

# COMMERCIAL LEASE AGREEMENT

**THE PARTIES.** This Lease Agreement is made and entered into on January 1, 2017, by and between:

**Lessor:** Kenneth Shaw, an individual with a mailing address of 368 Old New Hope Road, Columbus, Mississippi 39702, hereinafter referred to as the “Lessor”;

**AND**

**Lessee:** Shaw Pit Bull Rescue, Inc., a Mississippi non-profit organization with a mailing address of the Property’s Address, hereinafter referred to as the “Lessee.”

The Lessor and Lessee hereby agree as follows:

**DESCRIPTION OF LEASED PREMISES.** The Lessor agrees to lease to the Lessee the following described premises for use as a Pit Bull Rescue located at 368 Old New Hope Road, Columbus, Mississippi 39702, hereinafter referred to as the “Premises.”

**USE OF LEASED PREMISES.** The Lessor is leasing the Premises to the Lessee, and the Lessee agrees to lease the Premises for any legal use allowed in accordance with local, State, and Federal laws. Any change in use or purpose of the Premises other than as described above shall require the prior written consent of the Lessor; otherwise, the Lessee will be considered in default of this Lease Agreement.

**EXCLUSIVE USE.** The Lessee shall not hold exclusive rights on the Premises. The Lessor shall retain the rights to lease other areas of the Property to any same or similar use as the Lessee.

**TERM OF LEASE.** This Lease shall commence on January 1, 2017. The Initial Term shall expire at Midnight on January 1, 2022. Thereafter, the Lease shall automatically renew for successive five (5)-year periods (each a “Renewal Term”) on the same terms and conditions, perpetually, unless terminated in accordance with the provisions of this Lease.

**RENT AMOUNT.** Payment shall be made by the Lessee to the Lessor in the amount of \$500.00 for the Initial Term of this Lease Agreement, hereinafter referred to as the “Rent.” Rent for each Renewal Term shall be paid as per the initial terms unless otherwise agreed in writing.

**RENT PAYMENT.** The Rent shall be paid under the following instructions: Rent shall be paid by the Lessee to the Lessor on a per-month basis with payments due upon dissolution of the non-profit.

**LATE FEE.** The Lessor shall not charge a late payment fee if the rent is not paid on time by the Lessee.

**EXPENSES.** This is a Triple Net (NNN) Lease. In addition to the Rent, the Lessee shall be obligated to pay the following expenses to the Lessor on a per-month basis:

**OPERATING EXPENSES.** The Lessor shall have no obligation to provide any services, perform any acts or pay any expenses, charges, obligations or costs of any kind whatsoever with respect to the Premises, and Lessee hereby agrees to pay one-hundred percent (100%) of any and all Operating Expenses as hereafter defined for the entire term of the Lease and any renewals thereof in accordance with specific provisions hereinafter set forth. The term "Operating Expenses" shall include all costs to Lessor of operating and maintaining the Premises, and shall include, without limitation, real estate and personal property taxes and assessments, management fee(s), heating, air conditioning, HVAC, electricity, water, waste disposal, sewage, operating materials and supplies, service agreements and charges, lawn care, snow removal, restriping repairs, repaving, cleaning and custodial, security, insurance, the cost of contesting the validity or applicability of any governmental acts which may affect operating expenses, and all other direct operating costs of operating and maintaining the Premises and related parking areas, unless expressly excluded from operating expenses.

**TAXES.** Lessee shall pay, during the term of this Lease, the real estate taxes and special taxes and assessments (collectively, the "taxes") attributable to the Premises and accruing during such term. The Lessee shall pay to Lessor said taxes on a monthly basis, based on one-twelfth (1/12) of the estimated annual amount for taxes. Taxes for any fractional calendar year during the term hereof shall be prorated. In the event Lessee does not make any tax payment required hereunder, Lessee shall be in default of this Lease.

**INSURANCE.** The Lessee shall provide and maintain personal liability and property damage insurance. The Lessee will designate the Lessor as an "also named insured". The Lessee shall provide the Lessor with a copy of such insurance certification or policy prior to the effective date of this Lease Agreement. The insurance shall protect and indemnify the Lessor of any injury, death, or property damage to occur on the property to the limits of \$1,000,000.00.

**UTILITIES.** The Lessee shall be responsible for any and all utilities to the Premises in relation to the total property area.

