

SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT (“Agreement”/”Settlement Agreement”) is made and entered into as of this ____ day of _____, 2025 (the “Effective Date” by and between Appellant, KAVA CULTURE KEY WEST CO (“Appellant”) and Appellee, CITY OF KEY WEST (“Appellee”). Appellant and Appellee are sometimes individually referred to hereinafter as a “Party”, and collectively as the “Parties”.

RECITALS

A. Appellant was issued a citation for violating Sec. 66-87 of the Key West Code, and Code Case No. 22-1194 was opened on or about December 16, 2022. (“Code Case”).

B. On or about August 31, 2023, the Special Magistrate made an adjudication of violation and imposed a \$250.00 administrative cost and \$250.00 daily penalty commencing September 1, 2023 5:00PM (“August 2023 Findings & Order”).

C. On or about November 4, 2024, Appellee recorded a lien (Doc No. 2479627) at BK 3298 PG 2099 of the Public Records of Monroe County, Florida (“Lien”).

D. On December 1, 2024, Appellant filed an appeal pursuant Fla. R. App. P. 9.190(b)(1), § 162.11, Fla. Stat. and City of Key West Code of Ordinances Sec. 2-64, as more particularly described in the Initial Brief filed in Monroe County Case No. 24-AP-000018-K (“Action”).

E. On April 25, 2025, the parties reached a settlement that requires approval by the Key West Board of Commissioners.

F. On April 28, 2025, the parties filed a Joint Stipulated Motion to Stay Appeal Pending City Commission Approval, and order was entered granting same.

1. **Recitals.** The above recitals are true and correct, are a part of this Agreement, and are a material inducement to the Parties entering into this Agreement.

2. **Effective Date:** In the event of any dispute over the “Effective Date” set forth hereinabove, the “Effective Date” shall mean the date the last of the Parties executes the Agreement.

3. **Final Agreement.** Except as expressly set forth herein, this Agreement fully and finally settles and resolves all issues among or between the Parties, whether in contract, tort, or other cause of action.

4. **Denial of Liability.** It is expressly understood and agreed by all Parties that this Settlement Agreement is intended to resolve all disputes, and neither the execution of this Settlement Agreement, nor statements made in connection with the resolution of the Action, are to be considered admissions of liability, as such liability is expressly denied by all Parties. Specifically, under no circumstances shall the execution of this Agreement, or resolution of the Action generally, be construed as Appellees' acknowledgment of the validity and/or enforceability of any contract at issue in the Action.

5. **Representations of the Parties.** Each of the Parties makes the following representations and warranties to each and all of the other Parties to this Settlement Agreement or as otherwise specified below:

- A. That the Parties have taken all necessary actions required to agree to, execute, and effect the terms and conditions of this Settlement Agreement in full;
- B. That the Parties have not assigned, transferred, conveyed, mortgaged, hypothecated, pledged, or sold, in whole or in part, any Claim that is subject to this Settlement Agreement;
- C. That the Parties have fully read and examined this Settlement Agreement, have had sufficient opportunity to discuss it with counsel of the Party's own choice, and understand this Settlement Agreement, and that the terms and conditions of this Settlement Agreement have been fully drafted and negotiated by all Parties.

6. **Consideration; Terms and Conditions.** The Parties hereto understand and agree that the promises and undertakings set forth herein are the sole consideration for this Agreement in that the conditions stated herein are contractual and not mere recitals and that all agreements and undertakings on the subject matter hereof are expressed and embodied herein. Anything herein to the contrary notwithstanding, this Agreement may be fully enforced by any action at law or in equity.

7. **Release of Lien.** Within seven (7) business days of the Effective Date, Appellee shall see to ensure that a Release of Lien is recorded as to the Lien recorded at Bk# 3298 Pg# 2099 of the Public Records of Monroe County, Florida (Instrument No. 2479627).

8. **Dismissal of Action.** Immediately upon Appellant's counsel confirming receipt of the Recorded Release of Lien required under Section 7, Appellant shall file with the Court a Voluntary Dismissal with Prejudice of all pending claims in the Action, reflecting that each side shall bear their own attorneys' fees/costs.

9. **Attorneys' Fees.** Each Party shall bear and pay his or her own legal fees incurred and/or paid to date. In any proceeding to enforce his Agreement, the prevailing party shall be entitled to recover their reasonable attorney's fees and costs incurred at the trial and appellate

levels, including, but not limited to, any attorney's fees and costs incurred in litigating the entitlement to, and amount of, such attorney's fees and costs.

10. **Mutual Release.** In exchange for the promises set forth herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, with the exception of their obligations under this Agreement, the Parties hereby fully release, acquit, and forever discharge each other (and their indemnitors, indemnitees, shareholders, members, managers, principals, agents, employees, attorneys, directors, officers, subsidiaries, parents, predecessors, successors, assigns, insureds, insurers, reinsurers, sureties, representatives, trustees, consultants, and any other persons or entities claiming by or through any of them) from and against any and all past, present, and future claims, counts, demands, rights, remedies, damages, injuries, liabilities, actions, proceedings, suits, accounts, debts, covenants, promises, contracts or agreements (oral or written), violations of any type (common law, contractual, statutory, administrative, building code, or otherwise), violation of the Florida Deceptive and Unfair Trade Practices Act, warranties (express, implied, statutory, or otherwise), representations, misrepresentations, omissions, nondisclosures, fraud, deceit, concealments, negligence, actions or inactions, rights of restitution, rights of rescission, breach of contract, torts, claims for real or personal property damage, loss of use, medical expenses, personal injury, bodily injury, attorney's fees, costs, and any other claims, losses, or damages (whether compensatory, special, direct, indirect, consequential, punitive, exemplary, or otherwise) of any and every kind or nature whatsoever (whether arising under common law, any statute, or in equity, and whether choate or inchoate, patent or latent, known or unknown, foreseen or unforeseen, accrued or not accrued, matured or not matured), relating in any way to City of Key West Code Case No. 22-1194 and/or the Action (collectively, the "Released Claims"). Further, all code enforcement orders, fines, findings or otherwise arising in any way, shape or form from City of Key West Code Case No. 22-1194 are rendered null and void. This release should be read in both singular and plural manners. This should not be read to release the obligations set forth in this Agreement.

