

POP-UP SHOP
TEMPORARY USE LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("Agreement") is dated _____, 20 (the "Effective Date") between the City of Columbia, Monroe and St. Clair Counties, Illinois, 208 S. Rapp Avenue, Columbia, Illinois 62236 ("City") ("Licensor"), and _____ ("Licensee"). The recitals and exhibits are integral parts of this Agreement.

Licensor owns a one room school house located at 6 Gall Road, Columbia, Illinois 62236 (the "POP-UP SHOP") wherein Licensees are provided daily rates to occupy the retail space at the POP-UP SHOP for the purpose of testing the Columbia, Illinois, retail market.

Licensee desires to temporarily use the POP-UP SHOP upon the terms and conditions set forth herein.

THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **SERVICES.** Licensee shall have access to the POP-UP SHOP for _____ days as follows:

Start Date: _____

End Date: _____

For the Total Amount of: \$ _____ (\$5 per day of use)

2. **LICENSE.** This Agreement is not intended to create a lease or any other interest (possessory or otherwise) in real property in favor of Licensee, but merely creates a revocable, non-exclusive license in accordance with the terms thereof. This Agreement grants Licensee a non-exclusive license to use the POP-UP SHOP, for specific purposes herein set forth without diminution of the legal possession or control thereof by Licensor. Licensee is not a party to nor shall Licensee have any rights under the Underlying Agreement.

3. **TERM.** The term of the license granted by this Agreement shall commence on the Date and Time in Section 1.

4. **FEES AND PAYMENTS.** In consideration for the use of the POP-UP SHOP, the rate listed in Section 1 shall include any and all costs for use of the space specified in the time duration, plus the damage deposit and cleaning fee per Section 5. Licensee agrees to pay Licensor the applicable amounts in the form of three (3) individual checks, which shall be made payable as indicated in Exhibit A: Terms of Usage. Licensee shall also be responsible for any other costs outlined in Exhibit A: Terms of Usage.

5. **DAMAGE DEPOSIT AND CLEANING FEE.** A refundable damage deposit and a non-refundable cleaning fee will be received from the Licensee at the start of the license period. Deposit amounts shall be as listed in Exhibit A: Terms of Usage.

6. **DAMAGES.** If applicable, Licensee shall be presented the POP-UP SHOP in good condition, and after the duration of the use of the POP-UP SHOP, the Licensee shall return it in same condition. Licensee shall remain responsible for the costs of repairing any damage to any portion caused by Licensee or Licensee's guest's use.

