
Lease Agreement

between

City of Key West
as Landlord

and

Star of the Sea Foundation, Inc.
as Tenant

Dated _____

THIS LEASE, made and entered into at Key West, Monroe County, Florida, this ____ day of ____, 2017 by and between The City of Key West, a Municipal Corporation whose address is P.O. Box 1409, Key West, Florida, 33041, (hereinafter "LANDLORD"), and Star of the Sea Foundation, Inc. d/b/a Star of the Sea Outreach Mission, a Florida 501 (C)(3) Public Charity whose address is 5640 Maloney Avenue, Key West, FL 33040 (hereinafter "TENANT").

WITNESSETH:

That the LANDLORD and the TENANT, for and in consideration of their respective obligations contained herein, agree as follows:

1. **DEMISE**. The LANDLORD does hereby lease to the TENANT, and the TENANT does hereby lease from the LANDLORD, the following described premises: a building containing approximately 3900 square feet located behind the gym in the rear of City Hall, Key West, Monroe County, Florida (hereinafter referred to as "Premises") pursuant to the drawing attached hereto and incorporated as **Exhibit A**. LANDLORD also grants TENANT a non-exclusive license to use the breezeway (also identified in Exhibit A) for ingress and egress to the Premises. Both parties hereby acknowledges that each party may be using the breezeway for loading and unloading; therefore, neither party shall allow said breezeway to be obstructed in any way that would interfere with such ingress, egress, loading or unloading by the other.

LANDLORD reserves the right from time to time with good cause, upon at least sixty (60) days advance written notice to relocate TENANT to other Demised Premises, prior to or during the term of this Lease, so long as usable area so substituted equals or exceeds the usable area of the Demised Premises; provided however that TENANT shall have the right at its sole option and as its sole remedy, to terminate the Lease upon sixty (60) days advance written notice which right must be exercised, if at all, within fifteen (15) days after receipt of LANDLORD'S relocation notice, which relocation notice may be withdrawn by LANDLORD within ten (10) days after LANDLORD'S receipt of TENANT'S termination

notice, in which event TENANT'S attempted termination shall be null and void and the lease shall continue in full force and effect in accordance with its terms. In the event LANDLORD shall relocate TENANT to other space, LANDLORD shall pay the reasonable relocation costs of TENANT in connection therewith, but LANDLORD shall not have any other liability with respect to any such relocation.

2. **TERM.** The term of this Lease shall be for ten (10) years, which term shall commence on February 1, 2017, and shall end at midnight on January 31, 2027.

3. **RENT.** The TENANT agrees to pay to the LANDLORD an annual rent for the Premises of One Dollar (\$1.00) per year, which rental amount shall be paid on an annual basis each year of the term of this Lease. The TENANT additionally agrees to pay to LANDLORD any sales, use, excise, ad valorem, or other tax imposed or levied against rent or any other charge or payment which tax has been imposed or levied by any governmental agency having jurisdiction thereof, including any new taxes imposed during the term of this Lease which are in addition to or in substitution for any such tax which is presently imposed, and the TENANT agrees to make payment at the time said tax becomes due.

Pursuant to City Ordinance Sec 2-872, Audits and Inspections, any individual or organization that receives grant funds or subsidies from the city shall permit inspection of its books and records upon demand by the city as a precondition to the receipt of such funding. The city may also conduct program results audits to determine whether the desired results or benefits are being achieved and whether objectives of funding established by the city are being met.

4. **USE OF THE PREMISES.** The TENANT shall be entitled to use the Premises for the operation of a large scale community center kitchen that will be a combination teaching and production kitchen designed to facilitate nutrition education and job training while at the same time providing production capability to prepare healthy and nutritious meals for children and seniors under federal meals program, and no other purpose. The kitchen will:

1. Secure and distribute additional sources of fresh produce to low income clients, especially those in underserved communities;
2. Orchestrate interactive cooking demonstrations and nutrition education classes to foster healthier eating habits;
3. Prepare nutritious meals for children enrolled in federal feeding programs and educate children on the merits of healthier eating habits;
4. Create job-training opportunities for individuals who are unemployed or have low employment prospects.