**SECURITY DEPOSIT.** A security deposit shall not be required.

**FURNISHINGS.** The Lessor will provide the following furnishings to the Lessee upon the start of this Lease's Initial Term: miscellaneous office furniture, etc.

**PARKING.** Parking shall be provided to the Lessee in a dedicated manner provided on the Premises. There is no set number of parking spaces provided to the Lessee. There shall be no fee charged to the Lessee for the use of the Parking Space(s).

**RIGHT OF FIRST REFUSAL.** Lessor grants to Lessee throughout the Initial Term, along with any renewal periods, a right of first refusal to purchase the Premises pursuant to any offer received and accepted by the Lessor. Lessor must notify Lessee in writing and offer to purchase all or part of the Premises with Lessee having 7 calendar days after receipt of the notice to

exercise its right of first refusal and notify Lessor of its decision whether or not to purchase the Premises under the same or similar terms under the offer accepted by the Lessor. If financing is needed by the Lessee, the Lessee will be allowed the time-frame as stated in the offer accepted that was accepted by the Lessor. If the offer accepted by the Lessor is not contingent on financing then the Lessee shall be granted a maximum of 30 days to secure financing for the purchase of the Premises.

**LEASEHOLD IMPROVEMENTS.** The Lessee agrees that no leasehold improvements, alterations or changes of any nature, (except for those listed on any attached addenda) shall be made to the leasehold Premises or the exterior of the building without first obtaining the consent of the Lessor in writing, which consent shall not be unreasonably withheld, and thereafter, any and all leasehold improvements made to the Premises which become affixed or attached to the leasehold Premises shall remain the property of the Lessor at the expiration or termination of this Lease Agreement, **subject to the transfer provisions in the Additional Terms and Conditions below.**

Furthermore, any leasehold improvements shall be made only in accordance with applicable federal, state or local codes, ordinances or regulations, having due regard for the type of construction of the building housing the subject leasehold Premises. If the Lessee makes any improvements to the Premises the Lessee shall be responsible for payment. Nothing in the Lease shall be construed to authorize the Lessee or any other person acting for the Lessee to encumber the rents of the Premises or the interest of the Lessee in the Premises or any person under and through whom the Lessee has acquired its interest in the Premises with a mechanic's lien or any other type of encumbrance. Under no circumstance shall the Lessee be construed to be the agent, employee or representative of Lessor. In the event a lien is placed against the Premises, through actions of the Lessee, Lessee will promptly pay the same or bond against the same and take steps immediately to have such lien removed. If the Lessee fails to have the Lien removed, the Lessor shall take steps to remove the lien and the Lessee shall pay Lessor for all expenses related to the Lien and removal thereof and shall be in default of this Lease.

**LICENSES AND PERMITS.** A copy of any and all local, state or federal permits acquired by the Lessee which are required for the use of the Premises shall be kept on site at all times and shall be readily accessible and produced to the Lessor and/or their agents or any local, state, or federal officials upon demand.

**MAINTENANCE.** The Lessee shall be responsible for all repairs and maintenance on the Premises due to normal wear and tear on the Premises. Particularly items which need immediate attention including but not limited to, the replacement of light bulbs, normal repair and cleaning of windows, cleaning of bathrooms, clearing of toilets, etc. The Lessee shall properly maintain the premises in a good, safe and clean condition and shall properly and promptly remove all rubbish and hazardous wastes and see that the same are properly disposed of according to all local, state or federal laws, rules regulations or ordinances.

In the event the Premises is damaged as a result of any neglect or negligence of Lessee, his employees, agents, business invitees, or any independent contractors serving the Lessee or in

any way as a result of Lessee's use and occupancy of the premises, then the Lessee shall be primarily responsible for seeing that the proper claims are placed with the Lessee's insurance company, or the damaging party's insurance company, and shall furthermore be responsible for seeing that the building is safeguarded with respect to said damage and that all proper notices with respect to said damage, are made in a timely fashion, including notice to the Lessor, and the party or parties causing said damage.

**SALE OF PROPERTY.** In the event of a sale of the Premises the Lessor shall have the right to terminate this Lease Agreement by submitting written notice to the Lessee. Notice shall be submitted at least 180 days.

**SUBLET/ASSIGNMENT.** The Lessee may not transfer or assign this Lease, or any right or interest hereunder or sublet said leased premises or any part thereof, except as expressly permitted in the Additional Terms and Conditions below.