7. **RELEASE AND INDEMNIFICATION.** Licensee acknowledges, that due to the imperfect nature of verbal, written and electronic communications, Licenser, and its respective elected officials, directors, licensors, officers, agents, representatives, servants and employees (the "Released Parties" and each, a "Released Party") shall not be responsible for any damages, direct or consequential that may result from failure of Licenser to furnish any service, including but not limited to the service of conveying messages, communications, and other utility or services permitted or required under this Agreement, or any defects in connection with the performance of such services or any defects, patent or latent, within or in connection with the POP-UP SHOP. Further, Licensee acknowledges that the Released Parties are not responsible for any property, tangible or intangible, that may be located in and around the POP-UP SHOP, and loss, damage or destruction of or to any such property due to theft, power surges or power failures or any other causes, unless caused by the intentional wrongdoing or gross negligence of any Released Party. But for such intentional wrongdoing or gross negligence, Licensee waives and agrees not to make any claim for damages, whether direct or consequential, against any Released Party, including, without limitation, any claim with respect to lost business or profits. Specifically with respect to Licensee's utilization of any computer hardware, electronic storage device or any software residing thereon to which Licensee may be afforded access hereunder, including by way of illustration only and not in limitation, any means of connecting to the internet, Licensee acknowledges that access to such hardware, storage device, software and internet connectivity is provided "AS IS", without any warranty or representations of any kind or nature. Licensee further acknowledges that existing electronic transmission channels are not secure or free of viruses and that there can be no expectation of privacy or assurances of uninterrupted access, to any information transmitted or received electronically. Accordingly, Licensee assumes the risk of (a) unauthorized third party disclosure, dissemination, publication and/or use of such information or any document or message transmitted or received hereunder and (b) the loss, impairment or destruction of any data, message or document stored on such hardware, storage device, software or other mechanism. Licensee alone shall be responsible for implementing such safeguards and procedures as it deems suitable, in the exercise of its independent judgment, to minimize such risks, and Licensee releases the Released Parties of any responsibility or liability in connection with any loss, damage, claim, cost or expense in connection herewith. Without limitation of any other provision hereof, Licensee agrees to indemnify, defend, and hold harmless the Released Parties from and against any and all liability to third parties arising out of this Agreement, including, without limitation, Licensee's use of and presence in and around the POP-UP SHOP or any act or omission of the Released Parties. Licensee assumes all risk of loss with respect to all personal property of Licensee, its officers, directors, elected officials, agents, representatives, employees, contractors and guests, in or around the POP-UP SHOP. Licensee agrees to remove all of Licensee's business and personal items whenever leaving the POP-UP SHOP.
8. **NO RELATIONSHIP BETWEEN THE PARTIES.** It is understood and agreed, and it is the intention of the parties, that neither party is an agent, partner, co-venturer, employee, tenant, landlord or representative of the other, and neither party shall have the right to bind the other to any contract or commitment, oral or written, express or implied. Each party hereto covenants and agrees that it and its agents, representatives and employees will not hold itself and themselves out to the public or others as an agent, partner, co-venturer, employee or representative of the other.

9. MISCELLANEOUS.

- a. All amendments to this Agreement shall be in writing and signed by both parties. Any other attempted amendment shall be void. The invalidity and unenforceability of any provision hereof shall not affect the remainder hereof.
- b. All waivers must be in writing and signed by the waiving party. Lessor's failure to enforce any provision of this Agreement or its acceptance of fees or other amounts shall not be a waiver and shall not prevent Lessor from enforcing any provision of this Agreement in the future. No receipt of money by Lessor shall be deemed to waive any default of Licensee.
- c. The laws of the State of Illinois shall govern this Agreement without regard to principles of conflicts of law.
- d. All parties signing this Agreement as a partnership or cosigning individuals shall be jointly and severally liable for all obligations of Licensee.
- e. Neither Licensee nor anyone claiming by, through or under Licensee shall assign this Agreement or permit the use of any portion of the POP-UP SHOP, if applicable, by any person other than Licensee, without the prior written consent of Lessor. In the event of any permitted assignment, Licensee shall not thereby be relieved of any of its obligations under this Agreement. Lessor may assign this Agreement and/or any sums due to Lessor hereunder without the consent of Licensee, and Licensee agrees to any such assignment without any prior written consent.
- f. All notices hereunder shall be in writing. Notices to Licensee shall be deemed to be duly given if mailed by registered or certified mail, postage prepaid, overnight mail service, or hand delivered with proof of delivery addressed to Licensee at the address given below. Notice to Lessor shall be deemed to be given if mailed by registered or certified mail, postage prepaid, overnight mail service, or hand delivered with proof of delivery addressed to Lessor at City Hall, 208 S. Rapp Avenue, Columbia, Illinois.
- g. The terms and conditions of this Agreement, including Exhibit A: Terms of Usage, inure to the benefit of and are binding upon the respective personal representatives, heirs, successors and assigns of the parties hereto. Further, Licensee acknowledges and agrees that it will bind its employees, officers, directors, owners, agents, representatives and guests to be subject to the terms and provisions of this Agreement.
- h. Jurisdiction and venue are proper in the State of Illinois, Monroe County.

This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. This Agreement may be signed and delivered via facsimile or email.

LICENSOR:

CITY OF COLUMBIA

By: _____

Title: _____

LICENSEE:

By: _____

Authorized Signature

Print Name & Title

Address

City, State, Zip Code

Telephone Number