

## **GROUND LEASE AGREEMENT**

This Ground Lease Agreement (**Agreement**) is entered into between the city of Crete, a Nebraska municipality (**Landlord**), and ALLO Crete, LLC, a Nebraska limited liability company (**Tenant**), as of \_\_\_\_\_, 2023 (**Effective Date**).

The Parties agree:

1. **DESCRIPTION**: Landlord leases to Tenant the area of ground within the fenced area identified on Exhibit A, attached hereto and incorporated herein by reference, consisting of approximately 5,000 square feet at the northeast corner of West 9<sup>th</sup> Street and Pine Avenue in Crete, NE (**Premises**).

2. **TERM**: The term of this Agreement (**Term**) shall commence as of the Effective Date and continue until January 31, 2024 at which time it shall terminate, unless sooner terminated or renewed as provided herein.

3. **RENT**: During the Term, Tenant shall pay to Landlord as Rent \$400.00 per month, with payment due on the first day of each month, and such Rent shall be prorated for any partial calendar months.

4. **USE**: Tenant shall use the Premises for a construction laydown yard. Tenant shall not, without the written consent of Landlord, use the Premises for any other purpose, which consent shall not be unreasonably conditioned, delayed, or withheld. Tenant shall comply with all applicable laws in connection with its use of the Premises.

5. **CONDITION OF PREMISES**: Landlord makes no warranties as to the condition of the Premises, and Tenant acknowledges it is accepting the Premises in its current and "As Is" condition.

6. **ACCESS**. Access to the Premises shall be nonexclusive and granted to Tenant Monday through Friday from 7 a.m. to 4 p.m. or other hours of operation being kept by the city of Crete at the Premises. Access shall be shared with other users, tenants and owners.

7. **TAXES**: At any time, in the event improvements placed on the Premises by Tenant cause an annual tax increase over the taxes due in the year of the Effective Date of this Agreement (**Base Year**), Tenant shall, upon billing by Landlord and Landlord's provision of reasonable supporting documentation demonstrating the applicable increase, reimburse Landlord within twenty (20) days in the amount of the applicable tax increase. The obligations in this Section shall survive termination of this Agreement and Tenant shall remain obligated to pay taxes on improvements as stated herein that have accrued up to the date of termination or expiration of this Agreement.

8. **IMPROVEMENTS BY LANDLORD**: Landlord reserves the right to make improvements, alterations, or additions to the Premises, but shall not materially change the general

appearance, location or area of the Premises. Further, Landlord's improvements shall not unreasonably disturb or interfere with Tenant's personal property or use of the Premises.

9. **IMPROVEMENTS BY TENANT:** Tenant shall not make any improvements or alterations to the Premises (excluding replacement or rearrangement of personal property within the Premises) without submitting plans and specifications to Landlord and securing Landlord's written consent, which consent may be granted or withheld in Landlord's sole discretion. Tenant shall pay all costs of improvements and alterations, shall provide evidence of such payment to Landlord upon request, and shall hold Landlord harmless from any costs, liens, or damages. Upon termination or expiration of this Agreement, Tenant shall, at Tenant's sole cost and expense, remove from the Premises all of Tenant's leasehold improvements, including without limitation, interior and exterior signs, trade fixtures and equipment, and other such items that have been installed or placed on the Premises by Tenant, by Tenant's predecessors in interest, or which have been installed or placed therein for the benefit of or on behalf of Tenant or Tenant's predecessors (all of which are hereinafter referred to as "Tenant's Property"), and Tenant shall repair all damage resulting from such removal.

10. **MAINTENANCE OF PREMISES AND TENANT'S PROPERTY.** Tenant shall, throughout the Term of this Agreement, at its own cost, and without any expense to Landlord, keep and maintain the Premises and Tenant's Property, including all appurtenances, in good, sanitary and neat order, condition and repair, and, except as specifically provided in this Agreement, restore and rehabilitate its improvements on the Premises that may be destroyed or damaged by fire, casualty, or any other cause whatsoever.

11. **UTILITY CHARGES: Not Applicable.**

12. **WASTE:** Tenant shall not commit or permit any waste of the Premises, nor any public or private nuisance on the Premises.

13. **INSURANCE.** Tenant shall, during the entire Term, keep in full force and effect, solely, at Tenant's cost and expense, a policy of commercial general liability insurance with respect to the Premises and the activities of Tenant thereon, for which the limits shall not be less than One Million and no/100 Dollars (\$1,000,000.00) covering bodily injury, sickness or death and loss of or damage to Premises, naming Landlord as an additional insured and providing that it is the primary coverage for liability on the Premises. Such coverage shall include a broad form general liability endorsement. The policy shall also be endorsed to provide that the additional insured party will be notified of the cancellation or non-renewal at least thirty (30) days before the effective date of such cancellation or non-renewal except in the event of cancellation due to non-payment of premium then a ten (10) days' notice shall be given.

14. **INDEMNIFICATION.** Tenant shall indemnify and hold Landlord harmless from and against any and all claims, damages, or causes of action and all liability, cost or expense specifically including court costs and all reasonable attorney fees to the extent the same arise out of or in any way connected with Tenant's or Tenant's agents' and employees' use of the Premises during the Term, and Tenant hereby waives all claims against Landlord for damage to Tenant's Property or personal property or for injury to persons in and upon the Premises from any cause

whatsoever, except to the extent the same are the result of the gross negligence or willful misconduct of Landlord or Landlord's agents or employees.

