

SUBLEASE

1800 NW Chipman Rd, Lee's Summit, MO 64081

This SUBLEASE (the "Sublease") is made on this 11th day of October, 2024, between **OTB ACQUISITOIN LLC**, ("Sublandlord"), whose address is 2201 W Royal Lane, Ste 170, Irving TX 75063, and **EL TORO LOCO LEES SUMMIT INCORPORATED** ("Subtenant"), whose address is 1800 NW Chipman Rd., Lee's Summit, MO 64081. Sublandlord and Subtenant are hereinafter sometimes referred to singularly as a "Party" or collectively as "Parties."

1. RECITALS

This Sublease is made with reference to the following facts and objectives:

A. **VEREIT REAL ESTATE, L.P.** a Delaware limited partnership (successor-in-interest to **COLE OB LEE'S SUMMIT MO, LLC**, a Delaware limited liability company), ("Master Landlord") is the owner of the real property and improvements commonly known as **1800 NW Chipman Rd, Lee's Summit, MO 64081** (the "Premises"), which consists of approximately 5,780 square feet of space in Master Landlord's commercial building. On or about June 30, 2010, Master Landlord entered into a Lease Agreement ("Master Lease") with Sublandlord. The Master Lease is incorporated into and made a part hereof, and Subtenant acknowledges having carefully read the Master Lease prior to execution of this Sublease.

B. Subtenant desires to sublet the Premises from Sublandlord pursuant to the provisions contained in the Master Lease, as well as this Sublease.

The foregoing recitals are incorporated into this Sublease as substantive provisions hereof. This Sublease is subordinate to the Master Lease.

2. PREMISES, PERMITTING AND APPROVALS.

Sublandlord hereby leases to Subtenant and Subtenant hereby leases from Sublandlord the Premises for the operation of a Mexican restaurant and for purposes incidental thereto no other purpose. The Premises will be provided to Subtenant in "as-is" condition. Notwithstanding the foregoing, Sublandlord shall deliver the Premises with all furniture, fixtures and equipment remaining in their current configurations, and in broom-clean condition. Sublandlord shall cause any items featuring its logo, brand, or other intellectual property to be removed within ninety (90) days following execution hereof. Subtenant acknowledges that it has inspected the Premises, is satisfied with the condition thereof, and has determined that the Premises is suitable for Subtenant's proposed use. Sublandlord shall not be obligated to make any repairs or improvements to the Premises prior to delivery, save for the following:

- (i) those items of maintenance and repair that it performs in the ordinary course of its operations;

- (ii) existing roof shall be structurally sound, water-tight and free of leaks, existing electrical, plumbing, and HVAC in good working order;

Subtenant shall submit its plans and specifications for Subtenant's initial improvements to Sublandlord for its approval within thirty (30) days following the date of execution hereof. Sublandlord shall approve or disapprove of said plans within ten (10) business days of receipt thereof. Sublandlord's approval shall not be unreasonably withheld or conditioned with respect to interior, non-structural improvements that do not adversely affect the mechanical and utility systems serving the Premises, but may otherwise be withheld in Sublandlord's sole discretion. If Sublandlord disapproves, Sublandlord shall advise Subtenant of those revisions which Sublandlord requires and Subtenant shall, at Subtenant's sole cost and expense, within fifteen (15) days thereafter, submit two (2) sets of revised plans and specifications to Sublandlord for its approval in accordance with the preceding provisions of this Section. Subtenant will be required to perform and complete all work in accordance with all federal, state, and local laws, rules, ordinances, regulations, and code requirements for operation of Subtenant's permitted use on the Premises, and in conformance with any Declaration of Covenants, Conditions and Restrictions and/or Reciprocal Easement Agreement. The review and approval by Sublandlord of Subtenant's plans and specifications for Subtenant's work is solely for the benefit of Sublandlord, and, in reviewing and approving the same, Sublandlord assumes no liability for the design of the Subtenant work or the adequacy thereof, nor shall such review or approval by Sublandlord release Subtenant from any obligation or liability in respect thereof.

