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7 Attorney for Defendant: Pnplxpress, Inc.,  
8 A California Corporation  
9 (Appearing Specially)

10 **SUPERIOR COURT OF CALIFORNIA**  
11 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**  
12 **STANLEY MOSK COURTHOUSE**

13 **(Limited Civil Case)**

14 PINEAPPLE VENTURES, INC. ) Case No. 23STUD13724  
15 a California Corporation, )  
16 )  
17 Plaintiffs, ) DEFENDANT, PNPLXPRESS, INC.'S NOTICE  
18 ) OF MOTION AND MOTION TO QUASH  
19 vs. ) SERVICE OF SUMMONS; POINTS AND  
20 ) AUTHORITIES IN SUPPORT THEREOF; (BY  
21 ) SPECIAL APPEARANCE).  
22 PNPLXPRESS, INC. )  
23 a California Corporation , )  
24 )  
25 Defendants. )  
26 ) Date: December 14, 2023  
27 ) Time: 8:30 a.m.  
28 ) Dept.: 97  
29 ) Judge: Hon. Doreen B. Boxer, Commissioner  
30 ) Action Filed: October 20, 2023

31 TO ALL PARTIES, AND TO THEIR ATTORNEYS OF RECORD:

32 PLEASE TAKE NOTICE that on December 14, 2023, at 8:30 a.m., or as soon thereafter as the matter may  
33 be heard in the Department 97 of the above-titled court, defendant, PNPLXPRESS, INC. will make a special  
34 appearance by, and through counsel and move this honorable court for an order quashing service of the summons in  
35 this action and for attorney's fees and costs.

36 Defendant's motion is based on California Code of Civil Procedure, §418.10 and the California Supreme  
37 Court's recent holding in *Stancil v. Superior Court* that the five day summons particular to unlawful detainer  
38 proceedings does not confer personal jurisdiction "...when served alongside a complaint for a completely different

1 cause of action (e.g. breach of contract), or a complaint that fails to allege the allegations necessary to assert the  
2 defendant is guilty of unlawful detainer as specified in the relevant subdivision of [CCP §]1161.” *Stancil v. Superior*  
3 *Court* (2021) 11 Cal.5th 381.

4 Defendant’s motion is made on the grounds that the five day summons in this case fails to confer personal  
5 jurisdiction over defendant because the plaintiff prematurely filed a complaint in this case on October 20, 2023,  
6 before October 23, 2023, being the expiration of the three day notice, as that time is calculated when served, as  
7 stated in Paragraph 10 a.(5) of the complaint, “in a manner specified in a written commercial lease agreement  
8 between the parties. Service of the summons alongside a prematurely filed complaint fails to confer personal  
9 jurisdiction. This honorable court may properly make an order quashing the summons and dismissing the  
10 complaint, with prejudice.

11 This motion is based upon this Notice, the Memorandum of Points and Authorities with exhibits attached in  
12 support thereof, all of the the documents, papers and records on file in this action and upon any oral and  
13 documentary evidence and argument which may presented at the hearing of this motion.

14 Respectfully submitted,

15 Dated: October 27, 2023

By: /S/ James M. Silva

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17 James M. Silva, Attorney for Defendant:  
18 PNPLXPRESS, Inc.,  
19 Appearing Specially

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MEMORANDUM OF POINTS AND AUTHORITIES

I. **A MOTION TO QUASH SERVICE OF SUMMONS IN THE UNLAWFUL DETAINER CONTEXT IS PROPER TO CONTEST PERSONAL JURISDICTION WHERE THE FIVE-DAY SUMMONS SPECIFIC TO UNLAWFUL DETAINER ACTIONS IS NOT SUPPORTED BY A COMPLAINT FOR UNLAWFUL DETAINER. (CCP §418.10).**

California Code of Civil Procedure, §418.10 provides, in pertinent part:

“(a) A defendant, on or before the last day of his or her time to plead or within any further time that the court may for good cause allow, may serve and file a notice of motion for one or more of the following purposes:

(1) To quash service of summons on the ground of lack of jurisdiction of the court over him or her.”

A motion to quash service of summons is proper to contest personal jurisdiction where the five-day summons specific to unlawful detainer actions is not supported by a complaint for unlawful detainer. *Stancil v. Superior Court* (2021) 11 C5th 381, 390. “Where a complaint lacks even the allegations minimally necessary to meet the requirements for unlawful detainer claims under section 1161, the complaint cannot support the five-day summons unique to unlawful detainer actions. Because the use of the unlawful detainer five-day summons would then be unauthorized, such summons, even if properly served, would not confer personal jurisdiction. In these circumstances, the defendant may decide to use a motion to quash for lack of personal jurisdiction to challenge the unlawful detainer five-day summons as improper because it was served alongside a complaint that does not allege an unlawful detainer claim as defined in section 1161.” *Id.* at 397-398.

