

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City” or “Lessor”), and **SERVICE AMERICA CORPORATION d/b/a CENTERPLATE**, a Delaware corporation, whose address is Service America Corp D/B/A Centerplate 2187 Atlantic St., Stamford, CT 06902 (the “Lessee”).

WITNESSETH:

WHEREAS, the City is the owner of land at the corner of 14th and Champa adjacent to the Colorado Convention Center building in Denver, Colorado, a portion of which is not required for public use and occupancy at present; and

WHEREAS, the City is desirous of leasing this land to Lessee for use as a restaurant.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter contained, the City and the Lessee agree as follows:

1. **CONTINGENCIES**: This Lease shall be contingent upon the Lessee’s ability to secure all necessary licenses, permits, and approvals it deems necessary to construct and operate its intended use, including but not limited to approval by Which Wich Franchise Inc.

2. **LEASED PREMISES**: Subject to the terms of this Lease Agreement (hereinafter referred to as “Lease”), the City agrees to lease, demise, and let unto Lessee and the Lessee does hereby lease from the City those certain premises (the “Leased Premises”) located at the corner of 14th and Champa adjacent to the Colorado Convention Center building in Denver, Colorado, as more particularly depicted on **Exhibit A**, attached hereto and incorporated herein, containing interior space of approximately 2,600 sq ft and patio space, which patio space is subject to Lessee obtaining any and all required permits and/or licenses for such use and subject to compliance with said permits and/or licenses. The depiction contained on Exhibit A may be modified upon the written authorization of the Director of Real Estate (the “Director”) to correct minor, technical errors.

3. **TERM**: The term of this Lease shall begin on April 1, 2018, or the date that the City delivers the Leased Premises to Lessee pursuant to paragraph 9.A. (the “Delivery Date”), and it shall terminate on June 30, 2019 (the “Term”). The Term may be extended for up to two

(2), five (5) year renewal options with six (6) month written notice of the exercise of the option, at market rates subject to agreement by the City and Lessee. The term extensions may be exercised, if at all, by the Lessee or any and all successors and related assigns of Lessee to operate substantially the same business as is contemplated in this Lease.

4. **RENT:** Rent shall be paid by Lessee monthly to SMG at 700 14th Street, Denver, CO 80202, or to another party as otherwise specified by the City to receive Rents on its behalf. Should the City specify another party to receive Rents, Lessee will be given written notice of such change no less than seven (7) days prior to the next succeeding Rent due date so that Lessee is allowed time sufficient to deliver Rents on or before the due date. Beginning at the Rent Commencement Date, as hereinafter defined, the Rent payable monthly by Lessee shall be: Five Thousand Eight Hundred Dollars (\$5,800.00) per month for each month. Additionally, Lessee shall pay to the City a percentage rent in an amount equal to ten percent (10%) of the gross annual sales of Lessee in excess of sales in the amount of One Million Dollars (\$1,000,000.00). Rent shall commence on May 1, 2018.

In addition to the foregoing, at such time that the City Assessor assesses a Possessory Interest or other related tax to the Leased Premises, Lessee shall pay before delinquency any and all taxes, assessments, and other charges levied, assessed or imposed, and which become payable during the Term, upon Lessee's operations, occupancy, or conduct of business at the Leased Premises, resulting from Lessee's occupation or subletting of the Leased Premises, or upon Lessee's equipment, furniture, appliances, trade fixtures, and other personal property of any kind installed or located on the Leased Premises. Such taxes include any Possessory Interest taxes resulting from this Lease or a sublease of the Leased Premises.

5. **RESERVED.**

6. **USE:** The Leased Premises are to be used and occupied by Lessee, or any and all approved successors and related assigns as allowed in Section 25, solely as a restaurant serving sandwiches and sandwich related items, dessert items, beverages and side dishes, unless the Director agrees to another use. The Lessee shall use the Leased Premises in a careful, safe, and proper manner, and shall not use or permit the Leased Premises to be used for any purpose prohibited by the laws of the United States of America, the State of Colorado, or the Charter or ordinances of the City

and County of Denver. The Lessee shall not commit or suffer to be committed any waste or damage upon the Leased Premises or any nuisance to be created or maintained thereon. The Lessee shall also keep the Leased Premises free and clear from all trash, debris, and waste resulting from its use or the use by its employees, officers, agents, invitees and visitors.