Subtenant shall, within ten (10) business days following approval by Sublandlord of its plans and specifications, make applications for all necessary permits and approvals. If Subtenant has timely submitted complete applications, diligently pursued and provided any additional information or materials required by municipal officials with respect to the Subtenant permits but still has not obtained such permits (including without limitation the liquor license approval) by the date that is sixty (60) days after Sublandlord's approval of Subtenant's plans, then Sublandlord may, in its sole determination (but shall not be obligated to), seek, on behalf of Subtenant, procurement of any of Subtenant's permits, at Subtenant's sole cost and expense (including, without limitation, reasonable attorneys' fees) and Subtenant shall reasonably cooperate with Sublandlord in Sublandlord's efforts to obtain Subtenant's permits.

3. TERM; USE OF PREMISES.

The term of this Lease shall begin on the Effective Date, and shall expire on the date that is **five (5) lease years** after the Rent Commencement Date (hereinafter the "Termination Date"), unless previously terminated or renewed or extended as provided herein. Subtenant shall have two (2) successive five (5) year options to extend this Sublease for up to an additional ten (10) years upon the same terms, covenants, and conditions as set forth herein provided that Subtenant is not in default hereunder at the commencement of such option period. In the event Subtenant elects to exercise each such option, Subtenant shall give written notice to Sublandlord not less than six (6) months prior to the Termination Date; however, should Subtenant fail to give Sublandlord such timely written notice during the required period, this Lease shall not automatically renew pursuant to the terms hereof, and instead shall terminate and be of no further force or effect. **Notwithstanding the foregoing, nor anything herein to the contrary, in no event shall the term of this Sublease (including any renewal term(s) extend beyond June 30, 2040, which is the**

Master Lease Termination Date. For the avoidance of doubt, Subtenant's right to occupy the Premises shall expire and terminate no later than June 30, 2040, unless Subtenant negotiates a new lease agreement directly with the Master Landlord.

The Premises shall be used by Tenant for the purpose of a restaurant serving primarily Mexican-style cuisine. Tenant shall operate its business in a first-class and reputable manner. Subtenant shall continuously and uninterruptedly conduct its business in the entire Premises, fully fixtured, stocked and staffed, throughout the Term during normal business hours (but in no event less than forty-five (45) hours per week) under the Subtenant's trade name. No casualty nor event of force majeure shall relieve Subtenant of its economic obligations hereunder, including the obligation to pay Rent.

4. RENT

A. Subtenant shall pay to Sublandlord as rent the amounts set forth on the **Rent Addendum** attached hereto and incorporated herein by reference, without deduction, setoff, prior notice, or demand, together with all other charges, fees and expenses required under the Master Lease; PROVIDED, however, that Sublandlord shall be responsible for payment of all taxes, insurance and common area expenses. Said rent shall be due and payable five (5) days prior to the date Sublandlord is required to pay same to Master Landlord pursuant to said Master Lease. Subtenant shall deliver to Sublandlord a check in the amount of \$20,938.97 as a security deposit contemporaneous with the execution and delivery of this Sublease to Sublandlord. At Sublandlord's sole option, Sublandlord may require Subtenant to pay all rent and other tenant charges directly to the Master Landlord pursuant to the terms of the Lease.

B. Subtenant shall commence payment of rent on the "Rent Commencement Date" as herein defined. "Rent Commencement Date" shall mean 180 days following the turnover of the Premises to the Subtenant. The turnover date is estimated to be November 15, 2024.

C. Subtenant shall promptly submit all applications for permits, licenses and other approvals following the execution hereof, and in no event later than forty-five (45) days following execution of this Sublease. Should Subtenant be unable to obtain the necessary permits, licenses and/or approvals within 270 days following submission of its applications, then in such event Sublandlord shall have the right to terminate this Sublease by giving written notice to Subtenant. All permits, licenses and approvals shall be the sole responsibility of the Subtenant.

5. INCORPORATION BY REFERENCE

All terms and conditions of the Master Lease are incorporated into this Sublease as if fully set forth herein. In the event of any conflict between provisions of the Master Lease and the terms and conditions of this Sublease, the provisions of this Sublease shall govern and control.

6. ASSUMPTION OF TENANT OBLIGATIONS

Subtenant shall assume, perform and be responsible for Sublandlord's obligations as Tenant under the Master Lease provisions incorporated herein by Paragraph 5 hereof to the extent that said provisions are applicable to the Premises subleased hereunder. In addition, Subtenant will have a

bi-annual service contract in place to maintain the HVAC systems. If the HVAC systems are deemed to be unrepairable or are at the end of their useful life anytime within the first two (2) years of this Sublease, Sublandlord will pay for replacement. Subtenant's responsibility for repairs to the HVAC system will be capped at \$3,000.00 annually; however, the foregoing repair cap will not apply to any HVAC units that were purchased by Sublandlord in that time frame.

