

This is the standard XXXXXX XXXXXX Letter of Intent (LOI). Use this form to negotiate rent, tenant improvements, and all other important terms of the deal that are addressed in this document. Customize this document as the specifics of the location and the deal require. Resolve every issue – do not allow “TBD” or “to be negotiated in Lease” to appear in the final, agreed LOI. Be sure that the final LOI accurately expresses the agreed positions on every deal point addressed in this document.

_____, 20__

[Name of Landlord]
 [Address of Landlord]

Re: XXXXXX XXXXXX at _____

Dear [Recipient]:

This letter of intent sets forth the terms on which XXXXXX XXXXXX, Inc. (“**Tenant**”), is willing to negotiate a Lease (“Lease”) for premises commonly known as _____ *[insert space/suite number or address]* (the “**Premises**”) in the building or shopping center commonly known as _____ *[insert name, if applicable]* (the “**Shopping Center**”).

Tenant XXXXXX XXXXXX, Inc.

Landlord _____ is the fee owner of the Shopping Center, including the Premises.

Premises Approximately _____ square feet with a minimum storefront width of _____ feet identified on the site plan attached to this letter.

Term Five (5) Lease Years, plus three (3) additional options composed of five (5) Lease Years. Each Lease Year shall be composed of one full 12-month period commencing the first day of the month following the Rent Commencement Date, except that the final Lease Year shall end on the January 31 following the natural expiration of the term if the final Lease Year otherwise would end on a date between September 1 and January 5.

Rent

<u>Lease Years</u>	<u>Monthly Installment</u>	<u>Annual Rent</u>
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1-5

Options

6-10

11-15

16-20

This rent schedule includes all charges payable under the Lease except for taxes, insurance, and common area maintenance expenses. Tenant will not be obligated to pay any charges to Landlord except those identified in this letter.

**CAM, Taxes,
and Insurance**

Commencing with the Rent Commencement Date, Tenant shall pay its pro rata share (the gross leasable area of the Premises divided by the gross leasable area of the Shopping Center) of real estate taxes, insurance premiums, and actual, reasonable, out-of-pocket common area maintenance expenses. The annual per square foot charge for these items shall not exceed \$ _____ through the first full calendar year of the term and annual increases thereafter in common area expenses (excluding taxes and insurance) shall not exceed 3% per year calculated on a noncumulative basis. Tenant shall not be liable for any other charges, including marketing or promotional charges.

In addition, Tenant shall not be liable for increased real estate taxes imposed as a result of the sale of the Shopping Center.

**Estimated Possession
Date**

[With LL WORK – date certain] Landlord will deliver possession of the Premises with Landlord's Work in the Premises complete (and, if applicable, shall complete the common areas) by _____, _____. If Landlord does not deliver possession by _____, _____, Tenant shall be entitled to deduct as liquidated damages from any rent payment two days' rent (calculated at a daily rate based on a thirty-day month) for each day such possession is delayed beyond the date set forth above. In addition, if Landlord does not deliver possession by _____, _____, Tenant may terminate the Lease and Landlord shall reimburse Tenant for its out-of-pocket costs, not to exceed \$20,000.

[With LL WORK – tied to Permits] Landlord will deliver possession of the Premises with Landlord's Work in the Premises complete (and, if applicable, shall complete the common areas) within ___ days after Tenant waives the Permit Contingency. If Landlord does not deliver possession within ___ days after Tenant waives the Permit Contingency, Tenant shall be entitled to deduct, as liquidated damages from any rent payment, two days' rent (calculated at a daily rate based on a thirty-day month) for each day that possession is delayed beyond the date set forth above. In addition, if Landlord does not deliver possession by _____, _____, Tenant may terminate the Lease and Landlord shall reimburse Tenant for its out-of-pocket costs, not to exceed \$20,000.

[NO LL WORK – date certain] So long as the Premises are structurally sound, in good condition and repair, compliant with all applicable laws, and free of hazardous substances, Landlord shall not be required to perform any work in the Premises and shall deliver possession by _____, _____. If Landlord does not deliver possession by _____, _____, Tenant shall be entitled to deduct, as liquidated damages from any rent payment, two days' rent (calculated at a daily rate based on a thirty-day month) for each day such possession is delayed beyond the date set forth above. In addition, if Landlord does not deliver possession by

_____, ____, Tenant may terminate the Lease and Landlord shall reimburse Tenant for its out-of-pocket costs, not to exceed \$20,000.

