublease the Premises or any part thereof without the prior written
7 approval of Landlord. Notwithstanding the foregoing, Tenant may issue short-term licenses
8 or other temporary permits to third-parties in connection with the conduct of pop-up retail
9 events or other community serving events or programming at the Premises.

10 17. Access. Tenant shall have access to the Premises twenty-four (24)
11 hours per day, seven (7) days per week.

12 18. Holding Over. If Tenant holds over and remains in possession of the
13 Premises or any part thereof after the expiration of this Lease with the express or implied
14 consent of Landlord, then such holding over shall be construed as a tenancy from month
15 to month at the monthly rent then in effect and otherwise on the same terms, covenants,
16 and conditions contained in this Lease.

17 19. Surrender of Premises. On the expiration or sooner termination of this
18 Lease, Tenant shall deliver to Landlord possession of the Premises in substantially the
19 same condition that existed immediately prior to the date of execution hereof, reasonable
20 wear and tear excepted.

21 20. Notice. Any notice required hereunder shall be in writing and personally
22 served or deposited in the U.S. Postal Service, first class, postage prepaid to Landlord and
23 Tenant at the respective addresses first stated above. Notice shall be deemed effective
24 on the date of mailing or on the date personal service is obtained, whichever first occurs.
25 Change of address shall be given as provided herein for notice.

26 21. Waiver of Rights. The failure or delay of Landlord to insist on strict
27 enforcement of any term, covenant, or condition herein shall not be deemed a waiver of
28 any right or remedy that Landlord may have and shall not be deemed a waiver of any

1 subsequent or other breach of any term, covenant, or condition herein. The receipt of and
2 acceptance by Landlord of delinquent rent shall not constitute a waiver of any other default
3 but shall only constitute a waiver of timely payment of rent. Any waiver by Landlord of any
4 default or breach shall be in writing. Landlord's approval of any act by Tenant requiring
5 Landlord's approval shall not be deemed to waive Landlord's approval of any subsequent
6 act of Tenant.

7 22. Successors in Interest. This Lease shall be binding on and inure to the
8 benefit of the parties and their successors, heirs, personal representatives, transferees,
9 and assignees, and all of the parties hereto shall be jointly and severally liable hereunder.

10 23. Force Majeure. Except as to the payment of rent, in any case where
11 either party is required to do any act, the inability of that party to perform or delay in
12 performance of that act caused by or resulting from fire, flood, earthquake, explosion, acts
13 of God, war, strikes, lockouts, or any other cause whether similar or dissimilar to the
14 foregoing which is beyond the control of that party and not due to that party's fault or neglect
15 shall be excused and such failure to perform or such delay in performance shall not be a
16 default or breach hereunder. Financial inability to perform shall not be considered cause
17 beyond the reasonable control of the party.

18 24. Governing Law. This Lease shall be governed by and construed in
19 accordance with the laws of the State of California. Any controversy or claim arising out of
20 or relating to this Lease or breach of this Lease shall be settled by arbitration in accordance
21 with the rules of the American Arbitration Association. Judgment on the award rendered
22 by the arbitrators may be entered in any court having competent jurisdiction.

23 25. Integration and Amendments. This Lease represents and constitutes the
24 entire understanding between the parties and supersedes all other agreements and
25 communications between the parties, oral or written, concerning the subject matter herein.
26 This Lease shall not be modified except in writing signed by the parties and referring to this
27 Lease.

28 26. Relationship of Parties. The relationship of the parties hereto is that of

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4664

1 Landlord and Tenant, and the parties agree that nothing contained in this Lease shall be
2 deemed or construed as creating a partnership, joint venture, association, principal-agent
3 or employer-employee relationship between them or between Landlord or any third person
4 or entity.

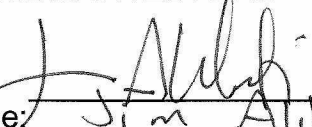
5 27. Broker's Fees. Both Landlord and Tenant acknowledge that neither party
6 has used the services of a real estate broker to represent them in this transaction and that
7 no commission fees shall be due any other party in connection with this Lease.

8 IN WITNESS WHEREOF, the parties have executed this Lease with all of
9 the formalities required by law as of the date first above written.

10 "Landlord"

11 Date: August 15, 2019

LINC-PALACE HOTEL APARTMENTS
HOUSING INVESTORS

12
13
14 By: 
Name: Tom Modica
Title: Senior U.P.

15 Tom Modica
Assistant City Manager

16 EXECUTED PURSUANT
17 TO SECTION 301 OF
18 THE CITY CHARTER

"Tenant"

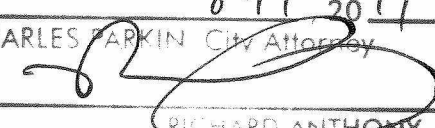
CITY OF LONG BEACH, a municipal
corporation

19 Date: August 23, 2019

20 By: 
Patrick H. West
City Manager

21 A19-03831

22 APPROVED AS TO FORM

23 8-19-2019
24 CHARLES PARKIN, City Attorney
25 By: 
26 RICHARD ANTHONY
27 DEPUTY CITY ATTORNEY
28