11. **Integration.** This Agreement contains the entire agreement between the Parties with respect to the settlement of the Dispute and supersedes any and all prior or contemporaneous agreements, understandings, representations, or negotiations between the Parties concerning such subject matter.

12. **Amendment.** No modification, alteration or amendment to the terms and conditions of this Agreement shall be binding upon the Parties unless set forth in writing and duly executed by all Parties hereto.

13. **Waiver.** No provision hereof may be waived except by an agreement in writing signed by the waiving party. Any waiver by any party of a breach of any provision of this Agreement shall not operate as or be construed to be a waiver of any other breach of that provision or of any breach of any other provision of this Agreement. The failure of a party to insist upon strict adherence to any term of this Agreement on one (1) or more occasion shall not be considered

a waiver or deprive the party of the right thereafter to insist upon strict adherence to that term or any other terms of this Agreement.

14. **Successors.** Except as expressly provided herein, this Agreement shall be binding upon and shall inure to the benefit of all Parties hereto, as well as their respective predecessors or successors in interest, assigns, members, managers, partners, limited partners, officers, employees, heirs, personal representatives, legatees, devisees, affiliates, subsidiaries, related entities.

15. **Governing Law & Dispute Resolution.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, without giving effect to the conflict of laws provisions. The Parties agree that the sole and exclusive jurisdiction and venue of any action brought pursuant to this Agreement, to enforce the terms hereof, or otherwise with respect to the relationship between the Parties created or extended pursuant hereto, shall properly lie in the Circuit Court of Monroe County, Florida. In the event of any default under any of the terms of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party its reasonable attorneys' fees and costs for all actions required to be taken to enforce, interpret or for damages arising out of or related to the terms of this Agreement (including, but not limited to, a breach thereof), all through any level of appeal.

16. **Severability.** If any provision of this Agreement or its application to any person or circumstance shall, to any extent, be held invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. Moreover, the invalid or unenforceable provision shall be interpreted and reformed, if possible, so as to accomplish most closely the intent of the Parties consistent with applicable law.

17. **Mutual Drafting.** The Parties acknowledge that this Agreement is a result of mutual negotiations and is the joint product of the Parties. Accordingly, the Parties agree that this Agreement shall be fairly construed in accordance with the terms hereof and shall not be more strictly construed against any party.

18. **Consideration.** The Parties acknowledge and agree that each is foregoing certain rights and assuming certain duties and obligations which, but for this Agreement, would not have been released or assumed. Accordingly, the Parties agree that this Agreement is fully and adequately supported by consideration and is fair and reasonable.

19. **Consultation with Counsel.** Each party hereto represents and warrants that it has consulted with counsel prior to executing this Agreement, and that such party fully understands the terms of this Agreement. The Parties have not been influenced in any manner or to any extent

in entering into this Agreement by any representations or statements of any other party, or by a person or persons representing any other party.

20. **Due Authority.** To the extent applicable, each of the Parties acknowledges, represents and warrants that this Agreement has been duly authorized and approved by the proper representatives of said party and that the undersigned has full power and authority to execute this Agreement on behalf of such party.

21. **Retention of Jurisdiction.** The Twentieth Judicial Circuit of Florida shall retain jurisdiction to enforce any or all of this Agreement, and this Agreement may be introduced into evidence if and when necessary by any party.

22. **Submission to Court.** The Parties hereby agree that this Agreement shall not be submitted to the Court unless and until it is required to be included as an attachment to any pleading filed pursuant to a suit for liquidated damages or enforcement. This Agreement will not constitute a waiver, estoppel or have any similar effect on the Parties' rights.

23. **No Tax Advice.** The Parties acknowledge that none of their respective attorneys in the Litigation has provided any tax advice in connection with entering into this Agreement. The Parties further acknowledge that they have been advised to seek appropriate tax counsel to advise them regarding any tax implications and/or effects of this Agreement.

24. **Headings.** The titles or captions of sections and paragraphs in this Agreement are provided for convenience of reference only and shall not be considered a part hereof for purposes of interpreting or applying this Agreement. Such titles or captions do not define, limit, extend, explain, or describe the scope or extent of this Agreement or any of its terms or conditions.

25. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall together constitute one (1) and the same instrument. This Agreement may be executed by signatures provided by facsimile or E-mail, and such signatures shall be as binding and effective as original signatures.

IN WITNESS WHEREOF, all PARTIES have executed this Agreement as of the date written below.

**KAVA CULTURE KEY WEST
CO**

CITY OF KEY WEST

Signature

Signature

Printed Name & Title

Printed Name & Title

Dated_____

Dated_____