Subtenant agrees to indemnify and hold Sublandlord harmless on account of any and all claims of any kind made by Master Landlord under the Master Lease or by any other person or party on account of any obligation of the Subtenant pursuant to the Master Lease arising after the commencement of this Sublease. In the event Subtenant fails to keep and perform each and every obligation of the Sublandlord under the Master Lease, then Sublandlord shall have the right, at its sole option, to (i) perform such obligations, including the payment of rents and other tenant charges, and all sums so expended shall be due and payable to Sublandlord on demand, or (ii) terminate this Sublease. Any termination of this Sublease as provided for herein shall (a) not relieve the Subtenant of any obligations incurred or arising under this Sublease prior to the date of such termination, and (b) shall relieve Sublandlord of any future obligations to Subtenant under this Sublease.

7. SUBLANDLORD OBLIGATIONS

Sublandlord does not assume the obligations of the Master Landlord under the provisions of the Master Lease, but shall exercise reasonable diligence in attempting to cause Master Landlord to perform its obligations under the Master Lease for the benefit of Subtenant. Provided, however, that:

A. Sublandlord shall have, with respect to Subtenant, all the rights of Master Landlord under the Master Lease provisions;

B. Wherever notice is required to be given by Master Landlord to Tenant, Sublandlord shall be required to give such notice to Subtenant; and

C. Any option to extend the term of the Master Lease contained in the Master Lease is hereby expressly reserved to Sublandlord, such that Subtenant has no option to extend or renew the Master Lease.

8. ALTERATIONS; SIGNAGE

Subtenant shall not make any alterations to the Premises without Sublandlord's prior written consent. Any alterations made with the consent of Sublandlord shall remain on and be surrendered with the Premises on expiration or termination of the term of the Master Lease, except that Sublandlord can elect within thirty (30) days before expiration of the term, or within five (5) days after termination of the term, to require Subtenant to remove any alterations that Subtenant has made to the Premises. If Sublandlord so elects, Subtenant at its cost shall restore the Premises to the condition designated by Sublandlord in its election, before the last day of the term, or within ten (10) days after notice of election is given, whichever is later. If Subtenant makes any alterations to the Premises as provided in this paragraph, the alterations shall not be commenced until ten (10)

days after Subtenant has provided notice to Sublandlord stating the date the installation of the alterations is to commence.

Notwithstanding the foregoing, Subtenant is hereby granted the right and ability to make such non-structural alterations and changes to the Premises (subject to the requirements of the Master Lease) as may be necessary for the operation of a prototypical *El Toro Loco* restaurant, including installation of its décor and trade fixtures. Sublandlord shall be permitted to review and approve Subtenant's plans and specifications prior to the commencement of remodeling or renovation.

Subtenant shall be allowed to erect, maintain and replace from time to time upon the Premises, the maximum building signage allowed by local ordinance. Without limiting the foregoing, Subtenant shall be entitled to install Subtenant's prototypical building, pylon, and/or monument signage and awnings on the Premises. In addition, Subtenant may from time to time hang or display banners or other temporary signage on or about the exterior of the Premises or on the interior or exterior glass surfaces of the windows and doors thereof as may be allowed by applicable law. Subtenant shall also have the unrestricted right to install and display any and all signage, whether temporary or permanent, within the Premises as may be allowable by law. Further, Subtenant shall be permitted to erect opening banners from the date that is thirty (30) days prior to Subtenant's opening until the date that is thirty (30) days after Subtenant's grand opening. All Subtenant signage may contain Subtenant's standard logo or, at Subtenant's election, block letters. Subtenant shall, at its own expense and subject to Sublandlord's prior written approval which approval shall not be unreasonably withheld, conditioned or delayed, have the right to change or replace any of its permanent exterior signage from time to time during the Term and shall be responsible to assure that any change in its signage does not violate applicable legal requirements. Sublandlord hereby acknowledges that Subtenant's logo has been trademarked by Subtenant, and Sublandlord shall not use such logo for any purpose without Subtenant's prior written consent.