In addition, TENANT further agrees:

- A. Not to display any banners, pennants, search lights, signs, balloons, or similar temporary media on the Premises;
- B. Not to commit waste in the Premises and to keep the Premises in a safe, neat, clean and orderly condition and to maintain the Premises in good condition;
- C. Not to use the Premises or permit the same to be used for any residential purpose or permit the same to be used in any manner that violates any law, ordinance, rules, or regulation of the LANDLORD, or other governmental agencies, as existing or promulgated during the term hereof, or in a manner that would constitute a hazardous use of the Premises or violate any insurance policy of the TENANT or the LANDLORD;
- D. To take no action that would: (i) violate the LANDLORD's contracts or (ii) cause any work stoppage or cause any manner of interference with LANDLORD;
- E. To abide by and observe all rules and regulations established from time to time by the LANDLORD and the LANDLORD's insurance carrier;
- F. To obtain and maintain all licenses, permits, and other approvals necessary to conduct the TENANT's business during the Lease term.
- G. Not to serve food or beverages for consumption on the site of the demised premises.
- H. To limit employee or volunteer parking to two spaces within the City Hall parking lot for the sole purpose of receiving or sending deliveries. No overnight parking

shall be allowed. TENANT may install a curb cut across the two parking spaces directly in front of the breezeway of the building and install an impervious parking area between the existing sidewalk and the breezeway area to be used for active loading and unloading of delivery vehicles. The curb cut shall not render the existing sidewalk incompliant with ADA regulations, nor shall pedestrian traffic along the sidewalk be impeded but for brief arrival and departure of delivery vehicles from the premises.

I. TENANT shall not utilize Seminary Street as a loading or unloading location or for any other purpose other than ordinary and necessary transit.

4.2 **Compliance with Laws and Governmental Regulations.** Tenant shall comply with all Governmental Regulations pertaining to the Demised Premises and its operations thereon. Tenant shall immediately provide Landlord with any and all notices or allegations of noncompliance received from any governmental entity.

4.3 **Nuisances.** Tenant shall not make, suffer, or permit any unlawful, improper, or offensive use of the Demised Premises, or any part thereof, or permit any nuisance thereon. Tenant shall not permit rubbish, refuse, or garbage to accumulate, or any fire or health hazard to exist, upon or about the Demised Premises. Tenant shall not suffer or permit any waste or mistreatment of the Demised Premises.

4.4 **Abandonment.** If at any time during the term of this Lease, Tenant abandons the Leased Premises or any part thereof, such abandonment shall be deemed a default under this Lease. If Landlord's right of re-entry is exercised following abandonment of the Demised Premises by Tenant, then Landlord may consider any personal property belonging to Tenant and left on or around the Demised Premises to also have been abandoned, in which case Landlord may dispose of all such personal property in any manner Landlord shall deem proper and is hereby relieved of all liability for doing so. For the purposes of this Lease, the Demised Premises shall be deemed to have been abandoned if Tenant is absent from the Leased Premises for thirty (30) consecutive business days.

5. **COVENANT OF QUIET POSSESSION.** So long as the TENANT pays all of the rent and charges due herein, TENANT shall peaceably and quietly have, hold, and enjoy the Premises throughout the term of this Lease without interference or hindrance by the LANDLORD or LANDLORD's agents.

6. **INSURANCE; INDEMNIFICATION.**

A. The TENANT covenants and agrees to keep in force during the lease term a comprehensive general liability policy of insurance insuring LANDLORD and TENANT against any liability whatsoever occasioned by accident on or about the Premises and agrees that LANDLORD shall be listed thereon as additional insured. Such policy or policies shall be issued by companies authorized to do business in the State of Florida and having agents upon whom service of process may be made in the State of Florida. The comprehensive general liability policy shall be in the amount of One Million Dollars (\$1,000,000.00) in respect to any one incident and in the aggregate, and shall include Three Hundred Thousand Dollars (\$300,000.00) for property damage. The original policy or certificate, together with evidence of premium payment, shall be delivered to LANDLORD. TENANT shall renew the policy not less than thirty (30) days prior to the expiration date each year, and shall furnish evidence of the renewals and payment to LANDLORD. To the extent that such a provision is obtainable, the policy shall provide that it cannot be cancelled or terminated until at least thirty (30) days prior notice has been given to LANDLORD. If TENANT falls under the State of Florida Workers Compensation Law, worker's compensation coverage shall be provided for all employees where TENANT is obligated to do so by operation of law. This coverage shall be for statutory limits in compliance with applicable state and federal laws. Failure of TENANT to maintain the insurance in full force and effect at any time shall be deemed a material breach of this Lease, and shall entitle LANDLORD to terminate the Lease. Upon such breach, TENANT shall immediately suspend all use of the Premises and shall provide to LANDLORD written notice of its failure to maintain insurance coverage.