**DAMAGE TO LEASED PREMISES.** In the event the building housing the leased premises shall be destroyed or damaged as a result of any fire or other casualty which is not the result of the intentional acts or neglect of Lessee and which precludes or adversely affects the Lessee's occupancy of the leased premises, then in every such cause, the rent herein set forth shall be abated or adjusted according to the extent to which the Premises have been rendered unfit for use and occupation by the Lessee and until the demised premises have been put in a condition at the expense of the Lessor, at least to the extent of the value and as nearly as possible to the condition of the premises existing immediately prior to such damage. It is understood, however, in the event of total or substantial destruction to the Premises that in no event shall the Lessor's obligation to restore, replace or rebuild exceed an amount equal to the sum of the insurance proceeds available for reconstruction with respect to said damage. The Lessee shall, during the term of this Lease, and in the renewal thereof, at its sole expense, keep the interior of the leased premises in as good a condition and repair as it is at the date of this Lease, reasonable wear and use excepted. This obligation would include the obligation to replace any plate glass damaged as a result of the neglect or acts of Lessee or her guests or invitees. Furthermore, the Lessee shall not knowingly commit nor permit to be committed any act or thing contrary to the rules and regulations prescribed from time to time by any federal, state or local authorities and shall expressly not be allowed to keep or maintain any hazardous waste materials or contaminates on the premises. Lessee shall also be responsible for the cost, if any, which would be incurred to bring her contemplated operation and business activity into compliance with any law or regulation of a federal, state or local authority.

**HAZARDOUS MATERIALS LAWS.** Shall mean any and all federal, state, or local laws, ordinances, rules, decrees, orders, regulations, or court decisions relating to hazardous substances, hazardous materials, hazardous waste, toxic substances, environmental conditions on, under, or about the Premises, the Building, or the Property, or soil and ground water conditions, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), the Resource Conservation and Recovery Act (RCRA), the Hazardous Materials Transportation Act, any other law or legal requirement concerning hazardous or toxic substances, and any amendments to the foregoing.

**LESSEE'S DEFAULT AND POSSESSION.** In the event that the Lessee shall fail to pay said rent and expenses as set forth herein, or any part thereof, when the same are due and payable, or shall otherwise be in default of any other terms of said Lease for a period of more than 365 days, after receiving notice of said default, then the parties hereto expressly agree and covenant that the Lessor may declare the Lease terminated and may immediately re-enter said premises and take possession of the same together with any of Lessee's personal property, equipment or fixtures left on the premises which items may be held by the Lessor as security for the Lessee's eventual payment and/or satisfaction of rental defaults or other defaults of Lessee under the Lease. It is further agreed, that if the Lessee is in default, that the Lessor shall be entitled to take any and all action to protect its interest in the personal property and equipment, to prevent the unauthorized removal of said property or equipment which threatened action would be deemed to constitute irreparable harm and injury to the Lessor in violation of its security interest in said items of personal property. Furthermore, in the event of default, the Lessor may expressly undertake all reasonable preparations and efforts to release the Premises including, but not limited to, the removal of all inventory, equipment or leasehold improvements of the Lessee's, at the Lessee's expense, without the need to first procure an order of any court to do so, although obligated in the interim to undertake reasonable steps and procedures to safeguard the value of Lessee's property, including the storage of the same, under reasonable terms and conditions at Lessee's expense, and, in addition, it is understood that the Lessor may sue the Lessee for any damages or past rents due and owing and may undertake all and additional legal remedies then available.

**LESSOR'S DEFAULT.** The Lessee may send written notice to the Lessor stating duties or obligations that have not been fulfilled under the full performance of this Lease Agreement. If said duties or obligations have not been cured within 30 days from receiving such notice, unless the Lessor needs more time to cure or remedy such issue in accordance with standard industry protocol, then the Lessor shall be in default of this Lease Agreement. If the Lessor should be in default the Lessee shall have the option to terminate this Lease Agreement and be held harmless against any of its terms or obligations.

**DISPUTES.** If any dispute should arise in relation to this Lease Agreement the Lessor and Lessee shall first negotiate amongst themselves in "good faith". Afterwards, if the dispute is not resolved then the Lessor and Lessee shall seek mediation in accordance with the laws in the State of Mississippi. If the Lessor and Lessee fail to resolve the dispute through mediation then the American Arbitration Association shall be used in accordance with their rules. Lessor and Lessee agree to the binding effect of any ruling or judgment made by the American Arbitration Association.