7. **“AS IS” CONDITION:** The Leased Premises are accepted by Lessee in an “AS IS, WHERE IS” condition, with all faults and defects. The City does not make and disclaims any warranty or representation whatsoever, express or implied, and shall have no obligation or liability whatsoever, express or implied, as to the condition of or any other matter or circumstance affecting the Leased Premises. The Leased Premises shall, however, be delivered in a broom clean condition with all electrical, mechanical, and plumbing in good operating order and free of any substances considered hazardous.

8. **QUIET ENJOYMENT:** Lessee shall and may peacefully have, hold and enjoy the Leased Premises, subject to the other terms hereof, provided that Lessee pays the rental herein recited and performs all of Lessee’s covenants and agreements herein contained. Lessee acknowledges that City permits the use of the Colorado Convention Center, by others pursuant to separate agreements, and agrees that such use is consistent with Lessee’s use under this Lease Agreement.

9. **PREMISES/CONSTRUCTION:**

A. **By City:** Unless otherwise expressly stipulated herein, the City shall not be required to make any improvements to or repairs of any kind or character on the Leased Premises during the term of this Lease, except repairs as are necessary for normal maintenance operations of the Leased Premises, including exterior, foundation, and structural soundness. City has constructed a demising wall that meets City’s Building Code. The City has installed the required 400 AMP, 3-phase 4 wire source power with main feeders from service point to breaker panels in Leased Premises. City has also provided all utility meters, venting for a hood system as well as a 3,000-gallon capacity grease trap, shared with co-tenant, with clean outs.

The City represents that, to its Director of Real Estate’s actual knowledge, as of the date Lessee takes possession of the Leased Premises (i) City’s work is complete, (ii) City’s Certificate of Occupancy on the core and shell of Leased Premises is current, and (iii) there are no outstanding,

unresolved environmental issues or violations of Applicable Laws against Leased Premises.

B. By Lessee: Lessee shall not undertake construction or improvements of any kind within the Leased Premises. In the event the Lessee desires to undertake construction or improvements of any kind to the Leased Premises, Lessee shall receive written approval from the Director for such improvements and any and all such work shall be done subject to and in accordance with the requirements of law and applicable regulations of all such governmental departments and authorities, All work approved by the Director shall be fully coordinated with scheduled City Venues' events and with the construction, remodeling, repair and other work being performed by others at the City Venues.

10. **REQUIRED TENANT IMPROVEMENTS**: Lessee, at its sole cost and expense, shall invest up to Sixty-Five Thousand Dollars (\$65,000) toward the purchase of existing furniture, fixtures, and equipment which are necessary for the continued, proper, and efficient operation of a first-class restaurant.

11. **SIGNAGE/MARKETING/EXCLUSIVITY**: The Lessee shall be allowed to place maximum allowable signage displaying Lessee's corporate colors and logos, on and about the premises to the extent permitted by the City's ordinances, subject to the Director's approval of such signage. The City's Colorado Convention Center (the "CCC") shall provide reasonable effort to "cross market" during conventions and the City and Lessee agree to cooperate in such effort, including interior and directional signage to the Leased Premises within the CCC. The City will provide advertising of the Leased Premises in the CCC at kiosks, media board advertising on the street, and access to websites, including social media and email announcements, as well as in collateral materials produced for visitors to the CCC. Attached to this Lease and incorporated herein is **Exhibit B**, describing the signage and marketing that the City will make available to the Lessee.

12. **OBSTRUCTIONS**: The City shall not cause, to the best of its ability, obstructions that will impair visibility to the Leased Premises.

13. **PARKING**: Two (2) parking spaces shall be designated in the CCC parking garage for the Leased Premises. Parking for the Term of the Lease shall be at the then current rental rate, which is subject to change without notice.

14. **ENTRY BY CITY**: Lessee shall permit representatives of the City to enter into and

upon the Leased Premises after receiving reasonable prior notice from the City to inspect the same, except in the case of emergencies, in which case the City may enter into and upon the Leased Premises without notice, and Lessee shall not be entitled to any abatement or reduction of rent by reason thereof. City shall not cause unreasonable interference in the normal course of Lessee's business and Lessee or an authorized employee or agent shall have the right to accompany the City during its inspections.