[NO LL WORK – tied to Permits] So long as the Premises are structurally sound, in good condition and repair, compliant with all applicable laws, and free of hazardous substances, Landlord shall not be required to perform any work in the Premises and shall deliver possession within ___ days after Tenant waives the Permit Contingency. If Landlord does not deliver possession within ___ days after Tenant waives the Permit Contingency, Tenant shall be entitled to deduct, as liquidated damages from any rent payment, two days' rent (calculated at a daily rate based on a thirty-day month) for each day such possession is delayed beyond the date set forth above. In addition, if Landlord does not deliver possession by _____, ____, Tenant may terminate the Lease and Landlord shall reimburse Tenant for its out-of-pocket costs, not to exceed \$20,000.

Rent Commencement

Date

_____ days after delivery of possession (including completion of Landlord's Work, if any, and completion of the common areas, if applicable), plan approval (if applicable), Tenant's acquisition of permits, and delivery to Tenant of a copy of Landlord's certificate of occupancy (or a local equivalent) for the building or Shopping Center. In no event shall delivery of possession be deemed to have occurred until the expiration of at least ___ days after written notice to Tenant of the actual date on which possession of the Premises will be delivered.

In addition, in no event shall Tenant be obligated to pay rent until _____ **[insert names of applicable major tenants]** and tenants occupying _____% of the remaining gross leasable area of the Shopping Center are open for business; provided, however, in the event that Tenant shall open for business before those co-tenancy conditions are satisfied, Tenant shall pay a reduced base rent of \$_____ and any other charges payable under the Lease, until those co-tenancy conditions are satisfied.

Permit Contingency

Tenant shall be entitled to terminate the Lease if it is unable to obtain, within _____ days after Tenant's receipt of a fully executed Lease, without unacceptable costs, all permits, variances, and other governmental approvals needed for lawful construction and operation of its intended use of the Premises. So long as Tenant is diligently pursuing obtaining all such permits, variances, and approvals, Tenant may extend this date until the responsible authority has made a final decision and all appeals are exhausted, except that such extension may not exceed ___ additional days. Tenant will apply for and pursue legally-required and standard permits, licenses, and other governmental approvals and, at its option, may apply for and pursue such other permits, licenses, and other governmental approvals (e.g., variances) as it deems appropriate. Landlord will cooperate with Tenant in procuring permits, licenses, variances, and other governmental approvals, including execution of any necessary applications.

Use

Tenant shall be entitled to use the Premises for the retail sale of food and beverages, including (without limitation) pizza, chicken wings, beverages, Italian specialties, pasta, bread products, salads, sandwiches, dessert items, promotional items, other items sold in Tenant's other stores, and any other lawful retail or

restaurant use not in conflict with an exclusive use rights granted to other tenants in the Shopping Center as of the date of this letter.

Restrictions on Other Uses

Landlord shall ensure that the Shopping Center (as well as any adjacent or contiguous property that is now or hereafter owned or controlled, directly or indirectly, by Landlord, its successors, assigns or affiliates) is not used for the sale (including, without limitation, so called carry-out, delivery, or sit-down service) of pizza, pizza-like products as well as products similar to pizza however they are named (e.g., flatbread, pizzettes and flatizza), Crazy Bread (or similar products) and related sauces, Italian cheese-bread, and chicken wings. Without limiting any other remedy available to Tenant under applicable law for the breach of this exclusive use right, if a breach shall occur, all rent and other charges payable by Tenant shall be reduced by fifty percent (50%) until the breach terminates. The preceding shall not apply to any tenant of the Shopping Center if and to the extent the lease for such tenant permits the sale of the foregoing items; each such tenant, if any, is listed on an attachment hereto.

Landlord shall not Lease any portion of the Shopping Center to an “adult” enterprise, including without limitation, bookstores or entertainment facilities offering pornography or live nudity, a billiard hall, a cocktail lounge, a bar, a tavern, marijuana dispensary, substance abuse clinic, storefront casino, or any other business that would lower the reputation or character of the Shopping Center, which shall be maintained so as to be attractive to a “family-oriented” customer base.