**INDEMNIFICATION.** The Lessee hereby covenants and agrees to indemnify, defend and hold the Lessor harmless from any and all claims or liabilities which may arise from any cause whatsoever as a result of Lessee's use and occupancy of the premises, and further shall indemnify the Lessor for any losses which the Lessor may suffer in connection with the Lessee's use and occupancy or care, custody and control of the premises. The Lessee also hereby covenants and agrees to indemnify and hold harmless the Lessor from any and all claims or

liabilities which may arise from any latent defects in the subject premises that the Lessor is not aware of at the signing of the lease or at any time during the lease term.

**BANKRUPTCY - INSOLVENCY.** The Lessee agrees that in the event all or a substantial portion of the Lessee's assets are placed in the hands of a receiver or a Trustee, and such status continues for a period of 30 days, or should the Lessee make an assignment for the benefit of creditors or be adjudicated bankrupt, or should the Lessee institute any proceedings under the bankruptcy act or any amendment thereto, then such Lease or interest in and to the leased premises shall not become an asset in any such proceedings and, in such event, and in addition to any and all other remedies of the Lessor hereunder or by law provided, it shall be lawful for the Lessor to declare the term hereof ended and to re-enter the leased land and take possession thereof and all improvements thereon and to remove all persons therefrom and the Lessee shall have no further claim thereon.

**SUBORDINATION AND ATTORNMENT.** Upon request of the Lessor, Lessee will subordinate its rights hereunder to the lien of any mortgage now or hereafter in force against the property or any portion thereof, and to all advances made or hereafter to be made upon the security thereof, and to any ground or underlying lease of the property provided, however, that in such case the holder of such mortgage, or the Lessor under such Lease shall agree that this Lease shall not be divested or in any way affected by foreclosure, or other default proceedings under said mortgage, obligation secured thereby, or Lease, so long as the Lessee shall not be in default under the terms of this Lease. Lessee agrees that this Lease shall remain in full force and effect notwithstanding any such default proceedings under said mortgage or obligation secured thereby. Lessee shall, in the event of the sale or assignment of Lessor's interest in the building of which the Premises form a part, or in the event of any proceedings brought for the foreclosure of, or in the event of exercise of the power of sale under any mortgage made by Lessor covering the Premises, attorn to the purchaser and recognize such purchaser as Lessor under this Lease.

**USAGE BY LESSEE.** Lessee shall comply with all rules, regulations and laws of any governmental authority with respect to use and occupancy. Lessee shall not conduct or permit to be conducted upon the premises any business or permit any act which is contrary to or in violation of any law, rules or regulations and requirements that may be imposed by any authority or any insurance company with which the premises is insured, nor will the Lessee allow the premises to be used in any way which will invalidate or be in conflict with any insurance policies applicable to the building. In no event shall explosives or extra hazardous materials be taken onto or retained on the premises. Furthermore, Lessee shall not install or use any equipment that will cause undue interference with the peaceable and quiet enjoyment of the premises by other Lessees of the building.

**SIGNAGE.** Lessee shall not place on any exterior door, wall or window of the premises any sign or advertising matter without Lessor's prior written consent and the approval of the local municipality. Thereafter, Lessee agrees to maintain such sign or advertising matter as first approved by Lessor in good condition and repair. Furthermore, Lessee shall conform to any uniform reasonable sign plan or policy that the Lessor may introduce with respect to the

building. Upon vacating the premises, Lessee agrees to remove all signs and to repair all damages caused or resulting from such removal.

**PETS.** Pets shall be allowed on the Premises without any restriction or conflict by the Lessor with the Lessee being fully responsible for damage caused by any such Pet on the Premises.

**CONDITION OF PREMISES/INSPECTION BY LESSEE.** The Lessee acknowledges they have had the opportunity to inspect the Premises and acknowledges with its signature on this Lease that the Premises are in good condition and comply in all respects with the requirements of this Lease. The Lessor makes no representation or warranty with respect to the condition of the premises or its fitness or availability for any particular use, and the Lessor shall not be liable for any latent or patent defect therein. The Lessee represents that Lessee has inspected the premises and is leasing and will take possession of the premises with all current fixtures present in their "as is" condition as of the date hereof.