9. ASSIGNMENT; SUBLETTING

Subtenant shall not voluntarily assign or encumber its interest in this Sublease or in the Premises, or further sublease all or any part of the Premises, or allow any other person or entity (except Subtenant's authorized representatives) to occupy or use all or any part of the Premises. Any assignment, encumbrance, or further sublease shall be voidable and, at Sublandlord's election, shall constitute a default. Subtenant may assign its rights under the Sublease, or further sublet the Premises, only with the Sublandlord's prior written consent, which shall not be unreasonably withheld; however, no such sublease or assignment shall relieve Subtenant of its obligations hereunder.

10. SUBLANDLORD'S ENTRY ON PREMISES

Sublandlord and its authorized representatives shall have the right to enter the Premises at all reasonable times to determine whether Subtenant is complying with its obligations under this Sublease and to perform any act which Sublandlord has the right or duty to perform under the terms of the Master Lease or this Sublease.

11. REPRESENTATIONS AND WARRANTIES OF SUBTENANT

Subtenant represents and warrants to Sublessor as of the date hereof that Subtenant has been duly organized, is validly existing and in good standing under the laws of its state of incorporation and is qualified to do business in any jurisdiction where such qualification is required. All necessary corporate action has been taken to authorize the execution, delivery and performance by Subtenant of this Sublease and of the other documents, instruments and agreements provided for herein. Subtenant is not a "foreign corporation", "foreign partnership", "foreign trust", "foreign limited liability company", or "foreign estate", as those terms are defined in the Internal Revenue Code and the regulations promulgated thereunder. Subtenant's United States tax identification number is correctly set forth on the signature page of this Sublease. The persons who have executed this Sublease on behalf of Subtenant are duly authorized to do so.

12. TENANT'S PERFORMANCE UNDER MASTER LEASE

At any time, with prior notice to Subtenant, Sublandlord can elect to require Subtenant to perform its obligations under this Sublease directly to Master Landlord, and Subtenant shall do so on Sublandlord's election, in which event Subtenant shall send to Sublandlord from time-to-time copies of all notices and other communications it shall send to and receive from Master Landlord.

13. COVENANT OF QUIET ENJOYMENT

Sublandlord represents that the Master Lease is in full force and effect and that there are no defaults on Sublandlord's part under it as of the commencement of the term of this Sublease.

Subject to the Sublease terminating as provided in Paragraph 14, Sublandlord represents that if Subtenant performs all the provisions in this Sublease to be performed by Subtenant, Subtenant shall have and enjoy throughout the term of this Sublease the quiet and undisturbed possession of the Premises.

14. MASTER LEASE

This Sublease is subject to all the provisions of the Master Lease, and Subtenant shall not suffer any act or omission that will violate any of the provisions of the Master Lease. This Sublease shall be construed in accordance with, and its validity and effect shall be governed by, the laws of the state in which the Premises is located.

If the Master Lease terminates, this Sublease shall terminate and the parties shall be relieved from all liabilities and obligations under this Sublease; except that if this Sublease terminates as a result of a default of one of the parties under this Sublease or the Master Lease, or both, the defaulting party shall be liable to the non-defaulting party for all damage suffered by the non-defaulting party as a result of termination.

If Sublandlord is given the right under the Master Lease to terminate the Master Lease (e.g., in case of destruction) Subtenant shall have the right, in its sole discretion, to determine

whether it wishes to have the Master Lease terminated. If Subtenant elects to have the Master Lease terminated, Subtenant shall terminate this Sublease and Sublandlord shall terminate the Master Lease.

15. INSURANCE, TAXES AND UTILITIES

Subtenant shall contract, in its own name, for and pay when due all charges for the connection and use of any utilities serving the Property, including, if applicable, water, gas, electricity, telephone, garbage collection, sewer use and other utility services supplied to the Premises during the Term. Under no circumstances shall Sublandlord be responsible for any interruption of any utility service. Sublandlord shall be responsible for payment of all taxes and insurance attendant to the Premises, but excepting any tax calculated based on Subtenant's sales or based on its ownership of personal property.

16. DEFAULT AND REMEDIES

Subtenant acknowledges that upon any Event of Default as defined in the Lease, Master Landlord and/or Sublandlord may exercise any of the Landlord's or Lessor's remedies provided for under the Lease, including recovery of attorney's fees, court costs, damages and other expenses attendant to collection and/or administration of the Sublease, including costs incurred in any bankruptcy proceeding filed by the Subtenant.. Sublandlord hereby agrees to deliver to Subtenant any notices of an Event of Default received from Master Landlord which relate to the Premises and hereby grants to the Subtenant the right to cure the claimed Event of Default so as to prevent the termination of the Lease and this Sublease.