15. **CARE AND SURRENDER OF THE LEASED PREMISES:** At the termination of this Lease, Lessee shall deliver the Leased Premises, including the Required Tenant Improvements performed by Lessee pursuant to Section 9, to the City in good condition, ordinary wear and tear excepted. Lessee shall remove all of Lessee's movable furniture and other effects at least ten (10) days prior to the end of the Term. All moveable furniture and other effects that are not so removed shall conclusively be deemed to have been abandoned and may be appropriated, sold, stored, destroyed or otherwise disposed of by the City without notice to Lessee or any other person, and without obligation to account therefor, and Lessee shall pay the City all reasonable expenses incurred in connection with removal of such property. Lessee's obligation to observe or perform this covenant shall survive the termination of this Lease. Lessee shall pay before delinquency any and all taxes, assessments, and other charges levied, assessed or imposed, and which become payable during the term of this Lease upon Lessee's operations, occupancy, or conduct of business at the Leased Premises, or upon Lessee's equipment, furniture, appliances, trade fixtures, and other personal property of any kind installed or located on the Leased Premises.

16. **UTILITIES, JANITORIAL SERVICE AND MAINTENANCE:**

A. **Lessor's Responsibilities.** Subject to the billing and payment provisions contained in subparagraph 16.B., the City shall provide the following utilities, separately metered, for the Leased Premises, as may be reasonable and necessary for normal intended use of Leased Premises: water, sewer, and electricity and gas services. Further, City shall, at its expense, maintain the building's mechanical systems, including HVAC, and exterior, including snow and ice removal from the public right of way.

B. **Lessee's Responsibilities.** Lessee shall pay for all water, sewer, gas and electricity, or other utilities or services allocable to the Leased Premises, which the City and Lessee agree will

equal the actual cost for such services as metered. Lessee's payment shall be due within 30 days of the date of the City's billing statement. Lessee shall pay its pro rata share of the costs to clean the grease trap, which cleaning shall be coordinated with and costs paid to co-tenant Pizza Republica. All past due payments shall accrue interest at the rate of 12% per annum until paid. Lessee shall be responsible for arranging for, and paying all deposits, fees and charges associated with, (i) telephone and other communication services to the Leased Premises, (ii) janitorial services, and (iii) trash hauling. Lessee shall pay prevailing wages, as set by the City's prevailing wage ordinance (§20-76, DRMC) for janitorial services.

The City will not be liable for any reason for any loss or damage resulting from an interruption of any of these services.

The Lessee shall maintain the interior non-structural portions of the leased premises, including electrical, plumbing, casualty damage, and make all repairs to interior and storefront windows and doors. Additionally, the Lessee shall maintain any non-structural portions of exterior patio space for which it has obtained and complies with all required permits and/or licenses and is actively in use by Lessee, its employees and customers.

17. **INDEMNITY**: The Lessee shall defend, indemnify, and save harmless the City, its officers, agents and employees from any and all losses, damages, claims, demands, suits, actions or proceedings of any kind or nature whatsoever, including without limitation Workers' Compensation claims, of or by anyone whomsoever, that the City may sustain or on account of injuries to the person or property of the City, its agents or employees or to injuries or death of any other person rightfully on the Leased Premises for any purpose whatsoever, where the injuries are caused by the negligence or misconduct of the Lessee, the Lessee's agents, employees, subtenants, assignees, or of any other person entering upon the Leased Premises under express or implied invitation of the Lessee or where such injuries are the result of the violation of the provisions of this Lease by any of such persons. This indemnity shall survive the expiration or earlier termination of this Lease. Lessee need not, however, indemnify or save harmless the City, its officers, agents and employees from damages resulting from the sole negligence of the City's officers, agents and employees. This indemnity clause shall also cover the City's defense costs, in the event that the City, in its sole discretion, elects to provide its own defense. Insurance coverage specified herein constitutes the minimum

requirements, and said requirements shall in no way lessen or limit the liability of the Lessee under this Lease. The Lessee shall procure and maintain, at its own expense and cost, any additional kinds and amounts of insurance that it may deem necessary.

18. **LOSS OR DAMAGE**: The City shall not be liable or responsible to Lessee for any loss or damage to any property or person occasioned by theft or fire (unless such loss or damage is caused by the City, its employees, contractors or assigns), Act of God, public enemy, injunction, riot, strike, insurrection, war, court order, requisition or order of any governmental entity other than the City. In the event of a fire or other casualty in or to the Leased Premises, Lessee shall immediately give notice thereof to City. If the Leased Premises, through no fault or neglect of Lessee, its agents, its employees, invitees, or visitors shall be partially destroyed by fire or other casualty so as to render the Leased Premises untenable, and the City elects to repair the same, the rent herein shall abate from the date of the occurrence until such time as the Leased Premises are made tenantable by City. In the event such repairs cannot be made within 90 days, Lessee may elect to terminate this Lease. In the event of the total destruction of the Leased Premises without fault or neglect of the Lessee, its agents, employees, invitees, or visitors, or if from any cause the Leased Premises shall be so damaged that the City shall decide not to rebuild (which decision City may make in its sole discretion but will not be unreasonably delayed), then all rent owed up to the time of such destruction or termination shall be paid by Lessee and this Lease shall cease and come to an end.