California Code of Civil Procedure, §1161 states in pertinent part:

**A tenant of real property, for a term less than life, or the executor or administrator of the tenant’s estate heretofore qualified and now acting or hereafter to be qualified and act, is guilty of unlawful detainer:**

**2. When the tenant continues in possession, in person or by subtenant, without the permission of the landlord, or the successor in estate of the landlord, if applicable, after default in the payment of rent, pursuant to the lease or agreement under which the property is held, and three days’ notice, excluding Saturdays and Sundays and other judicial holidays, in writing, requiring its payment, stating the amount that is due, the name, telephone number, and address of the person to whom the rent payment shall be made, and, if payment may be made personally, the usual days and hours that person will be available to receive the payment (provided that, if the address does not allow for personal delivery, then it shall be conclusively presumed that upon the mailing of any rent or notice to the owner by the tenant to the name and address provided, the notice or rent is deemed received by the owner on the date posted, if the tenant can show proof of**

1                    **mailing to the name and address provided by the owner), or the number of**  
2                    **an account in a financial institution into which the rental payment may be**  
3                    **made, and the name and street address of the institution (provided that the**  
4                    **institution is located within five miles of the rental property), or if an**  
5                    **electronic funds transfer procedure has been previously established, that**  
6                    **payment may be made pursuant to that procedure, or possession of the**  
7                    **property, shall have been served upon the tenant and if there is a subtenant**  
8                    **in actual occupation of the premises, also upon the subtenant.**

9                    The summons in this case fails to confer personal jurisdiction over defendant because is was served  
10                  alongside a complaint which was prematurely filed before the expiration of the three day period stated in “Exhibit 2”  
11                  attached and incorporated by reference into the complaint, where the complaint alleges in Paragraph 10 a.(5) that  
12                  “Exhibit 2” was served upon defendant, “in a manner specified in a written lease between the parties.”

13                  This court may properly take judicial notice of the complaint filed on October 20, 2023, in the court’s file  
14                  in this case. Paragraph 9a. of the complaint states, “ defendant, PNPLXPRESS, Inc. was served the following notice  
15                  on the same date and in the same manner: (1) 3-day notice to pay rent or quit.”

16                  Paragraph 9b. of the complaint states, “(1) On 10/18/2023, the period stated in the notice checked in 9a  
17                  expired. (2) Defendants failed to comply with the requirements of the notice by that date.”

18                  However, in Paragraph 10a of the complaint, plaintiff alleges, “The notice in item 9a was served upon the  
19                  defendant named in item 9a as follows: (5) in a manner specified in a written commercial lease between the parties.”

20                  Section 17 of the written commercial lease between the parties is entitled “NOTICE” and states, in  
21                  pertinent part:

22                            **All Notices and other communications authorized or required hereunder**  
23                            **shall be in writing and shall be given by mailing the same by certified or**  
24                            **registered mail, return receipt requested, postage prepaid, to the parties at**  
25                            **their addresses set forth above, or in the case of the Tenant, to the Premises,**  
26                            **or in either case, to such other person or at such other address as either**  
27                            **party may hereafter designate by Notice to the other party. Notices shall be**  
28                            **deemed given upon receipt of such by the addressee three (3) business days**  
                              **after depositing into certified or registered mail.**

                          A true and correct copy the the written commercial lease agreement is attached hereto for reference as  
Exhibit “A”.

                          The face of the complaint includes the document attached as “Exhibit 2” and incorporated by reference  
thereto. Complaint “Exhibit 2” is a document which purports to be the “Three Day Notice to Pay to Quit”  
referenced in paragraph 9 of the complaint, is dated, October 13, 2023. Although plaintiff does not attach to the face  
of the complaint any evidence of certified or registered mail to support the allegation in paragraph 9b of the  
complaint that three days expired on October 18, 2023, the court may take judicial notice of a generally available  
calendar of October, 2023 to see that, when served in a manner specified in Section 17 of the written commercial

1 lease agreement between the parties, notice is did not expire, but is “deemed given” and begins on October 18, 2023.  
2 When given in in the manner specified in Paragraph 17 of the written commercial lease the three day notice period  
3 would expire on October 23, 2023. As such, the complaint is premature when filed on October 20, 2023, because  
4 the three days stated in “Exhibit 2” of the complaint begins on October 18, 2023, and expires on October 23, 2023,  
when excluding weekend as, stated therein.

5 Accordingly, this court should make an order quashing the summons because it fails to confer personal  
6 jurisdiction having been served alongside of a complaint which was filed before the end of the three day notice  
7 attached to the complaint as “Exhibit 2” and dismissing the complaint with prejudice.

8 **II. PLAINTIFF BEARS THE BURDEN OF PROOF AT THE HEARING ON THE MOTION TO**  
9 **QUASH BY A PREPONDERANCE OF THE EVIDENCE.**

10 When the defendant challenges jurisdiction, the plaintiff always bears the burden of proving that the court  
11 has jurisdiction over the defendant. *Kroopf v Guffey* (1986) 183 CA3d 1351; *Mihlon v Superior Court* (1985) 169  
12 CA3d 703; *Thomas J. Palmer, Inc. v Turkiye Is Bankasi, A.S.* (1980) 105 CA3d 135, 146. The burden of proof is  
13 upon the plaintiff to establish the facts of jurisdiction by a preponderance of the evidence *Wilson v. Eddy* (1969) 2  
Cal.App.3d 613, 617.

14 **III. CONCLUSION.**

15 The five day summons in particular to unlawful detainer actions fails to confer personal jurisdiction when  
16 served along side a complaint which fails to allege the elements of unlawful detainer. A defendant is not guilty of  
17 unlawful detainer where the complaint is filed before the expiration of the three day notice period within which the  
18 tenant may make a payment and thereby avoid forfeiture.