17. NOTICES

Any notice, approval, demand or other communication required or desired to be given pursuant to this Sublease shall be in writing and shall be personally served (including by means of professional messenger service or air express service using receipts) or in lieu of personal service, deposited in the United States mail, postage prepaid, certified or registered mail, return receipt requested, and unless sooner received, each notice shall be deemed received seventy-two (72) hours after same shall have been so deposited in the United States mail addressed as set forth below:

If to Sublandlord: OTB Acquisition LLC
2201 W. Royal Lane Suite 170
Irving, TX 75063
Attn: Director of Real Estate
Telephone: 214.564.1021
E-mail: Propertymanagement@ontheborder.com

With copies to: Joshua R. Holden, Attorney
WINCHESTER, SELLERS, FOSTER & STEELE, P.C.
800 South Gay Street, Ste. 1000
First Tennessee Plaza

P.O. Box 2428
Knoxville, TN 37901-2428
Telephone: 865.637.1980
Fax: 865.637.4489
E-mail: Jholden@wsfs-law.com

If to Subtenant: Alfonso Herrera Hernandez
405 S Monroe St.
Raymore, MO 64083

Either Sublandlord or Subtenant may change its respective address by giving written notice to the other in accordance with the provisions of this Section.

18. GOVERNING LAW.

This Sublease shall be governed by and construed in accordance with the laws of Missouri applicable to contracts made and performed entirely therein.

19. HEADINGS.

The headings of this Sublease are for reference only and shall not limit or define the meaning of any provision of this agreement.

20. COUNTERPARTS.

The parties agree that this Sublease may be executed by the parties in one or more counterparts and each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

21. WAIVER OF JURY TRIAL AND CERTAIN DAMAGES.

TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES HERETO SHALL AND THEY HEREBY DO INTENTIONALLY WAIVE ANY AND ALL RIGHTS TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTERS WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT AND/OR ANY CLAIM OR INJURY OR DAMAGE RELATED THERETO.

22. ENTIRE AGREEMENT.

This Sublease contains the entire agreement between the Parties and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Sublease shall be construed as a whole and not strictly for or against any Party.

23. TIME OF ESSENCE. Time is of the essence of this Sublease. If the time for performance of any obligation or condition shall occur on a Saturday, Sunday or legal holiday, the time for such performance shall be extended to the next day that is not a Saturday, Sunday or legal holiday. For purposes of this Sublease, the words "business day" shall mean any day that national banks located in state in which the Premises are located are open for business.

24. NO WAIVER. No provision of this Sublease shall be deemed to have been waived by either party unless such waiver is in writing signed by such party.

25. CAPTIONS. The captions and headings in this Sublease are inserted only as a matter of convenience and do not define, limit, expand or describe the scope or intent of such provisions

26. AMENDMENT. No amendment to the provisions of this Sublease shall be effective or enforceable unless made in writing and signed by Sublandlord and Subtenant.

27. THIRD PARTY RIGHTS. The terms and provisions of this Sublease shall not be deemed to confer any rights upon, nor obligate Sublandlord or Subtenant to, any person or entity other than the parties hereto

28. COUNTERSIGN. This Sublease may be executed in two or more fully or partially executed counterparts, any one or more of which may be executed and delivered by facsimile transmission, each of which will be deemed an original binding the signer thereof against the other signing parties, but all counterparts together will constitute one and the same instrument. Documents may be executed by Docusign, RightSignature or other recognized and verifiable electronic signature arrangement.

29. LIQUOR LICENSE. Intentionally omitted.

30. BROKERAGE FEES. It is understood and agreed that, except as set forth below, neither party has incurred any real estate brokerage fees or commissions arising out of this Sublease and each party agrees to hold the other harmless from and against all such fees and commissions incurred, and **Kayla Gilchrist & Allison Moran of Winbury Realty of K.C., d/b/a Colliers International** represents Subtenant and **Tucker Szybala of Falcon Realty Advisors** who represents Sublandlord. Sublandlord shall pay a commission of six percent (6%) of base rent, excluding taxes, of the initial term pursuant to a separate agreement. Subtenant will have no commission responsibility.