19. **HAZARDOUS SUBSTANCES**: Lessee shall not cause or permit any Hazardous Substance to be used, stored, generated, or disposed of on or in the Premises by Lessee, Lessee's agents, employees, contractors, or invitees. If Hazardous Substances are used, stored, generated, or disposed of on or in the Premises, or if the Premises become contaminated in any manner due to the actions or inactions of the Lessee, Lessee shall indemnify and hold harmless the City from any and all claims, damages, fines, judgments, penalties, costs, liabilities, or losses (including, without limitation, a decrease in value of the premises, damages caused by loss or restriction of rentable or usable space, or any damages caused by adverse impact on marketing of the space, and any and all sums paid for settlement of claims, attorneys' fees, consultant, and expert fees) arising during or after the Lease Term and arising as a result of those actions or inactions by Lessee. This indemnification includes, without limitation, any and all costs incurred because of any investigation of the site or any

cleanup, removal, or restoration mandated by a federal, state, or local agency or political subdivision.

Without limitation of the foregoing, if Lessee causes or permits the presence of any Hazardous Substance on the Leased Premises and that results in contamination, Lessee shall promptly, at its sole expense, take any and all necessary actions to return the Leased Premises to the condition existing prior to the presence of any such Hazardous Substance on the premises. Lessee shall first obtain City's approval for any such remedial action. As used herein, "Hazardous Substance" means any substance that is toxic, ignitable, reactive, or corrosive and that is regulated by any local government, the State of Colorado, or the United States Government. "Hazardous Substance" includes any and all material or substances that are defined as "hazardous waste", "extremely hazardous waste", or a "hazardous substance" pursuant to state, federal, or local governmental law. "Hazardous Substance" includes but is not restricted to asbestos, polychlorobiphenyls ("PCBs"), and petroleum.

20. **HOLDING OVER:** If after the expiration of the Term and any extensions of the Term of this Lease, Lessee shall remain in possession of the Leased Premises or any part thereof, and continue to pay rent, without any express agreement as to such holding, then such holding over shall be deemed and taken to be a periodic tenancy from month-to-month, subject to all the terms and conditions of this Lease, except for the provisions relating to the period of Lessee's occupancy, and at a rent equivalent to 125% of the then current monthly installment of rent due hereunder, payable in advance on the first day of each calendar month thereafter. Such holding over may be terminated by City or Lessee upon ten (10) days' notice. In the event that Lessee fails to surrender the Leased Premises upon termination or expiration of this Lease, or such month-to-month tenancy, then Lessee shall indemnify City against loss or liability resulting from any delay of Lessee in not surrendering the Leased Premises.

21. **REMEDIES UPON BREACH:** In the event of a breach of this Lease by Lessee, the City may have any one or more of the following described remedies, in addition to all of the rights and remedies provided at law or in equity:

(a) The City may terminate this Lease and forthwith repossess the Leased Premises and be entitled to recover as damages a sum of money equal to the total of (i) the cost of recovering the Leased Premises, including reasonable attorneys' fees; (ii) the unpaid rent earned at the time of termination, plus interest thereon at the rate of twelve percent (12%) per annum from the due date;

(iii) a late charge of five percent (5%) of all Rent, as described in Section 4 of this Lease, not received on or before the fifteenth (15th) day of each month; (iv) the balance of the rent for the remainder of the term less any rents the City receives for the Leased Premises for said period; (v) damages for the wrongful withholding of the Leased Premises by Lessee; (vi) unpaid taxes or assessments, and (vii) any other sum of money in damages owed by Lessee to City as a result of its use and occupancy of the Leased Premises. The City may retake possession of the Leased Premises, including any tenant improvements, and shall have the right, but not the obligation, without being deemed to have accepted a surrender thereof, and without terminating this Lease, to relet same for the remainder of the then current term provided for herein; and if the rent received through such reletting does not at least equal the rent provided for herein, Lessee shall pay and satisfy any deficiency between the amount of the rent so provided for and that received through reletting; and, in addition thereto, Lessee shall pay all reasonable out-of-pocket expenses of Lessor incurred in connection with any such reletting.