Co-Tenancy

In the event that any Anchor Tenant in the Shopping Center ceases operations in substantially all of its premises in the Shopping Center, Tenant may, upon twenty (20) days notice to Landlord, terminate the Lease. During this cessation of operations, rent and other charges under the Lease shall be decreased by ____ %. “Anchor Tenant” shall mean [*name specific tenant(s)*] or any tenant that Leases ____ or more square feet in the Shopping Center.

If less than 75% of the gross leasable area of the Shopping Center is occupied by continuously operating retail tenants, rent shall be proportionately reduced.

Transfers

Tenant shall not assign or sublet its interest in the Lease or the Premises without Landlord’s consent, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, Tenant shall have the right, without Landlord’s consent, to assign the Lease or sublet the Premises (1) to Tenant’s affiliates, Tenant’s owners or family member of Tenant’s owners, or entities owned or controlled by any of the foregoing (“Related Entities”), (2) to an entity that acquires substantially all of Tenant’s assets, (3) in connection with a merger, consolidation, or non-bankruptcy reorganization, (4) to an entity that has reasonable financial ability to perform the obligations of Tenant under the Lease, or (5) to a franchisee of Tenant or of a Related Entity. In no event shall a change of ownership of any interest in Tenant (including, without limitation, stock) be prohibited under the Lease, allow Landlord to terminate the Lease, or change any term or provision of the Lease, including rent. Tenant shall be entitled to all consideration received by it in connection with any assignment or sublease. In the event the Lease is assigned to a franchisee of Tenant or of a

Related Entity, Tenant (or, as the case may be, the Related Entity) shall not be responsible for obligations accruing under the Lease after the date of transfer. In the event that the Lease is assigned to an approved franchisee of XXXXXX XXXXXX, Inc. , the franchisee shall have the right to reassign the Lease to Tenant without first obtaining Landlord's consent.

Early Termination Tenant shall be entitled to terminate the Lease at any time after the end of the _____ Lease Year, so long as Tenant provides at least 90 days prior written notice.

Hazardous Substances Tenant shall be responsible for and shall indemnify Landlord for any hazardous substance Tenant brings onto the Shopping Center. Landlord shall be responsible for and indemnify Tenant for all other hazardous substances. Landlord will make full disclosure of known hazardous substances in the Shopping Center prior to Lease execution, including (without limitation) providing all existing environmental reports about the Premises and the Shopping Center. Tenant shall be entitled to conduct environmental assessment(s) of the property, including at its option a Phase I and/or a Phase II. If Tenant is not satisfied with the results of such environmental assessment(s) in its sole discretion within _____ days of Tenant's receipt of a fully executed Lease, Tenant shall be entitled to terminate the Lease.

Prohibited Clauses Tenant will not agree to any of the following provisions: security deposit, prepaid rent, percentage rent, providing sales reports, providing financial statements, operating covenants or required hours of operation, radius restrictions, trade-name restrictions, relocation rights, attorney-in-fact language, payment or performance bonds, and rent acceleration remedies.

Condition of Premises and Shopping Center Upon delivery of possession, (a) the Premises shall be structurally sound, in good condition and repair, compliant with all applicable laws, and free of hazardous substances, (b) the common areas shall be complete, and (c) the work described on the attached Workletter, if any, shall be complete.

Tenant Allowance Landlord shall pay Tenant an Allowance of \$_____. Fifty percent (50%) of the Allowance shall be paid when Tenant commences its work in the Premises and 50% when Tenant opens for business in the Premises. In the event the Allowance is not paid when due, Tenant may, without limitation on other remedies, offset the unpaid amount of the Allowance against any amount payable under the Lease. Upon receipt of the entire Allowance, Tenant will provide Landlord with a lien waiver from Tenant's general contractor and certificate of occupancy or local equivalent.