31. HAZARDOUS SUBSTANCES OR CONDITIONS. Subtenant shall not use, handle, store and dispose of any Hazardous Materials, on or about the Premises, except in accordance with all applicable laws, and hereby agrees to indemnify, defend and hold Sublandlord harmless from any claim, liability, loss or damage arising from the improper use, handling, storage or disposal of Hazardous Materials on or about the Premises. Without limitation of the foregoing, Subtenant shall promptly provide to Sublandlord copies of any written notice that Subtenant may receive from any governmental authority relating to or alleging any improper use, handling storage or disposal of any Hazardous Materials by Subtenant, its

employees, agents or contractors on or about the Premises. "Hazardous Material(s)" for purposes of this Lease shall include but not be limited to all toxic or hazardous materials, chemicals, wastes, pollutants or similar substances, including, without limitation, Petroleum (as hereinafter defined), asbestos and/or urea formaldehyde insulation, which are regulated, governed, restricted or prohibited by any Hazardous Materials Laws including, but not limited to, those materials or substances defined as "hazardous substances," "hazardous materials," "toxic substances" or "pollutants" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq., the Clean Air Act, 42 U.S.C. Section 7401 et seq., the Clean Water Act, 33 U.S.C. Section 1251 et seq., and any rules and regulations promulgated thereunder, all as presently or hereafter amended. "Petroleum" for purposes of this Lease shall include, without limitation, oil or petroleum of any kind and in any form including but not limited to oil, petroleum, fuel oil, oil sludge, oil refuse, oil mixed with other waste, crude oil, gasoline, diesel fuel and kerosene.

32. COMPLIANCE WITH LAWS. Subtenant agrees to conform to the following provisions during the entire term of this Sublease: (i) Subtenant shall not injure or deface the Premises or improvements or building(s) thereon (including any parking lot, driveway or landscaping); (ii) no auction sale, inflammable fluids, chemicals, or any Hazardous Materials (as defined herein), or any nuisance, or objectionable noise or odor shall be permitted on the leased premises; (iii) Subtenant shall not permit the use of the Premises for any purpose other than the permitted use described herein or any use thereof which is improper, offensive, contrary to law or ordinance, or liable to invalidate or increase the premiums for any insurance on the buildings or its contents or liable to render necessary any alterations or additions to the buildings and/or its appurtenances; (iv) Subtenant shall not obstruct in any manner any portion of the buildings not hereby demised or the sidewalks or approaches to said Buildings or any inside or outside windows or doors. Subtenant shall observe and comply with all codes, ordinances, laws, regulations and other governmental or quasi-governmental orders or inspections affecting Subtenant, the Premises and/or Subtenant's use and all reasonable rules and security regulations now or hereafter made by Sublandlord for the care and use of the Premises, the building(s), improvements, and facilities thereon and approaches thereto. Subtenant agrees to keep the Premises equipped with all safety appliances and make all accessibility alterations, improvements or installations to the Premises, including the buildings and improvements thereon, and/or accommodations in Subtenant's use thereof required by law or any public authority as a result of Subtenant's use or occupancy of the Premises or Subtenant's alterations or additions thereto, which alterations, improvements and installations shall be subject to Sublandlord's written consent as provided in this Sublease.

40. ATTORNEY'S FEES. In the event of any litigation arising out of or in connection with this Sublease or the rights of the parties hereto relative to the Premises, the non-prevailing party will reimburse the prevailing party for the reasonable expenses incurred therein, including, but not limited to, court costs and reasonable attorneys' fees and expenses. The "prevailing party" will be determined by the court before whom the action was brought based

upon an assessment of which party's major arguments or positions taken in the suit or proceeding could fairly be said to have prevailed over the other party's major arguments or positions on major disputed issues in the court's decision; provided, however, notwithstanding anything contained herein to the contrary, other than the immediately succeeding sentence, Subtenant shall only be deemed a "prevailing party" if it institutes an action or proceeding against Sublandlord and obtains a judgment in an amount not less than eighty percent (80%) of Subtenant's ad damnum of the complaint commencing the action or proceeding. Notwithstanding the foregoing, however, Sublandlord shall be deemed the prevailing party in any unlawful detainer or other action or proceeding instituted by Sublandlord based upon any default or alleged default of Subtenant hereunder if (i) judgment is entered in favor of Sublandlord, or (ii) prior to trial or judgment Subtenant pays all or any portion of the rent claimed by Sublandlord, vacates the Premises, or otherwise cures the default claimed by Sublandlord. Subtenant shall pay all of Sublandlord's costs, charges and expenses, including court costs and attorneys' fees, incurred by Sublandlord in any litigation, negotiation or transaction in which Subtenant causes Sublandlord, without Sublandlord's fault, to become involved or concerned. In the event of any conflict between this provision and any other provision of the Sublease concerning payment or reimbursement of attorneys' fees, costs and expenses, such other specific provision of this Sublease will control.