(b) Before exercising any remedy or right herein or in law or equity, the City shall supply written notice of such default to the Lessee and provide fifteen (15) days from the date of such notice to cure the noted default. If the Lessee is unable to cure such default within fifteen (15) days from the date of notice, then the City may terminate this Lease as set forth in Subsection (a) above.

22. **NO DISCRIMINATION IN EMPLOYMENT:** In connection with the performance of work under this Agreement, the Lessee agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability; and further agrees to insert the foregoing provision in all subcontracts hereunder.

23. **LESSEE'S INSURANCE:** From the commencement of this Lease, and at all times throughout the term, Lessee (or its contractor(s)) shall carry and maintain the following insurance policies:

(a) Such policies covering the construction of the Tenant Improvements as required pursuant to Section 9 herein;

(b) Sufficient Workers' Compensation Insurance to fully insure its responsibilities under

Colorado law;

(c) Fire and extended coverage insurance on all of its personal property, including without limitation fixtures and removable trade fixtures, located in the Leased Premises;

(d) A policy or policies of comprehensive general liability insurance, issued by and binding upon an insurance company authorized to do business in the State of Colorado, such insurance to afford minimum protection of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate. Commercial general liability coverage shall be at least as broad as insurance services office standard form CG 0001 or equivalent. The City and County of Denver, its officers, officials and employees shall be named as additional insureds, with coverage at least as broad as insurance services office standard form CG 2026. Defense costs coverage shall include defense costs coverage for additional insureds outside the limits of insurance;

(e) Contractual liability coverage;

(f) Waiver of Subrogation and Rights of Recovery against the City, its officers, officials and employees for both Worker's Compensation and commercial general liability (per ISO form CG2404 or equivalent) coverage;

(g) The certificates evidencing the existence of the above policy or policies, all in such form as the City's Risk Administrator may require, are to be provided to the City upon execution of this Agreement. Each such policy or certificate shall contain a valid provision or endorsement stating "This policy will not be canceled or materially changed or altered without first giving thirty (30) days' written notice thereof to the City's Risk Administrator, 201 West Colfax Avenue, Dept. 1105, Denver, Colorado 80202, and sent by certified mail, return receipt requested."

Lessee understands and acknowledges that the City does not provide any insurance coverage for any property of the Lessee, its agents, employees or assignees located in the Leased Premises and Lessee acknowledges and agrees that the Lessee, its agents, employees and assignees have no claim against the City for any damage or loss of personal property and belongings of Lessee, its agents, employees or assignees in the Leased Premises.

24. **VENUE, GOVERNING LAW**: This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado, without regard to the choice of law thereof, and the Charter and Revised Municipal Code of the City and County of Denver. Venue for any legal

action relating to this Agreement shall lie in the State District Court in and for the City and County of Denver, Colorado.

25. **ASSIGNMENT AND RIGHT TO SUBLEASE**: The Lessee shall not assign or transfer its rights under this Lease, or sublet the Leased Premises without first obtaining the written consent of the Director, whose consent will not be unreasonably withheld. Lessee may assign its rights under this Lease to a successor or related entity, including a Which Wich franchisee, without further written approval of the City. The City shall supply written notice to the Lessee should a default occur, regardless of whether the Lessee has sublet or assigned this Lease pursuant to this Lease.

26. **NO SALE OR ADVERTISING OF TOBACCO PRODUCTS**: The Lessee, its officers, agents, and employees shall cooperate and comply with the provisions of Executive Order No. 13, which prohibits the sale or advertisement of tobacco products on City owned property and in facilities owned or operated or controlled by the City and County of Denver. "Sale" includes promotional distribution, whether for consideration or not, as well as commercial transactions for consideration. "Advertising" includes the display of commercial and noncommercial promotion of the purchase or use of tobacco products through any medium whatsoever, but does not include any advertising and sponsoring which is a part of a performance or show or any event displayed or held in City facilities.

27. **EXAMINATION OF RECORDS**: The Lessee agrees that any duly authorized representative of the City shall, until the expiration of three (3) years after final payment under this Lease, have access to and the right to examine any directly pertinent books, documents, and records of the Lessee involving matters directly related to this Lease.

28. **AMENDMENT**: No alteration, amendment or modification of this Lease shall be valid unless evidenced by a written instrument executed by the parties hereto with the same formality as this Lease; however, the Director shall have the authority to execute agreements which make technical, minor, or non-substantive changes to this Lease. The failure of either party hereto to insist in any one or more instances upon the strict compliance or performance of any of the covenants, agreements, terms, provisions or conditions of this Agreement, shall not be construed as a waiver or relinquishment for the future of such covenant, agreement, term, provision or condition, but the same

shall remain in full force and effect.