19 In this case, the face of the complaint alleges that the document purporting to be a “Three Day Notice to  
20 Pay of Quit”, and attached thereto as “Exhibit 2”, was served in a manner specified in the written commercial lease  
21 between the parties. The document attached to the complaint as “Exhibit 2” which is dated October 13, 2023 and  
22 specifically excludes “Saturdays, Sundays and other judicial holidays” would be deemed served on October 18,  
23 2023, if deposited in certified or registered mail on October 13, 2023, and when served in a manner specified in  
24 Paragraph 17 of the written commercial lease between the parties. Pursuant to Paragraph 17 of the written  
25 commercial lease between the parties, “Notice is deemed given...(3) three business days after depositing into  
certified or registered mail”. October 18, 2023 is the third business day after October 13, 2023.

26 As such, notice is “deemed given” on October 18, 2023, being the third “business day” after October 13,  
27 2023. Accordingly, the notice period stated in “Exhibit 2” attached to the complaint begins on October 18, 2023, not  
28 “expires” as plaintiff misstates in Paragraph 10 of the complaint. Therefore, the three day period within which the

1 defendant may pay and avoid forfeiture expires on October 23, 2023. Plaintiff's filing of the complaint on October  
2 20, 2023 is premature and contrary to the statutory requirement of CCP §1161(2). The complaint fails to set forth  
3 the elements of unlawful detainer, because the expiration of the three day notice period on October 23, 2023 is  
4 prerequisite to filing a complaint in unlawful detainer.

5 The service of a five day summons particular to unlawful detainer actions along side of a complaint which  
6 is filed prior to the expiration of the statutorily required notice period precludes the summons from conferring  
7 jurisdiction over the defendant. Accordingly, it is proper for this court to make an order quashing service of the  
8 summons and dismissing the complaint with prejudice.

9 **IV. PRAYER**

10 WHEREFORE, defendant prays that this court make an order quashing the summons and dismissing the  
11 complaint in this case with prejudice and for an award of attorney's fees and recovery of costs and filing fees  
12 incurred.

13 Respectfully submitted,

14  
15 Dated: October 27, 2023

By: /S/ James M. Silva

16 \_\_\_\_\_  
17 James M. Silva, Attorney for Defendant:  
18 PNPLXPRESS, Inc.,  
19 Appearing Specially  
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Exhibit A

## LEASE

This Lease (the "Lease") is made and entered into on this 15<sup>th</sup> day of October, 2020, between the parties and upon the terms and conditions hereinafter set forth.

### SECTION 1. INFORMATION

- |      |                                 |   |
|------|---------------------------------|---|
| 1.1  | Date of Execution of the Lease: | October 15 <sup>th</sup> , 2020   |
| 1.2  | Identity of "Master Lessee":    | Pineapple Ventures, Inc.<br>aka "Master Lessee"<br>Address: 10351 Santa Monica Blvd<br>Suite 420, Los Angeles, CA 90025                                     |
| 1.3  | Identity of "Tenant":           | PNPLXPRESS, INC.  |
| 1.4  | Description of "Premises":      | 1704 N. Vine St. Unit 102<br>Hollywood, CA 90028  |
| 1.5  | Leased Area:                    | 3460 SF   |
| 1.6  | Terms of the Lease:             | Five Years  |
| 1.7  | "Rent Commencement Date":       | January 1, 2021   |
| 1.8  | "Purpose" or "Use":             | Retail Cannabis Storefront  |
| 1.9  | "Security ":                    | \$50,000  |
|      | "Fixed Minimum Rent"            | \$35,000 per month plus any additional rent as called for in the Master Lease on the property held by Master Lessee. (Master Lease Attached as "Exhibit A") |
| 1.10 | "Rent Abatement"                | Rent Abatement period from lease execution date through December 31, 2020   |



1.11 Payment of Lease:

Payments under this Lease as above-described in sections 1.09 and 1.10 including all subparts shall be made by check, ACH, or wire payment by the fifth (5<sup>th</sup>) day of each month.

1.12 Options to Renew:

The Lease shall have a term of five years. Additional option periods shall be negotiated at the discretion of Master Lessee.

**SECTION 2. IMPROVEMENTS**

2.1 Tenant shall be responsible for any tenant improvements to accommodate the compliant and efficient operations of the Tenant’s facility.

2.2 "Tenant's Improvements" shall mean that work which is to be performed by Tenant and paid for by the Tenant as herein provided with the Master Lessee's prior approval, such approval not to be unreasonably withheld, conditioned or delayed, except as otherwise discussed in Section 2.1 above.

2.3 Except as provided in Section 2.1 above, any Tenant's Improvements shall be completed by Tenant at the Tenant's sole expense and by a contractor approved by the Master Lessee,

such approval not to be unreasonably withheld, conditioned or delayed. Tenant's Improvements shall be completed in a good and workmanlike manner, in compliance with all building, fire, and other laws and ordinances. Tenant's Improvements shall be promptly commenced at the earliest practicable date and shall be diligently prosecuted to completion. Any Tenant's Improvements, which do not conform to the requirements of this Lease or Master Lessee’s prior approval, may be removed and replaced by the Master Lessee at the Tenant's reasonable expense. The Master Lessee shall have the right to complete, at the Tenant's reasonable expense, any Tenant's Improvements commenced but uncompleted. Any materials, finishes, or other Tenant's Improvements not approved by the Master Lessee prior to its use or installation shall be deemed to be prohibited hereby. The Master Lessee's approval shall be rendered expeditiously and shall not be unreasonably withheld, conditioned or delayed.