B. TENANT agrees to indemnify, hold harmless and defend the LANDLORD, its officers, agents, servants, and employees against any and all claims, losses, liabilities, and expenditures of any kind, including reasonable attorney's fees, court

costs, and expenses, caused by the conduct, misconduct, negligent error, omission or act of TENANT, its employees agents, servants or officers, or accruing, resulting from, or related to the subject matter of this Lease, including, without limitation, any and all Claims (unless caused by the LANDLORD's negligence or misconduct), demands or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property, whether or not suit be brought. The provisions of this indemnification provision shall survive the expiration or earlier termination of this Lease.

7. **ASSIGNMENT AND HYPOTHECATION.** This Lease is not transferable or assignable, except as provided by Resolution of the Key West City Commission. The TENANT may not sublet the Premises or any part thereof. Any assignment or sub-letting, even with the LANDLORD's consent, shall not relieve the TENANT from the obligation to keep and be bound by the agreements of this Lease. The acceptance of Rent from any other person shall not be deemed to be a waiver of any of the agreements of this Lease or to be consent to the assignment for benefit of creditors or by operation of law and shall not be effective to transfer any rights to any assignee without prior consent of the LANDLORD.

8. ENVIRONMENTAL MATTERS

8.1 **No Warranties.** Landlord makes no representations or warranties of any kind whatsoever regarding the Demised Premises or the environmental condition of the Demised Premises or any improvement thereon.

8.2 **Investigation and Remediation.** The Tenant will be responsible to obtain its own environmental reports or studies as it deems prudent at its own expense. Tenant shall provide a copy of any such reports to Landlord. Tenant shall notify Landlord immediately

of any discharge or discovery of any hazardous waste at, upon, under, or within the Demised Premises.

8.3 **Tenant's Compliance.** Tenant shall not cause or permit to occur any of the following:

Any violation of Governmental Regulations related to environmental conditions on, under, or about the Demised Premises or arising from Tenant's use or occupancy of the Demised Premises, including, but not limited to, soil and ground water conditions, or

The use, generation, release, manufacture, refining, production, processing, storage or disposal of any Hazardous Substances on, under, or about the Demised Premises or the transportation to or from the Demised Premises of any Hazardous Substances.

9. **DEFAULT CLAUSE.**

A. It is covenanted and agreed by LANDLORD and TENANT that in case at any time default shall be made in the payment of rent, or if the TENANT shall fail to pay any of the taxes or assessments herein provided for, or in case of the sale of or forfeiture of the Premises or any part thereof during the demised term for non-payment of any tax or assessment, or in case the TENANT shall fail to keep the required insurance, or shall fail to spend insurance money, as herein provided for, or if the TENANT shall fail to perform any of the covenants of this Lease, then, in any of such events, TENANT shall be subject to eviction pursuant to Chapter 83, Florida Statutes.

B. Or, the LANDLORD may have such other remedies as the law and this instrument affords, and the TENANT covenants and agrees that upon the termination of the demised term, at such election of the LANDLORD, or in any other way, the

TENANT will surrender and deliver up the Premises and property (real and personal) peaceably to the LANDLORD, its agent, or attorneys, immediately upon the termination of the demised term. If the TENANT, its agents, attorneys, or tenants shall hold the Premises or any part thereof, one (1) day after the same should be surrendered according to the terms of this Lease, it shall be deemed guilty of forcible detainer of the Premises under the applicable statute and shall be subject to eviction or removal, forcibly or otherwise.

