

STATE OF ALABAMA
COUNTY OF BALDWIN

LEASE

THIS LEASE is made effective as of the ____ day of July 2020 (“**Effective Date**”), by and between **The City of Foley**, a municipal corporation (“**Landlord**”), and **Bill Jenkins/NAPA** (“**Tenant**”).

RECITALS:

WHEREAS, Landlord has determined that the Leased Premises described herein are not presently needed for municipal purposes; and

WHEREAS, Tenant desires to lease the Leased Premises from Landlord.

NOW, THEREFORE, for and in consideration of Ten and No/100 Dollars (\$10.00), the covenants and obligations contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant agree as follows:

1. **LEASED PREMISES.** Landlord does hereby demise and let unto Tenant that certain building containing approximately 500 square feet +/-, located at 203 South McKenzie Street Foley, Alabama (the “**Leased Premises**”) for use as storage for its adjacent auto parts store.

2. **TERM.** The term of this Agreement shall be for one (1) year commencing on the Effective Date. The term shall automatically renew for two (2) additional periods of one (1) year each unless Tenant or Landlord provide at least sixty (60) days prior written notice of nonrenewal prior to the expiration of the initial term or the first renewal term.

3. **RENT.** Tenant shall pay monthly rent of One Hundred Dollars (\$100.00) to Landlord on the first day of each calendar month. Rent shall be prorated for any partial calendar month.

4. **WARRANTY OF TITLE.** Landlord warrants that it has fee simple title in and to the Leased Premises.

5. **ALTERATIONS.** Tenant will make no material alterations in or to the Leased Premises without the written consent of Landlord.

6. **FIRE/WIND AND OTHER CASUALTIES.** If the Leased Premises shall be damaged or destroyed by fire, flood, windstorm, riot, insurrection or other cause, the Landlord shall have the option within thirty (30) days from the time such damage shall have occurred to elect whether the Landlord shall or shall not repair and restore the Leased Premises to its original shape and condition. Should the Landlord elect to make such repairs or restorations, the same shall be

completed as soon after such election is made as is practicable. Should the Landlord fail to elect to repair or restore the premises, Tenant may terminate this Lease.

7. **USE AND OCCUPANCY**: Tenant shall use and occupy the Leased Premises in a careful, safe and proper manner, and will not occupy or use said premises or permit the same to be occupied or used for any purpose or business which is unlawful and will comply with all lawful requirements of all valid laws, ordinances, rules and regulations of all governmental authorities pertaining to the use and occupancy of the Leased Premises.

8. **NO WARRANTY OF CONDITION**: Landlord does not warrant, and Tenant hereby acknowledges and agrees that Landlord has made no representation or warranty, that the Leased Premises is fit for a particular purpose or that it is suitable for the use to which the Tenant intends to put it. Tenant has had an opportunity to inspect and observe the Lease Premises, and Tenant enters into this Lease and takes the Leased Premises “as is” and “where is” and “with all faults.”

9. **NOTICES**. Any notice, demand, communication, or election to exercise any option hereunder, whether intended for Landlord or for City, shall be in writing, and may be served or delivered in person, or by prepaid U.S. Registered or Certified mail, to the following address, or to such other address as the parties hereto may at any time, and from time to time, designate in writing:

If to Landlord:
City Clerk
Post Office Box 1750
Foley, Alabama 36536

If to Tenant:

10. **SURRENDER**. At the expiration of the tenancy herein created, Tenant shall surrender the Leased Premises in the same condition and state of repair as the Leased Premises were in upon the commencement of this Lease unless meanwhile repaired or improved, in which event, from the time of such repairs or improvements as to that portion so repaired or improved, reasonable wear and tear and damage by unavoidable casualty excepted.

11. **INDEMNITY**. Tenant will indemnify and save harmless Landlord from all fines, suits, claims, demands and actions of any kind or nature, by reason of any breach, violation or non-performance of any condition hereof on the part of Tenant. Tenant will indemnify, protect and save harmless Landlord from any loss, cost, damage or expense caused by injuries to persons or property, while in, on or about the Leased Premises; provided such injury or damage is not caused by the Landlord’s breach of its obligations under this Lease or its willful or wanton misconduct.