2.4 Except as provided for in Section 2.1, Master Lessee to provide premises in “vanilla shell” condition.

**SECTION 3. PREMISES**

The Master Lessee, in consideration of the rentals, covenants, and agreements to be paid, kept,

and performed by the Tenant as herein provided, hereby demises and leases unto the Tenant the Premises described above.

**SECTION 4. PURPOSE**

The Premises shall be used solely for the purpose set forth above and not for any unlawful purpose. Any use of the Premises in violation of this provision may be enjoined by the Master Lessee without prejudice to any other remedy therefore.

**SECTION 5. RENTAL**

The Tenant shall pay the rentals set forth herein in consecutive, monthly installments, in advance, at the office of the Master Lessee or via direct debit, on the fifth day of each month during each Term. Rent for the calendar month during which Rent shall begin to accrue and for the last calendar month of a Term, if either is not a full month shall be apportioned.

**SECTION 6. RIGHTS AND OBLIGATIONS OF THE MASTER LESSEE**

6.1 The Master Lessee shall have the following rights, exercisable with appropriate notice which shall not be withheld and in compliance with applicable regulations and laws; without liability to the Tenant for damage or injury to property, persons, or business and without effecting an eviction (constructive or actual) or disturbance of the Tenant's use or possession or giving rise to a claim for set off or abatement of rentals:

6.1.1 To inspect the Premises at reasonable times, including before and after business hours and during the last six months of a Term, to show them to prospective tenants, or at any reasonable time to prospective purchasers of the Building upon not less than three (3) business days prior written notice and;

6.3.2 To change the name or street address of the Building and;

6.3.3 To take any and all measures, including inspection, making repairs, alterations, additions, and improvements to the Premises or to the Building as may be in the opinion and at the reasonable discretion of the Master Lessee necessary or desirable for the safety, protection, improvement, enlargement, or preservation of the Premises or the Building, or as may be necessary or desirable in the operation of the Building and;

6.3.4 To close the Building after regular business hours and on Sundays and legal holidays, subject however, to the Tenant's right to admittance, under such regulations as the Master Lessee may reasonably prescribe from time to time.

**SECTION 7. TENANT'S UNDERTAKINGS**

The Tenant further agrees that the Tenant shall:

- 7.1 At the Tenant's own expense, promptly observe and comply with all ordinances, requirements, orders, directives, rules, and regulations of State, and Local governments and all governmental authorities affecting the Premises or appurtenances thereto or any part thereof, or the use or occupancy thereof whether the same are now in force or may in the future be passed, enacted, or directed and;
- 7.2 Maintain, at its expense, public liability insurance for injury to persons and property in a sum not less than \$2,000,000 per each occurrence, or such higher sum as the Master Lessee may require in the future, naming the Master Lessee as an additional insured; and maintain, at its expense, "all risk" property insurance, insuring against loss of any property of the Tenant, all such insurance relating to the Premises; and all such insurance containing a waiver of any right of subrogation which such insurance carrier might have against the Master Lessee, its servants, or invitees; and the Tenant agrees that it shall indemnify, defend, and hold harmless the Master Lessee from all liability, loss, cost, expense, and damage from and against any and all suits, claims, and demands of every nature, including counsel fees, by reason of any damage or injury to any person, property, or thing which may arise from or be due to the use of the Premises by the Tenant or the conduct of the Tenant's business or profession or from any activity, work, or thing done, permitted, or suffered by the Tenant in or about work or thing done, permitted, or suffered by the Tenant in or about the same; and will further indemnify, defend, and hold harmless the Master Lessee from any and all claims arising from any breach or default on the Tenant's part pursuant to the Terms of this Lease, or arising from any act or neglect of the Tenant or any of the Tenant's agents, contractors, servants, employees, or invitees and from and against all costs, counsel fees, expenses, and liabilities incurred in connection with any such claim or action or proceeding brought thereon, and if any action or proceeding be brought against the Master Lessee by reason of any such claim, the Tenant, or its insurer, upon Notice from the Master Lessee, agrees to resist and defend at the Tenant's or insurer's expense, such action or proceeding by counsel reasonably satisfactory to the Master Lessee; further, the Tenant assumes all risk of damage, and waives any claim against the Master Lessee, excluding, however, those resulting from the negligence of the Master Lessee or its agents and servants, in respect to property in, upon, or about the Premises, to whomsoever belonging, waiving all claims with respect to such damage thereof against the Master Lessee and agreeing to indemnify, defend, and save the Master Lessee harmless from and against all loss, cost, damage, expense, or claims by others due to the neglect by Tenant in maintaining the Premises or any part thereof becoming out of repair or due to the happening of any accident in or about or Premises or due to any act or neglect of the Tenant or any employee or invitee of the Tenant, including damage to fixtures, furniture, furnishings, books, records, papers, films, and all types of equipment and all other tangible personal property situated on the Premises and;
- 7.3 Refrain from placing in the sewerage system any chemical, waste, or substance which may require special treatment or may cause damage or injury to the sewerage system and to pay the cost of any repair or damages in the sewerage system necessitated by any violation of this undertaking and;

- 7.4 Tenant shall keep the interior of the Premises neat and clean and will maintain the Premises in good order, condition, and repair as the same are in at the Commencement of the Term, or may be put in during the continuance thereof, including, without limitation, replacement of all glass in doors and windows, replacement of light bulbs, keeping in good order and proper repair lighting fixtures, interior walls, floors, ceilings, equipment, and apparatus of every kind, nature, and description, reasonable use and wear and tear thereof, and damage by fire and other casualty only accepted. The Tenant shall not permit or commit any waste in these Premises.
- 7.5 Tenant agrees that it will not apply for or move any license for its business from the premises without the prior written consent of the Master Lessee during the term of this Lease or any extension or renewal of this Lease without the written consent of the Master Lessee, which consent shall not be unreasonably withheld.