C. Where the alleged default consists of some alleged violation of any term of this Lease, other than the payments of money, including rent and insurance premiums, the LANDLORD may not declare this Lease in default until such violation shall have continued for ten (10) days after the LANDLORD shall have given the TENANT written notice of such violation, and TENANT shall not have undertaken, during this ten (10) day notice period, to cure said violation by vigorous and affirmative action, provided, however, that nothing herein contained shall be construed as precluding the LANDLORD from having such remedy as may be and become necessary in order to preserve the LANDLORD'S right and interest of the LANDLORD in the Premises and in this Lease, even before the expiration of the grace or notice periods provided for in this paragraph, if, under particular circumstances then existing, the allowance of such grace or the giving of such notice would prejudice or endanger the rights and estate of the LANDLORD in this Lease and in the Premises. With respect to the payment of the insurance premiums, the same must be paid at least thirty (30) days prior to the time when the policies would lapse for the failure to pay premiums thereon, and evidence of such payment given to the LANDLORD without any written notice being required to be served upon the TENANT in connection therewith.

E. All default and grace periods shall be deemed to run concurrently and not consecutively.

F. It is mutually covenanted and agreed that the various rights, powers, options, elections, privileges, and remedies of the LANDLORD contained in this Lease shall be construed as cumulative and no one of them shall be construed as being exclusive of the other or exclusive of any rights or priorities allowed by law.

G. It is further covenanted and agreed by and between the parties hereto that the right given to the LANDLORD in this Lease to collect the rent that may be due under the terms of this Lease by any proceeding under same, or the right to collect any additional rent, money, or payments due under the terms of this Lease by any proceedings under same, or the right given the LANDLORD to enforce any of the terms and provisions of this Lease shall not in any way affect the right of such LANDLORD to declare this Lease void and the terms ended hereby, as herein provided, when default is made in the payment of rent or when default is made by the TENANT in any of the terms and provisions of this Lease.

H. If at any time, by reason of the failure of the TENANT to keep and perform any covenant or agreement which, under the terms of this Lease, the TENANT is bound and obligated to keep and perform, it becomes necessary for the LANDLORD to employ an attorney to protect the rights and interests of the LANDLORD in the property demised or to enforce the Lease or proceed under it in any particular, then in any of such events, the TENANT will owe and will pay unto the LANDLORD all costs of Court and reasonable attorney's fees incurred or expended by the LANDLORD in taking such actions, including actions taken in all trial and appellate courts.

10. TENANT'S DUTY TO KEEP PREMISES IN GOOD REPAIR.

The TENANT covenants and agrees with the LANDLORD that during the term of this Lease, the TENANT will keep in good state of repair, the Premises (except as set forth below), the HVAC equipment, and the fixtures serving the Demised Premises, and all furnishings brought or placed upon the Premises by the TENANT; nor will the TENANT suffer or permit any strip, waste, or neglect of any such property to be committed; and the TENANT will repair, replace, and renovate the property as often as it may be necessary in order to keep the property in good repair and condition, at TENANT'S sole cost and expense. Tenant shall only utilize licensed contractors and shall apply for all permits, as required, to complete the necessary repairs. LANDLORD shall maintain the roof and structural components of the Premises during the term of this Lease.

11. ADDITIONAL COVENANTS OF THE TENANT.

A. The TENANT shall pay for all utilities associated with the use of the Premises including, but not limited to, water, electricity, sewer gas and solid waste. In the event that a separate bill for the Premises is not available for one or more of the utility services required by the Premises, then the TENANT shall pay a pro-rated share of that particular utility based on the square footage of the Premises and/or the parties' estimated usage of that particular utility, calculation of which to be mutually agreed upon.

B. The TENANT covenants and agrees with the LANDLORD that no damage or destruction to any building or improvement by fire, windstorm, or any other casualty shall be deemed to entitle the TENANT to surrender possession of the Premises or to terminate this Lease or to violate any of its provisions or to cause any abatement or rebate in the rent then due or thereafter becoming due under the terms hereof, unless otherwise specifically provided for herein. If the Lease is canceled for the TENANT's default at any time while there remains outstanding any obligation from any insurance company to pay for the damage or any part thereof, then the claim against the insurance company shall, upon the cancellation of the Lease, be deemed immediately to become absolute and unconditional property of the LANDLORD. In the event of destruction of the Premises by casualty or hazard, the LANDLORD will have the option of canceling the Lease.