**AMERICANS WITH DISABILITY ACT.** Per 42 U.S. Code § 12183 if the Lessee is using the Premises as a public accommodation (e.g. restaurants, shopping centers, office buildings) or there are more than 15 employees the Premises must provide accommodations and access to persons with disabilities that is equal or similar to that available to the general public. Owners, operators, lessors, and lessees of commercial properties are all responsible for ADA compliance. If the Premises is not in compliance with the Americans with Disability Act any modifications or construction will be the responsibility of the Lessee.

**RIGHT OF ENTRY.** It is agreed and understood that the Lessor and its agents shall have the complete and unencumbered right of entry to the Premises at any time or times for purposes of inspecting or showing the Premises and for the purpose of making any necessary repairs to the building or equipment as may be required of the Lessor under the terms of this Lease or as may be deemed necessary with respect to the inspection, maintenance or repair of the building. In accordance with State and local laws, the Lessor shall have the right to enter the Premises without the consent of the Lessee in the event of an emergency.

**ESTOPPEL CERTIFICATE.** Lessee at any time and from time to time, upon at least ten (10) days prior notice by Lessor, shall execute, acknowledge and deliver to Lessor, and/or to any other person, firm or corporation specified by Lessor, a statement certifying that the Lease is unmodified and in full force and effect, or if the Lease has been modified, then that the same is in full force and effect except as modified and stating the modifications, stating the dates to which the fixed rent and additional rent have been paid, and stating whether or not there exists any default by Lessor under this Lease and, if so, specifying each such default.

**HOLDOVER PERIOD.** Should the Lessee remain in possession of the Premises after the cancellation, expiration or sooner termination of the Lease, or any renewal thereof, without the execution of a new Lease or addendum, such holding over in the absence of a written agreement to the contrary shall be deemed to have created and be construed to be a tenancy from month to month with the Rent to be due and payable in the same amount as the previous month, terminable upon 30 days' notice by either party.

**WAIVER.** Waiver by Lessor of a default under this Lease shall not constitute a waiver of a subsequent default of any nature.

**GOVERNING LAW.** This Lease shall be governed by the laws of the State of Mississippi.

**NOTICES.** Notices shall be addressed to the following:

Lessor – Kenneth Shaw, 368 Old New Hope Road, Columbus, Mississippi 39702

Lessee – Shaw Pit Bull Rescue, Inc., 368 Old New Hope Road, Columbus, Mississippi 39702

**ADDITIONAL TERMS AND CONDITIONS** (Clarified & Restated)

**A. Transfer Upon Dissolution of Shaw Pit Bull Rescue, Inc.**

In lieu of payment of monthly rent, Landlord agrees to keep a record of rent monies due.

Upon dissolution of Shaw Pit Bull Rescue, Inc., a 501(c)(3) Mississippi non-profit organization, the Lease, along with any buildings, improvements, furnishings, fencing, fixtures, and related property on the Premises (which were funded and placed on the property by Shaw Pit Bull Rescue using sanctuary funds and donations), **shall immediately and automatically transfer** to Porkchop's Phat Farm (or its successor 501(c)(3) entity operating the associated animal sanctuaries).

Porkchop's Phat Farm shall assume **all rights and obligations** under this Lease on the **exact same terms and conditions** as previously held by Shaw Pit Bull Rescue, Inc., with no interruption in the leasehold rights or use of the Premises. From the moment of transfer, Porkchop's Phat Farm shall be treated as the original Lessee for all purposes under this Lease, including the automatic renewal terms, rent accrual, right of first refusal, and all other provisions. The transfer shall be seamless and shall not constitute a default or termination of the Lease.

**B. What Happens if Porkchop's Phat Farm Later Dissolves**

Should Porkchop's Phat Farm (or its successor) also dissolve, Landlord (KS) shall have the option to purchase any remaining buildings, leasehold improvements, fixtures, furnishings, fencing, and other property on the Premises that are not otherwise applied toward satisfaction of accrued rent. The purchase price shall be the fair market value (FMV) of such items as determined by a mutually agreed-upon independent appraiser qualified in commercial real estate and improvements, at the time of dissolution. The cost of the appraisal shall be shared equally by the parties. In no event shall the purchase price exceed the amount of any outstanding rent monies due to Landlord after application of any prior credits or transfers. Any such purchase shall be completed within a reasonable time (not to exceed 90 days after appraisal) upon mutually agreeable terms.

**AMENDMENT(S).** No amendment of this Lease shall be effective unless reduced to writing and subscribed by the parties with all the formality of the original.