#### **SECTION 8. TENANT'S REPAIRS, ALTERATIONS, AND SURRENDER**

- 8.1 The Tenant, at its own expense, shall keep the Premises in good repair and tenable condition during each Term of this Lease, except as otherwise specifically undertaken by the Master Lessee, and shall promptly and adequately repair all interior damage to the Premises and all interior apparatus fixtures or equipment used in connection therewith, and shall replace the same or integral parts thereof, as necessary, and shall replace portions of carpets damaged, under the supervision of and at the direction of the Master Lessee, and due to any cause whatsoever. Such repairs and replacements shall be effected with all due dispatch and shall be of good and workmanlike quality and class equal to the original work or installation. If the Tenant shall become aware of any needed repairs, replacements, or restorations to the Premises or Building, which it is the Master Lessee's obligation to make under this Lease, a Notice shall be promptly given to the Master Lessee.
- 8.2 The Tenant shall make no alterations, installations, additions, or improvements, including the installation of window furnishings in or to the Premises, without the prior written consent of the Master Lessee, which consent shall not be unreasonably withheld, conditioned or delayed and, if such consent is given, only by contractors or mechanics approved by the Master Lessee, and at the Tenant's expense. All Tenant's Improvements and all such alterations, installations, improvements, and additions shall be deemed to be part of the Building and to belong to the Master Lessee, including any property which has in any way been affixed to the floors, walls, and/or ceiling of the Premises, subject, however, to the provisions of Paragraph 8.3.
- 8.3 All business and office machines, furniture, and other items of personal property owned or installed by the Tenant in the Premises, at its expense, shall remain the property of the Tenant may be removed by the Tenant at anytime provided that the Tenant shall, at its expense, repair any damages, holes, or openings caused or occasioned by such removal. Any such personal property of the Tenant left upon the Premises after the termination of the Lease may, at the election of the Master Lessee, be removed at Tenant's expense and sold, stored, or discarded, or be deemed to have been abandoned and to belong to the Master Lessee.

- 8.4 At the termination of the Lease, the Tenant shall promptly yield up and surrender the Premises, clean and in as good condition and repair as at the Commencement of Tenant's occupancy of the Premises or in which it may be later put, ordinary wear and tear and damage by fire or other insured casualty only excepted. Further, the Tenant shall remove from the Premises all goods and effects.

#### **SECTION 9. FIRE, CASUALTY, AND EMINENT DOMAIN**

- 9.1 In the event of damage or destruction to the Building or Premises during a Term by fire or other casualty, the Master Lessee shall, as soon as practicable, commence and continue with all reasonable diligence to repair the same; provided, however, in the event that the cost of such repairs would exceed either the sum of \$1,000,000 or the amount recoverable from the Master Lessee's fire and casualty policies (which the Master Lessee shall maintain at the Master Lessee's expense) by a sum in excess of \$250,000 then upon Notice by either one to the other given not later than ninety (90) days after the occurrence of such casualty, the Master Lessee or the Tenant shall have the right to terminate this Lease as of the time of such casualty. In the event that such damage or destruction may be reasonably expected to take in excess of six months from the date of such casualty to repair and during such six- month period, the Tenant would be substantially deprived of all beneficial use of the Premises, the Tenant shall have the right to terminate this Lease by Notice given not later than thirty (30) days following the time of such casualty. Until the Premises are restored by the Master Lessee, there shall be an equitable abatement of Rent.
- 9.2 In the event that the entire Building or such portion thereof, as would deprive the Tenant of all beneficial use of the Premises, is taken or condemned by any competent authority for any public or quasi-public use or purpose, or is sold as a result of an impending taking or condemnation (a "taking"), this Lease shall terminate as of the date of the taking. If a taking relates only to a portion of the Building and the Tenant is not deprived of all beneficial use of the Premises, Master Lessee shall make any restoration necessary to make the Premises entirely tenantable and the Lease shall continue with such equitable reduction of the Rent as necessary to compensate for the loss of use of such portion of the Premises. In any event of a taking, the entire award (other than any moving expenses available to the Tenant) shall belong to the Master Lessee.
- 9.3 The Tenant specifically waives all claims for any value of its Leasehold Interest or Lease, and it agrees to be entitled to no apportionment of the Condemnation Award, and that the Master Lessee shall be entitled to the entire amount of the Award. Nothing herein shall prohibit the Tenant from receiving any separate award for its trade fixtures and equipment, business interruption, and relocation expenses.