15. **SECURITY**. Tenant acknowledges and agrees that it assumes sole responsibility for security at the Premises for Tenant's Property and personal property. Tenant acknowledges and agrees that Landlord will not provide any security system or security personnel at the Premises.

16. **ASSIGNMENT**: Tenant shall not assign or sublet any portion of the Premises without the prior written consent of Landlord, which consent may be granted or withheld in Landlord's sole discretion. Any such assignment or subletting without the consent of Landlord, shall be void and, at the option of Landlord, Landlord may terminate this Agreement. Notwithstanding anything to the contrary contained herein, Tenant may assign its entire interest under the Agreement or sublet the Premises or any portion thereof to a corporation, partnership, or other legal entity controlling, controlled by or under common control as Tenant, or to any successor to Tenant by purchase, merger, consolidation, reorganization, or sale of substantially all assets without the consent of Landlord.

17. **QUIET ENJOYMENT**: Landlord warrants that Tenant shall have possession and quiet enjoyment of the Premises for so long as Tenant is in compliance with the terms of this Agreement.

18. **DEFAULT**: Each of the following acts and omissions shall constitute a default and a breach of this Agreement:

- a. Voluntary or involuntary bankruptcy, assignment for benefit of creditors, reorganization or rearrangement under the Bankruptcy Act, receivership, dissolution or the commencement of any action or proceeding for dissolution or liquidation of Tenant or Landlord whether instituted by or against Tenant or Landlord, as applicable, or any other similar action or proceeding.
- b. The failure of Tenant to pay the Rent for a period of ten (10) calendar days after Tenant receives written notice of such non-payment.
- c. The failure of Tenant or Landlord to comply with any other provision of this Agreement for a period of thirty (30) days after written notice of such failure; provided, however, in the event that such cure shall be reasonably expected to exceed thirty (30) days, Tenant's or Landlord's cure right shall be extended provided that such cure is commenced within thirty (30) days and such cure is diligently pursued.

19. **REMEDIES**: In addition to any other remedies available to the non-defaulting party, upon a default by a party, the non-defaulting party shall have the right to terminate this Agreement immediately by providing written notice to the breaching party.

20. **HOLDING OVER**: If Tenant remains in possession after the termination date without the written consent of Landlord, Tenant shall be deemed to be a trespasser. If Tenant shall

have paid, and Landlord shall have accepted, rent in respect to such holding over, Tenant shall be deemed to be occupying the Premises only as a Tenant from month-to-month subject to all the terms of this Agreement except for the rental charged, which during the hold over period shall be at a rate which is the same as the last rental rate.

21. **EFFECT OF SALE**: A sale of the Premises will operate to release Landlord from all obligations pursuant to this Agreement, except liabilities which arose prior to the closing of such sale, and Tenant shall attorn to Landlord's successor in interest.

22. **TERMINATION**: Upon termination of this Agreement, Tenant shall:

- a. Deliver possession of the Premises to Landlord in good condition as at the commencement of this Agreement, ordinary wear and tear excepted.
- b. Leave undisturbed all non-trade fixtures and improvements.
- c. Remove from the Premises all trade fixtures and other personal property of Tenant. Tenant shall, at Tenant's expense, repair any damage to the Premises arising from the removal of such trade fixtures or personal property.

23. **MISCELLANEOUS**:

No term or condition of this Agreement shall be construed to have been waived by Landlord or Tenant, unless Tenant or Landlord shall have secured such waiver from the other party, as applicable.

Each person executing this Agreement on behalf of an entity represents and warrants that they have complete and full authority and capacity to act on behalf of that entity.

The invalidity or unenforceability of any term or condition of this Agreement shall not prejudice the enforceability of any other term or condition.

This Agreement shall not be amended or modified, except by a written instrument executed by both Landlord and Tenant.

Any notice, demand, request, or other instrument which may be or is required to be given under this Agreement shall be delivered in person or sent by United States certified or registered mail, postage prepaid and shall be addressed (a) if to Landlord, at City of Crete, PO Box 86, Crete, NE 68333 and (b) if to Tenant, at ALLO Crete LLC, c/o President, 330 S. 21<sup>st</sup> Street, Lincoln, NE 68510.

Landlord and Tenant represent and warrant to each other that neither of them has consulted or negotiated with any broker or finder with regard to the Premises. Each of them will indemnify the other against any claim for fees or commissions from anyone other than the Broker.

This Agreement shall be binding upon the successors in interest of the parties.

This Agreement shall be construed and enforced in accordance with the laws of the State of Nebraska. EACH PARTY HERETO, TO THE FULLEST EXTENT PERMITTED BY LAW, WAIVES THE RIGHT TO A TRIAL BY JURY FOR ANY ACTION ARISING FROM, OR RELATED TO, THIS AGREEMENT.

The foregoing constitutes the entire agreement between the parties.

IN WITNESS WHEREOF, the Landlord and Tenant have executed this Agreement on the day first set forth above.

**LANDLORD: City of Crete, a Nebraska municipality**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Name: \_\_\_\_\_

(Please Print)

**TENANT: ALLO Crete, LLC, a Nebraska limited liability company**

By: \_\_\_\_\_

Its: President and CEO

Name: Bradley A. Moline

**EXHIBIT A**