THIS SPACE INTENTIONALLY LEFT BLANK. SIGNATURES ON FOLLOWING PAGE.

[Signature page – Sublease – Lee's Summit, MO]

IN WITNESS WHEREOF, the parties have executed this Sublease as of the date first above written.

SUBLANDLORD:

SUBTENANT:

OTB ACQUISITION LLC
A Delaware Corporation

Signed by:
Eric Easton
By: _____
Name: Eric Easton
Its: _____

EL TORO LOCO LEES SUMMIT
INCORPORATED,

Signed by:
Alfonso Herrera Hernandez
By: _____
Name: Alfonso Herrera Hernandez
Its: President

RENT ADDENDUM TO SUBLEASE

1800 NW Chipman Rd, Lee's Summit, MO 64081

THIS RENT ADDENDUM dated _____ 2024, by and between **OTB ACQUISITOIN, LLC** ("Sublandlord") and **EL TORO LOCO LEES SUMMIT INCORPORATED** ("Subtenant"), for is attached to and made a part of that certain Sublease by and between Sublandlord and Subtenant of even date herewith (the "Sublease"). Notwithstanding any other provision to the contrary which may be contained in said Sublease, it is specifically agreed by and between Sublandlord and Subtenant as follows:

1. **Definitions.** Capitalized terms used in this Rent Addendum shall, unless otherwise defined, have the meaning ascribed to them in the Sublease.

2. **Annual Rent.**

(a) Beginning on the Rent Commencement Date, Subtenant covenants and agrees to pay to Sublandlord annual base rent ("Annual Rent") according to the following schedule:

<u>Lease Year</u>	<u>Annual Rent</u>	<u>Monthly Installment</u>
1-2	\$175,000.00	\$14,583.33
3-5	\$185,000.00	\$15,416.66
Option 1	\$203,500.00	\$16,958.33
Option 2	\$223,850.00	\$18,654.16

All payments of Annual Rent shall be paid in equal monthly installments paid monthly in advance, on the first (1st) business day of each month.

(b) **Increases in Annual Rent.** For each 5-year option period, Annual Rent shall be increased by an amount equal to the previous year's Annual Rent multiplied by ten percent (10%). By way of example, Annual Rent for the first option period shall be \$203,500.00. Notwithstanding the foregoing, Sublandlord's Master Lease expires on June 30, 2040, at which time Sublease options will expire and Subtenant shall negotiate directly with the Master Landlord for any additional lease term.

(c) **Partial Months.** If the Rent Commencement Date is on a day other than the first day of a calendar month, then Rent for the partial rental month shall be prorated on a per diem basis and shall be paid by Subtenant to Sublandlord for such month.

3. **Sales/Use Tax.** Subtenant shall also pay to Sublandlord any sales and use tax imposed on any Rent payable hereunder from time to time by state law or any other governmental entity, which sums are due monthly as to monthly Rent payments on the due date of the Rent payment under this Lease.

4. **Late Charges.** In the event any installment of Rent is not received by Sublandlord within ten (10) days after Subtenant's receipt of written notice from Sublandlord that such installment has not been received before its respective due date, there shall be an automatic late charge due to Sublandlord from Subtenant in the amount of five percent (5%) of such delinquent installment of Rent. All such late charges due hereunder shall be deemed additional rent, and are not penalties but rather are charges attributable to administrative and collection costs arising out of such delinquency. In addition to such late charge, in the event Sublandlord does not receive Rent when due hereunder, interest at the rate of the maximum rate allowable by law shall be due and payable with respect to such payment from the expiration of any applicable grace period until Sublandlord receives such Rent.

Initialed for Identification:

Initial
EE

By Sublandlord

Initial
AHH

By Subtenant