#### **SECTION 10. ASSIGNMENT**

The Tenant shall not assign, mortgage, pledge, or otherwise encumber this Lease or its interest herein, or sublet the whole or any part of the Premises without obtaining, on each occasion, the consent in writing of the Master Lessee that can be withheld in the sole discretion of Master Lessee. In case of any such assignment, the Assignee shall assume in writing to the Master Lessee the performance and observance of all the covenants, terms, and conditions in this Lease

contained, to be kept and performed on the part of the Tenant, and such writing of assumption shall be delivered to the Master Lessee simultaneously with said assignment. In the event of any such assignment or subletting, notwithstanding any assumption hereof by the Assignee or Subtenant, the Tenant shall remain primarily liable for the performance of all said covenants, terms, and conditions.

## **SECTION 11. MASTER LESSEE'S REMEDIES**

- 11.1 If, at anytime subsequent to the date of this Lease, any one or more of the following events (an "Event of Default") shall happen, time being of the essence:
- 11.1.1 The Tenant shall Default in the due and punctual payment of the Rent within five (5) days of the due date thereof; or
  - 11.1.2 The Tenant shall Default in the due and punctual payment of any other rent or debts due to Master Lessee by Tenant,
  - 11.1.3 The Tenant shall neglect or fail to perform or observe any of the other covenants or agreements herein contained on the part of the Tenant to be performed or observed and the Tenant shall fail to remedy the same within thirty (30) days after Notice to the Tenant specifying such neglect or failure, or if such Event of Default is of such a nature that the Tenant cannot reasonably remedy the same within such thirty (30) day period, the Tenant shall fail to commence promptly to remedy the same and to prosecute such remedy to completion with all due diligence and continuity; or
  - 11.1.4 The Tenant's Leasehold Interest in the Premises shall be taken on execution or by other process of law; or
  - 11.1.5 The Tenant shall seek or consent to or acquiesce in the appointment of any receiver or liquidator of the Tenant or of all or any substantial part of its property; or
  - 11.1.6 A petition shall be filed against the Tenant under any law seeking any reorganization, arrangement, readjustment, composition, liquidation, dissolution, stay, injunction, or other similar relief under any present or future State statute, law, or regulation and shall remain undismissed or unstayed for an aggregate of sixty (60) days, or if any debtor in possession (whether or not the Tenant), receiver, or liquidator of the Tenant or of all or any substantial part of the Tenant's properties or of the Premises shall be appointed without the consent or acquiescence of the Tenant and such appointment shall remain undismissed or unstayed for an aggregate of sixty (60) days; then, in any such case, absent written agreement of Master Lessee to the contrary (1) if such Event of Default shall occur prior to the Commencement Date, this Lease shall terminate without further Notice or act on the part of the Master Lessee; and (2) if such Event of

Default shall occur after the Commencement Date, the Master Lessee may terminate this Lease by Notice to the Tenant, specifying a date not less than thirty (30) days after the giving of such Notice on which this Lease shall terminate and this Lease shall come to an end on the date specified therein as fully and completely as if such date was the date herein originally fixed for the termination hereof, and the Tenant shall then quiet and peacefully surrender the Premises to the Master Lessee but the Tenant shall remain liable as hereafter provided. All costs and expenses incurred by or on behalf of the Master Lessee occasioned by such Event of Default including, without limiting the foregoing generality, reasonable attorney's fees, and other reasonable costs of collection, recovery of possession, and the exercise of any right or remedy permitted the Master Lessee hereunder, shall be paid by the Tenant.

- 11.2 Upon any such expiration or termination of this Lease, the Tenant shall quietly and peacefully surrender the Premises to the Master Lessee, and the Master Lessee, upon or at anytime after such expiration or termination, may, without further Notice, enter upon and re-enter the Premises and possess and repossess itself thereof, by force, summary proceedings, ejectment, or otherwise, and may dispossess the Tenant and remove the Tenant and all other persons and property from the Premises and may have, hold, and enjoy the Premises and the right to receive all rental income of and from the same.
- 11.3 At anytime or from time to time after any such expiration or termination, the Master Lessee may re-let the Premises or any part thereof, in the name of the Master Lessee or otherwise, for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the Term of this Lease) and on such conditions (which may include concessions or free Rent) as the Master Lessee, in its reasonable discretion, may determine and may collect and receive the Rents therefore. The Master Lessee shall make reasonable, best efforts to so re-let the Premises at then current market rents but, otherwise shall in no way be responsible or liable for any failure to re-let the Premises or any part thereof, or for any failure to collect any Rent due upon any such re-letting.
- 11.4 No such expiration or termination of this Lease shall relieve the Tenant of its liability and obligations under this Lease, and such liability and obligations shall survive any such expiration or termination. In the event of any such expiration or termination, whether or not the Premises or any part thereof shall have been re-let, the Tenant shall pay to the Master Lessee the Rent, Additional Rent, and all other sums and charges required to be paid by the Tenant up to the time of such expiration or termination of this Lease, and thereafter the Tenant, until the end of what would have been the Term of this Lease in the absence of such expiration or termination, shall be liable to the Master Lessee for, and shall pay to the Master Lessee, as and for liquidated and agreed current damages for the Tenant's Default: (a) the equivalent of the amount of the Rent, Additional Rent, and the other sums and charges which would be payable under this Lease by the Tenant if this Lease were still in effect, less (b) the net proceeds of any re-letting effected pursuant to the provisions of Paragraph 16.3 hereof, after deducting all the Master Lessee's reasonable Expenses in connection with such re-letting, including, without limitations, removal and warehousing of the Tenant's property, removal of the Tenant's Improvements, all repossession costs, brokerage commissions, legal expenses, attorney's fees, alteration costs, and expenses of preparation of the Premises for such