29. **SEVERABILITY**: If any portion of this Lease is determined by a court to be unenforceable for any reason, the remainder of the Lease remains in full force and effect.

30. **BINDING EFFECT**: This Lease when executed and when effective, shall inure to the benefit of and be binding upon the successors in interest or the legal representative of the respective parties hereto, subject to assignment or sublease in accordance with paragraph 25 above.

31. **THIRD PARTIES**: This Agreement does not, and shall not be deemed or construed to, confer upon or grant to any third party or parties any right to claim damages or to bring any suit, action or other proceeding against the parties hereto because of any breach hereof or because of any of the terms, covenants, agreements and conditions herein.

32. **NOTICES**: All notices hereunder shall be given to the following by hand delivery or by certified mail, return receipt requested:

To the City:	Director of Real Estate 201 W. Colfax Ave., Dept. 1010 Denver, CO 80204
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To Lessee:	SERVICE AMERICA CORPORATION D/B/A Centerplate 2187 Atlantic St. Stamford, CT 06902
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Either party hereto may designate in writing from time to time the address of substitute or supplementary persons to receive such notices. The effective date of service of any such notice shall be the date such notice is deposited in the mail or hand-delivered to the Party.

33. **ENTIRE AGREEMENT**: The parties acknowledge and agree that the provisions contained herein and Exhibits hereto constitute the entire agreement and that all representations made by any officer, agent or employee of the respective parties unless included herein are null and void and of no effect.

34. **WHEN RIGHTS AND REMEDIES NOT WAIVED**: In no event shall any performance hereunder constitute or be construed to be a waiver by any party of or any breach of

covenant or condition or of any default which may then exist. The rendering of any such performance when any breach or default exists shall in no way impair or prejudice any right or remedy available with respect to such breach or default. Further, no assent, expressed or implied, to any breach of any one or more covenants, provisions, or conditions of the Lease shall be deemed or taken to be a waiver of any other default or breach.

35. **NO PERSONAL LIABILITY:** No elected official, director, officer, agent or employee of the City, nor any director, officer, employee or personal representative of Lessee shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement or because of any breach thereof or because of its or their execution, approval or attempted execution of this Lease.

36. **CONFLICT OF INTEREST BY CITY OFFICER:** Lessee represents that to the best of its information and belief, no officer or employee of the City is either directly or indirectly a party or in any manner interested in this Lease, except as such interest may arise as a result of the lawful discharge of the responsibilities of such elected official or employee.

37. **BROKER:** Lessee warrants that it has not had dealings with any broker or agent in connection with this Lease. The City warrants that it has not had dealings with any broker or agent in connection with this Lease.

38. **APPROPRIATION:** All obligations of the City under and pursuant to this Agreement are subject to prior appropriation of monies expressly made by the City Council for the purposes of this Agreement and paid into the Treasury of the City.

39. **AUTHORITY TO EXECUTE:** Lessee represents that the persons who have affixed their signatures hereto have all necessary and sufficient authority to bind Lessee.

40. **PARAGRAPH HEADINGS:** The paragraph headings are inserted only as a matter of convenience and for reference and in no way are intended to be a part of this Lease or to define, limit or describe the scope or intent of this Lease or the particular paragraphs to which they refer.

41. **CITY'S EXECUTION OF AGREEMENT:** This Lease is expressly subject to, and shall not be or become effective or binding on the City until approval by its City Council and full execution by all signatories set forth below.

42. **ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:**

Lessee consents to the use of electronic signatures by the City. The Lease, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Lease solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Lease in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

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Contract Control Number:

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By _____

By _____

By _____



Contract Control Number: FINAN-201840400-00
Contractor Name: Service America Corporation

By: _____
[Handwritten signature]

Name: HAO, MONNAR
(please print)

Title: EVT & CFO
(please print)

ATTEST: [if required]