12. **INSURANCE**: Landlord will maintain such property insurance against casualty to the Leased Premises as it desires. Tenant hereby covenants and agrees at all times during the term of this Lease to maintain and keep in force: (a) comprehensive general liability insurance, including broad form contractual liability, against all claims for personal injury or death with minimum limits of liability of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate; (b) commercial property insurance with extended all risks coverage covering Tenant's personal property including all fixtures, furnishings, equipment and leasehold improvements in the Leased Premises; (c) worker's compensation insurance; and (d) such other and additional insurance as the Landlord may reasonably require in connection with the Leased Premises and operations of Tenant thereon. All policies of insurance which Tenant is obligated to maintain according to this Lease (other than any policy of worker's compensation insurance) will name Landlord as additional insured or loss payee, as applicable. Prior to any use or occupancy of the Leased Premises by Tenant, and annually thereafter on the anniversary date of the commencement of this Lease, Tenant shall furnish Landlord with a certificate(s) of insurance (and policy endorsements if requested), executed by the insurance broker responsible for the various required coverages, showing compliance with the insurance requirements set forth above. All certificates shall confirm that identified insurance policies provide for thirty (30) days' written notice to Landlord of the cancellation or material change of any insurance referred to therein. All such insurance policies shall be endorsed to waive rights of subrogation against Landlord. All policies maintained by Tenant will be written as primary policies, not contributing with and not supplemental to the coverage that Landlord may carry, and a copy of such insurance policies shall be provided to Landlord upon request.

13. **WAIVER OF SUBROGATION**. Anything in this Lease to the contrary notwithstanding, Landlord and Tenant each hereby waives (to the extent that the party sustaining such loss is compensated by insurance proceeds) any and all rights of recovery, claim, action or cause of action, against the other, its agents, officers, or employees, for any loss or damage that may occur to the premises, or any improvements thereto, or any personal property of such party therein, by reason of fire, the elements, or any other cause which would be insured against under the terms of the fire and extended coverage insurance policies referred to above, regardless of cause or origin, including, without limitation, negligence of the other party hereto, its agents, officers or employees, and covenants that no insurer shall hold any right of subrogation against such other party, and to endeavor to procure a waiver of subrogation on the part of each of their insurers by an endorsement to all insurance policies whereby an insurer recognizes the agreements made by Landlord and Tenant herein provided, however, this Section 13 shall be inapplicable if it would have the effect, but only to the extent that it would have the effect, of invalidating any insurance coverage of Landlord or Tenant.

14. **ASSIGNMENT AND SUBLETTING**. Tenant may not assign or transfer this Lease, and Tenant may not sublet the Leased Premises or any portion thereof, without the prior written consent of Landlord, which consent may be withheld in the sole discretion of Landlord.

15. **DEFAULT BY TENANT:** If Tenant shall fail to pay any money owed to Landlord hereunder promptly on the day the same shall become due and payable hereunder, or if Tenant shall fail to keep and perform promptly any other affirmative covenant of this Lease in accordance with the terms of this Lease and such failure shall continue for a period of thirty (30) days after receipt by Tenant of written notice thereof from Landlord, then the Landlord may, at its option, declare this Lease to be terminated, and enter into the Premises or any part thereof, with process of law, and expel Tenant or any person occupying the same in or upon said premises, and repossess the Leased Premises. This is in addition to any and all rights Landlord may have in law or in equity, and all such rights are reserved hereby.

16. **ATTORNEY'S FEE AND WAIVER OF EXEMPTIONS.** In the event of employment of an attorney for the collection of any amount due hereunder, or for the institution of any suit for possession of said property, or for advice or service incident to the breach of any other condition of this Lease by Tenant, or on account of bankruptcy proceedings by or against Tenant, or legal process being issued against the furniture and effects of Tenant, located upon the Premises, or the leasehold interest of Tenant, Tenant agrees to pay and shall be taxed with a reasonable attorney's fee, which fee shall be a part of the debt evidenced and secured by this Lease.

17. **LANDLORD'S RIGHTS CUMULATIVE AND NON-WAIVER.** The failure of Landlord to insist, in any one or more instances, upon a strict performance of any of the covenants of this Lease, or to exercise any option herein contained, shall not be construed as a waiver, or a relinquishment for the future, of such covenants or option, but the same shall continue and remain in full force and effect. The receipt of Landlord of rent, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by Landlord of any provision hereof shall be deemed to have been made unless expressed in writing, and signed by Landlord. Landlord's rights herein are cumulative and in addition to those provided by law.

18. **ENTIRE AGREEMENT:** This Lease contains the entire agreement between the parties and any agreement hereafter made shall be ineffective to change, modify or discharge it in whole or in part unless such agreement is in writing and signed by both parties.

19. **SUCCESSORS IN INTEREST.** This Lease shall be binding upon the parties hereto and their respective successors and assigns, except that this provision shall not permit the assignment of the Lease, or subleasing of the Leased Premises except on the conditions set forth in paragraph 14.

(Signatures on next page)

IN WITNESS WHEREOF, the parties have caused this Lease to be executed on the date appearing together with their signatures below.

THE CITY OF FOLEY, ALABAMA

By: John Koniar
As Its: Mayor

Date:_____

ATTEST:

By: Kathryn Taylor
As Its: City Clerk

Date:_____

Bill Jenkins/NAPA

By: Bill Jenkins
As Its: _____

Date:_____