re-letting. The Tenant shall pay such damages (herein called "deficiency") to the Master Lessee monthly on the later of three (3) business days after the Master Lessee specifies the amount due or on the days on which the Rent would have been payable under this Lease if this Lease were still in effect, and the Master Lessee shall be entitled to recover from the Tenant each monthly deficiency as the same shall arise; or, at anytime after any such expiration or termination, if the Premises have been re-let, whether or not the Master Lessee shall have collected any monthly deficiencies as aforesaid, the Master Lessee shall be entitled to recover from the Tenant, and the Tenant shall pay to the Master Lessee, on demand, as and for liquidated and agreed final damages for the Tenant's Default, the entire amount of the projected deficiency, and any other charges which may reasonably be incurred hereunder for the balance of the Term and the Master Lessee's Expenses as set forth above.

- 11.5 All sums due to the Master Lessee from the Tenant under this Lease which are not paid when due (due dates shall not be extended by any periods of grace granted under this Lease for this purpose), whether or not a default hereunder has occurred or been declared by the Master Lessee, shall bear interest at the rate per annum of three percent (3%) in excess of the "Prime Rate", so called, as published in the "Money Rates" section of the Wall Street Journal as of the first business day of each month, such rate to be so adjusted as of the first day of each month until paid in full, payable to the Master Lessee on demand.
- 11.6 The Tenant hereby expressly waives, so far as permitted by law, the service of any Notice of Intention to re-enter provided for in any statute, or of the institution of legal proceedings to that end, and the Tenant, for and on behalf of the Tenant and all persons claiming through or under the Tenant also waive any and all right of redemption or re-entry or repossession or to restore the operation of this Lease in case the Tenant shall be dispossessed by a judgment or by warrant of any court or judge or in case of re-entry or repossession by the Master Lessee or in case of any expiration or termination of this Lease, the Master Lessee and the Tenant, so far as permitted by law, waive and will waive trial by jury in any action, proceeding, or counterclaim brought by either of the parties hereto against the other on any matters whatsoever arising out of, or in anyway connected with, this Lease, the relationship of the Master Lessee and the Tenant, the Tenant's use or occupancy of the Premises, or any claim of injury or damage. The terms "enter", "re-enter", "entry" or "re- entry", as used in this Lease, are not restricted to their technical legal meaning.
- 11.7 In the event of any breach or threatened breach by the Tenant of any of the covenants, agreements, terms, or conditions contained in this Lease, the Master Lessee shall be entitled to enjoin such breach or threatened breach and shall have the right to invoke any right and remedy allowed at law or in equity or by statute or otherwise as though re-entry, summary proceedings, and other remedies were not provided for in this Lease.
- 11.8 Each right and remedy of the Master Lessee provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by the Master Lessee of any one or more of the rights or remedies provided for in this Lease or otherwise shall not preclude the



simultaneous or later exercise by the Master Lessee of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

**SECTION 11A. TENANT'S REMEDIES.**

In the event of any breach or threatened breach by the Master Lessee of any of the covenants, agreements, terms, or conditions contained in this Lease, the Tenant shall be entitled to enjoin such breach or threatened breach and shall have the right to invoke any right and remedy allowed at law or in equity or by statute or otherwise, including without limitation specific performance, summary proceedings, and other remedies not provided for in this Lease.

**SECTION 12. MASTER LESSEE'S RIGHT TO PAY MONEY TO EFFECT PERFORMANCE**

If the Tenant at anytime or from time to time shall fail to perform any of the covenants, terms, and conditions in this Lease contained to be performed on the part of the Tenant, the Master Lessee may immediately, or at anytime thereafter, after giving written Notice to the Tenant, perform the same for the account of the Tenant, and in any such event, any reasonable amount of monies paid by the Master Lessee for such purpose shall be deemed to be Additional Rent due hereunder and shall be payable forthwith to the Master Lessee upon rendition of an invoice therefore.

**SECTION 13. NO WAIVER**

The failure of the Master Lessee or Tenant to seek redress for violation of, or to insist upon the strict performance of, any covenant, term, or condition of this Lease or any of the rules established by the Master Lessee under the provisions of this Lease, shall not prevent a subsequent act, which would have originally constituted a violation, from having all the force and effect of an original violation. The receipt by the Master Lessee of Rent, with knowledge of the breach of any such covenant, term, condition, or rule shall not be deemed a waiver of such breach and no provision of this Lease shall be deemed to have been waived by the Master Lessee or Tenant unless such waiver be in writing signed by the Master Lessee or Tenant, as applicable. No act or thing done by the Master Lessee, its servants and agents, during the Term of this Lease shall constitute an eviction by the Master Lessee, nor shall it be deemed an acceptance of a surrender of the Premises, and no agreement to accept such surrender shall be valid unless in writing, signed by the Master Lessee.