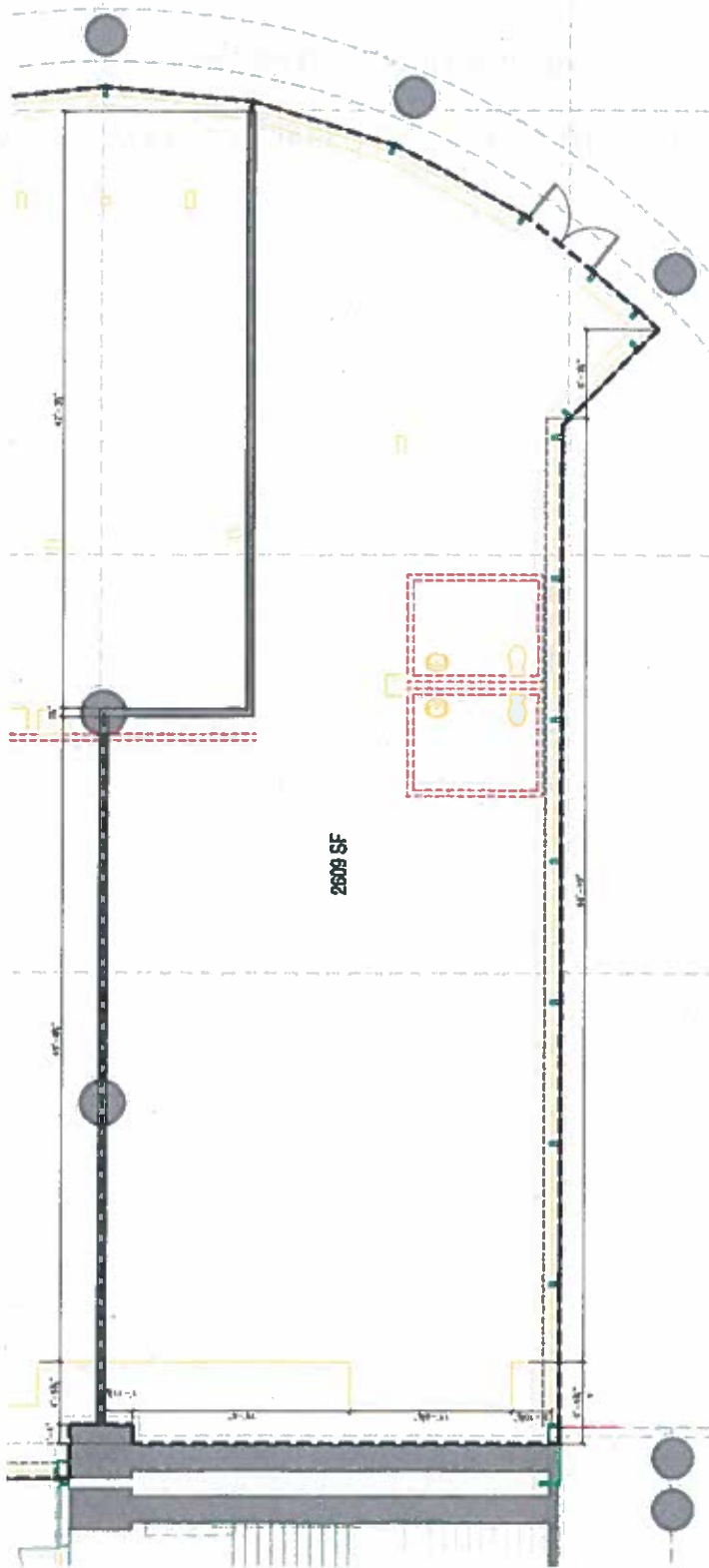
By: _____

Name: _____
(please print)

Title: _____
(please print)



EXHIBIT A



**WHICH WICH FRANCHISE, INC.
FRANCHISE AGREEMENT**

**ATTACHMENT D
LEASE RIDER**

This Lease Rider (“**Rider**”) is entered into by the undersigned on the dates set forth below.

(a) Landlord acknowledges that “**Tenant**” is a franchisee of Which Wich Franchise, Inc. (“**WWFI**”), a Texas corporation, and that the WHICH WICH® Store located at the Premises (“**Store**”) is operated under the WHICH WICH® franchise system, pursuant to a franchise agreement (“**Franchise Agreement**”) between Tenant and WWFI. Landlord consents to Tenant’s use at the Premises of such marks and signs, decor items, color schemes, and related components of the WHICH WICH® system as WWFI may prescribe for the Store. During the Term of the Franchise Agreement, the Premises may be used only for the operation of the Store.