C. The TENANT covenants and agrees with the LANDLORD that nothing in this Lease shall ever be construed as empowering the TENANT to encumber or cause the TENANT to encumber the title or interest of the LANDLORD.

D. The TENANT covenants and agrees with the LANDLORD that, at the termination of this Lease, the TENANT will peaceably and quietly deliver unto the LANDLORD, possession of the Premises and all improvements located thereon, as well as the LANDLORD's interest in all fixtures and equipment appertaining thereto; however, LANDLORD acknowledges that LANDLORD has no interest in the TENANT's kitchen equipment and trade fixtures unless mutually agreed by the parties

E. The TENANT agrees not to make any changes or alterations without written approval of the LANDLORD.

F. TENANT shall keep all garbage, refuse and solid waste inside the Demised Premises in the kind of containers specified by LANDLORD, or place the same inside of the dumpster provided for that purpose by the TENANT. All cardboard refuse

shall be placed into the cardboard dumpster. All other waste of any kind shall be pre-bagged and tied, in garbage bags of not less than 3 millimeters in thickness, and wheeled to the dumpster in order to avoid rupture of the bag. Under no circumstances shall any waste of any kind be left outside of the premises in any other manner. TENANT agrees not to burn or permit any burning of garbage or refuse on the Demised Premises or any part of the Property. TENANT further agrees that, upon LANDLORD'S instruction, TENANT shall separate garbage for recycling and deposit the separate garbage in the receptacle designated by LANDLORD. TENANT further agrees to make every effort to recycle all glass, metal, paper and plastic refuse and solid waste. Sort glass by colors and metal and paper by type and deposit in the appropriate recycling containers provided by the LANDLORD.

G. TENANT shall contract directly with the pertinent governmental authority or disposal company and shall be responsible for all fees and costs of removal and disposal of solid waste, garbage, and refuse, including but not limited to, impact fees and dumpster rental. TENANT shall indemnify, save harmless and defend LANDLORD from and against any loss, claim, injury, damage or expense arising out of or related to the generation, storage, or removal or disposal of TENANT'S garbage, refuse or solid waste.

12. **LANDLORD'S RIGHT OF ENTRY.** The LANDLORD or its agents shall have the right to enter upon the Premises at all reasonable times to examine the condition and use thereof, provided only that such right shall be exercised in such manner as not to interfere with the TENANT in the conduct of the TENANT's business on the Premises.

13. **EQUIPMENT, FIXTURES AND SIGNS.** All fixtures, equipment, and signs used on the Premises by the TENANT but provided by the LANDLORD will at all times be and remain the property of the LANDLORD. Provided that this Lease is in good standing, the TENANT will have the right to remove any equipment, (excluding HVAC and fire suppression equipment) provided by the TENANT, or any part thereof, from the Premises during the term of this Lease, at the expiration thereof, or within a reasonable time thereafter; provided, however, that the TENANT, in so doing, does not cause any irreparable damage to the Premises; and provided further, that the TENANT shall pay or

reimburse the LANDLORD for the reasonable expense of repairing damage caused by such removal.

14. **ACCEPTANCE IN AS-IS CONDITION.** LANDLORD shall coordinate a termite treatment of the premises and will maintain the structure and the roof system of the premises. As to all other matters the TENANT accepts the Premises in an as-is condition and all improvements and additions shall be at the sole expense of the TENANT.

TENANT shall not make any alterations, additions or improvements to the Demised Premises (whether or not the same may be structural in nature) without LANDLORD'S prior written consent. All alterations, additions, or improvements made to the Demised Premises, except movable furniture and equipment installed at TENANT'S expense, shall be the property of the LANDLORD and remain upon and be surrendered with the Demised Premises at the expiration of the term of this Lease; provided, however, that LANDLORD may require TENANT to remove any additions made at TENANT'S request to the Demised Premises and to repair any damage caused by such removal, and provide further, that if TENANT has not removed its property and equipment within ten (10) days after the expiration or termination of this Lease, LANDLORD may elect to retain the same as abandoned property.