**SECTION 14. SECURITY**

The Tenant shall provide Master Lessee with a Security Deposit equal one month's Rent, due and payable at execution, as Security for the full and faithful performance and observance by the Tenant of all the covenants, terms, and conditions herein contained to be performed and observed by the Tenant. Master Lessee may use, any part of said Security to the extent required for the payment of any Rent or any sum as to which the Tenant is in Default in respect to any of the covenants, terms, or conditions of this Lease. Said security (to the extent permitted by law, without interest), or any balance thereof, shall be returned to the Tenant after the time fixed as the expiration of this Lease provided that the Tenant shall have

fully performed all of the said covenants, terms, and conditions. It is agreed that said Security is not an advance payment of, the Rent herein reserved, or any part of settlement thereof, or a measure of the Master Lessee's damages,. It is also agreed that the security assignment in no way infers that the Master Lessee has any rights, responsibilities or liabilities associated with the day to day operations under the license or has a material interest in the license other than its value as security.

#### **SECTION 15. HOLDING OVER**

If the Tenant shall hold possession of the Premises beyond the Term without Master Lessee's written consent, the Tenant shall pay to the Master Lessee double the Rent plus the Additional Rent then applicable for each month during which the Tenant shall retain such possession, and also shall pay all damages sustained by the Master Lessee on account thereof. The provisions of this Paragraph shall not operate as a bar or as a waiver by the Master Lessee of any right of re-entry or any remedy or election provided under Section 16 hereof or available to the Master Lessee under common law.

#### **SECTION 16. BROKER**

Both Tenant and Master Lessee recognize and acknowledge that there is no real estate broker involved in this transaction.

#### **SECTION 17. NOTICE**

All Notices and other communications authorized or required hereunder shall be in writing and shall be given by mailing the same by certified or registered mail, return receipt requested, postage prepaid, to the parties at their addresses set forth above, or in the case of the Tenant, to the Premises, or in either case, to such other person or at such other address as either party may hereafter designate by Notice to the other party. Notices shall be deemed given upon receipt of such notice by the addressee three (3) business days after depositing into certified or registered mail.

#### **SECTION 18. CAPTIONS**

The Captions appearing in this Lease are intended only as a matter of convenience and for reference and in no way define, limit, or describe the scope of this Lease or the intent of any provision hereof.

#### **SECTION 19. NO RECORDING OF LEASE**

The parties agree that this Lease shall not be recorded, but the Master Lessee and the Tenant hereby agree upon request of either party to enter into a Memorandum of Lease in recordable form, setting forth the actual time of commencement and time of termination of this Lease and such other provisions, except rental provisions, with respect to the Lease as will put on Notice any third party of the existence of this Lease.

## **SECTION 20. PARTIES AND DEFINITIONS**

The terms "Master Lessee" and "Tenant" wherever used in this Lease shall include the successors and assigns of said parties (subject to the assignment provisions hereof), and if either of the parties shall not be a corporation or partnership, said term shall include the heirs, executors, and administrators of said party, wherever the context requires or permits of such construction, and all of the covenants, terms, and conditions herein contained shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors, and said assigns of the parties in the same manner as if they were expressly mentioned. The term "Tenant" as used in this Lease shall include all signatories hereto as Tenants, and, if there be more than one Tenant, their obligations hereunder shall be joint and several. The term "Master Lessee" as used in this Lease means only the owner for the time being of the Land and Building, so that in the event of any sale of the Land and Building, the Master Lessee shall be and it hereby is entirely freed and relieved of all covenants and obligations of the Master Lessee hereunder arising after such sale, it being understood and agreed that the purchaser has assumed and agreed to carry out any and all obligations of the Master Lessee hereunder.

## **SECTION 21. PARTIAL INVALIDITY**

If any term, covenant, condition, or provision of this Lease or the application thereof to any person or circumstances shall, at anytime or to any extent, be invalid or unenforceable, the remainder of this Lease, the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term, covenant, condition, and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

## **SECTION 22. SUBMISSION OF INSTRUMENT**

Submission of this instrument for examination shall not be binding upon the Master Lessee in anyway and no lease or obligation on the part of the Master Lessee to enter into a lease shall arise until this instrument has been executed and delivered to the Master Lessee by the Tenant and has been executed and delivered to the Master Lessee. Such submission shall not constitute an offer, but the Tenant's execution hereof shall constitute an offer, which may be accepted only by the Master Lessee's execution and delivery hereof to the Tenant.

## **SECTION 23. AMENDMENTS, ADDITIONS, AND DELETIONS TO LEASE**

Any alterations or deletions herein were made in the Lease before execution and any additional provisions to which the parties have agreed and which are added herein or in any Addenda attached hereto shall be considered a part thereof.

## **SECTION 24. INDEPENDENT COVENANTS**

Each and every one of the covenants and agreements contained in this Lease shall be for all purposes construed to be separate and independent covenants, and the waiver of the breach of any covenant contained herein by the Master Lessee shall in no way or manner discharge or relieve the Tenant from the Tenant's obligations to perform each and every one of the covenants contained herein.

**SECTION 25. CORPORATE GUARANTEE**

The undersigned entity hereby unconditionally guarantees punctual payment by Tenant as required by this Agreement.

IN WITNESS WHEREOF, the parties have executed this Lease on the date set forth above.

PNPLXPRESS, INC.

Pineapple Ventures, Inc.

Jaime Ortega  
Name/Title: Jaime Ortega, CFO

Shawn Credle  
Name/Title: Shawn Credle, CEO

**Approved as to form and content by Master Landlord:**

MECO PROPERTIES, LLC

By: Walter Schild

Name: Walter Schild  
Title: Managing Partner