(b) Landlord agrees to furnish to WWFI copies of any and all letters and notices sent to Tenant pertaining to the Lease and the Premises at the same time that such letters and notices are sent to Tenant. Without limiting the foregoing, in the event of any default by Tenant, Landlord shall give WWFI written notice of such default. If Tenant has failed to cure such default at the expiration of the applicable cure period, Landlord shall give WWFI further written notice of such failure (“**WWFI Notice**”). Following WWFI’s receipt of the WWFI Notice, WWFI shall have the right (but not the obligation) to cure Tenant’s default before Landlord shall exercise any of Landlord’s remedies arising as a consequence of Tenant’s default. Any such cure will be effected within 15 days following WWFI’s receipt of the WWFI Notice. Such cure by WWFI will not be deemed to be an election to assume the terms, covenants, obligations, or conditions of the Lease.

(c) If WWFI cures Tenant’s default, or if WWFI notifies Landlord that the Franchise Agreement has been terminated (which termination will constitute a non-curable default pursuant to the Lease upon Landlord’s receipt of WWFI’s notice thereof), Landlord agrees, upon WWFI’s written request, to assign to WWFI any and all rights that Landlord may have under the Lease to remove and evict Tenant from the Premises and shall cooperate with WWFI in order to pursue such action to a conclusion.

(d) If WWFI cures Tenant’s default, or notifies Landlord of the termination of the Franchise Agreement, WWFI shall have the right and option, upon written notice to Landlord, to do the following:

1. Undertake to perform the terms, covenants, obligations, and conditions of the Lease on behalf of the Tenant (notwithstanding any removal or eviction of Tenant) for a period not to exceed six months from the first date of any cure by WWFI; or

2. At any time within or at the conclusion of such six-month period, assume the terms, covenants, obligations, and conditions of the Lease for the remainder of the term, together with any applicable renewal options. In such event, Landlord and WWFI shall enter into an agreement to document such assumption. WWFI is not a party to the Lease and will have no liability under the Lease unless and until said Lease is assigned to, and assumed by, WWFI as herein provided.

(e) If, during the six-month period set forth in section (d)(1) above, or at any time after the assignment contemplated in section (d)(2), WWFI shall notify Landlord that the franchise for the Store is being granted to another WHICH WICH® franchisee, Landlord shall permit the assignment of the Lease to said franchisee without the payment of any fee or other cost requirement, provided that, said franchisee meets Landlord’s reasonable financial qualifications. Landlord shall not unreasonably withhold consent to such assignment. Thereafter, WWFI will be released from any and all further liabilities under the Lease. The parties agree to execute any commercially reasonable documents in furtherance of this section.

(f) Tenant will not assign the Lease or renew or extend the term thereof without the prior written consent of WWFI, nor shall Landlord and Tenant amend or otherwise modify the Lease in any manner that could materially affect any of the foregoing requirements without the prior written consent of WWFI.

(g) WWFI shall have the right to enter the Premises to make any modification or alteration necessary to protect the WHICH WICH® System and Marks (including, without limitation, remove all signs, advertising materials, displays, fixtures, proprietary equipment and inventory, and any other items which display the Marks or are indicative of WHICH WICH® trade dress) or to cure any default under the Franchise Agreement or under the Lease, without being guilty of trespass or any other crime or tort. Landlord shall not be responsible for any expenses or damages arising from any such action by WWFI. Tenant hereby releases, acquits, and discharges WWFI and Landlord, their respective subsidiaries, affiliates, successors, and assigns and the officers, directors, shareholders, partners, employees, agents, and representatives of each of them, from any and all claims, demands, accounts, actions, and causes of action, known or unknown, vested or contingent, which any of them may have, ever had, now has, or may hereafter have by reason of any event, transaction, or circumstance arising out of or relating to the exercise of WWFI's rights pursuant to the Addendum.

(h) Landlord shall subordinate any lien in favor of Landlord created by the Lease to WWFI. Landlord's rights to collect on any liens that Landlord files or attaches to Tenant's property rights will be subordinate and inferior to WWFI's lien rights against any and all of the personal property, furnishings, equipment, signs, fixtures, and inventory owned by Tenant and on the premises operated by Tenant under the Lease.

(i) Landlord and Tenant acknowledge that WWFI is a third-party beneficiary of this Rider and may enforce it, solely and/or jointly with Tenant.

(j) All notices sent pursuant to this Rider will be sent in the manner set forth in the Lease, and delivery of such notices will be effective as of the times provided for in the Lease. For purposes of a WWFI Notice or any other notice to WWFI that may arise under the Lease, WWFI's mailing address will be 1412 Main Street, Suite 2000, Dallas, Texas 75202, Attention: Legal Department, which address may be changed by written notice to Landlord in the manner provided in the Lease.

LANDLORD:

FRANCHISEE/TENANT

By: _____

By: _____

Name: _____

Name: _____

Title: _____