In the event TENANT shall request LANDLORD'S permission, and LANDLORD shall permit TENANT to perform any alterations, additions, improvements or repairs to the Demised Premises, TENANT shall (i) submit its plans and specifications to LANDLORD for its approval prior to the commencement of any construction, (ii) obtain all necessary permits prior to the commencement of any construction, (iii) only use contractors approved by LANDLORD. All such work made by or on behalf of TENANT shall be performed in such manner as LANDLORD may designate and in accordance with all applicable laws and regulations of governmental authorities having jurisdiction over the same. All such work by TENANT or its contractors shall not interfere with, impede or delay any work by LANDLORD or its contractors, tenants or TENANT'S contractors. All contractors engaged by TENANT shall be bondable, licensed contractors, possessing good labor relations, and capable of performing quality workmanship.

15. **NO MECHANIC'S LIENS.** It is hereby covenanted, stipulated and agreed by and between the parties hereto that there shall, during the demised term, be no mechanic's liens upon any buildings or improvements that may at any time be put upon the demised property, and that in case of any mechanic's liens the TENANT must pay off the same; and that if default in payment thereof shall continue for thirty (30) days after written notice, LANDLORD shall have the right and privilege, at its option, to pay off the same or any portion of the same, and the amount so paid, including expenses, shall at the option of the LANDLORD, be so much additional rent due from the TENANT at the next rent due after such payment, with interest thereon at the maximum rate allowed by law. Nothing herein shall be construed to admit that a mechanic's lien may be enforced against municipal property.

16. **MISCELLANEOUS PROVISIONS.** It is mutually covenanted and agreed by and between the parties as follows:

A. That no waiver or a breach of any of the covenants in this Lease contained shall be construed to be a waiver of all succeeding breach of the same covenant.

B. That time is of the essence in every particular and particularly where the obligation to pay money is involved.

C. That all arrearages in the payment of rent or in the repayment to the LANDLORD of any sums which the LANDLORD may have paid in order to cure a default of the TENANT (as elsewhere herein provided for), shall bear interest from the date when due and payable at the highest rate permitted by law until paid.

D. That no modification, release, discharge, or waiver of any provision hereof shall be of any force, effect, or value unless in writing and signed by the persons who are then LANDLORD and TENANT.

E. That all covenants, promises, conditions, and obligations contained herein or implied by law, or covenants running with the land, shall attach to and be binding

upon the heirs, executors, administrators, successors, legal representatives, and assigns of each of the parties to this Lease.

F. That this instrument contains the entire agreement between the parties as of this date, and that the execution hereof has not been induced by either of the parties by representations, promises or understandings not expressed herein, and that there are not collateral agreements, stipulations, promises, or understandings whatsoever between the representative parties in any way touching the subject matter of this instrument which are not expressly contained in this instrument.

G. That when either of the parties' desire to give notice to the other or others in connection with and according to the terms of this Lease, such notice shall be deemed given when it shall have been deposited in the U.S. Registered or Certified mail with sufficient postage pre-paid thereon to carry it to its addressed destination. The notice shall be addressed as follows:

As to LANDLORD: City Manager
City of Key West
P.O. Box 1409
Key West, FL 33041

As to TENANT: Executive Director
Star of the Sea Foundation
d/b/a Star of the Sea Outreach Mission
5640 Maloney Avenue
Key West, FL 3304

With a Copy to: Erica H. Sterling
Spottswood, Spottswood, Spottswood & Sterling
500 Fleming Street
Key West, Florida 33040

When the parties on either side (LANDLORD or TENANT) consist of more than one person, notice or default by one of the persons on that side shall constitute notice or default by all of the persons on that side.

H. This Lease and the provisions thereof shall be governed by and construed and enforced in accordance with the laws of the State of Florida; venue for any action regarding this Lease shall be in Monroe County, Florida.

IN WITNESS WHEREOF, the parties hereto have caused the foregoing Lease to be executed on the day and year first above written.

ATTEST:

LANDLORD: City of Key West

Cheryl Smith, City Clerk

By: _____

ATTEST:

TENANT: Star of the Sea Foundation, Inc.

By: _____