Tenant Improvements and Signage Tenant shall be entitled to construct improvements and signage (and, in its discretion, awnings) in and on the Premises to the extent allowed by applicable law. Tenant shall, however, obtain Landlord's prior written approval for alterations that affect the structure of the building, building-wide systems, or the storefront, which approval shall not be unreasonably withheld, conditioned, or delayed. It shall be unreasonable for Landlord to withhold consent to the design of improvements or signage that is consistent with Tenant's national trade-dress

or signage program, including (without limitation) trademarked colors, letters, and logos. Landlord shall have no approval right over Tenant's interior signage, so long as such signage is professionally made. Notwithstanding any sign criteria of Landlord, Landlord approves in advance Tenant's signage, so long as it is substantially similar in design to the signage attached to this letter. If Landlord's approval of Tenant's plans for its initial improvements to the Premises is required, the Lease shall be contingent upon Tenant's receipt of Landlord's approval of Tenant's plans.

Landlord shall pay all impact, connection, and tap fees, as well as assessments for special improvements installed in connection with the development (or re-development) of the Shopping Center, including, without limitation, assessments for the widening of exterior roads, the installation and/or hook-up to and maintenance of sewer and sewer lines, sanitary and storm drainage systems, and any other utility lines and installations, whether public or private.

In addition, Tenant shall be entitled to place a panel (at Tenant's cost for all panels) on the following sign structures that exist (or shall exist when possession of the Premises is delivered to Tenant): [*list applicable pylon, monument, directional and/or pole*]. In addition, if in the future the Shopping Center includes additional pylon, monument, pole, or other sign structures not identified in the preceding sentence, Tenant shall be entitled to place its panel(s) on that sign structure (at Tenant's cost for the panel(s)).

Tenant shall be allowed to use any sidewalks (and adjacent common areas as necessary) for reasonable promotional purposes, including (without limitation) people carrying shaker boards.

Parking

[Exclusive] Throughout the term, Landlord shall provide such parking as is legally required for the permitted use of the Premises. Landlord shall also provide, for Tenant's exclusive use, three (3) designated parking spaces immediately adjacent to the storefront of the Premises. If allowed pursuant to applicable laws, Landlord will not place handicapped parking spaces in front of the Premises. Tenant may take reasonable steps to enforce its parking rights.

[Short-term] Throughout the term, Landlord shall provide such parking as is legally required for the permitted use of the Premises. Landlord shall also provide, for short-term parking, three (3) designated parking spaces immediately adjacent to the storefront of the Premises. If allowed pursuant to applicable laws, Landlord will not place handicapped parking spaces in front of the Premises. Tenant may take reasonable steps to enforce its parking rights.

Ground Lease

If Landlord's right to lease the premises derives from a ground lease, Tenant will require a copy of the ground lease for its review and nondisturbance from the ground lessor.

Landlord's Work

See attached "Landlord's Work."

LANDLORD'S WORK

The term “**Plans**” shall mean Tenant’s plans and specifications. If, however, Tenant’s plans and specifications are subject to Landlord’s reasonable approval, “**Plans**” shall mean Tenant’s plans and specifications as reasonably approved by Landlord. The space shall be comprised of roof, back wall, minimum 4” smooth concrete slab, full-height glass store front with one three-foot (3’) door per the Plans, demising walls dry-wall finished to the roof deck, taped and sanded and ready for paint, and one four-foot (4’) hollow metal rear door with swivel peephole, guard-plate and dead-bolt to be located as set forth in the Plans.

Landlord shall provide and install the following:

- Restroom(s) per all local, state, and federal codes to be located as set forth in the Plans. Restroom(s) shall be equipped with a lavatory, toilet, mirror, soap-dispenser, towel-dispenser, paper-dispenser and flooring and wall materials per code.
- 400 amp, 3-phase, 208/240 volt, 4-wire electrical service to the rear of the Premises to include all panels and circuit breakers as set forth in the Plans.
- 2” gas line to the oven location, as set forth in the Plans.
- HVAC system with two (2) 5-ton capacity units which shall include accustats, ductwork, diffusers, thermostat(s), and smoke detectors per the Plans.
- Landlord shall warrant the HVAC system shall be in good working order for one (1) year from the date Tenant opens for business and shall further warrant the compressor for the unit(s) shall be in good working order for five (5) years from the date Tenant opens for business. Further, Landlord shall warrant that the roof, plumbing, fire-protection, and electrical systems are in good working order for one (1) year from the date Tenant opens for business.
- T-bar ceiling system with tile and lay-in light fixtures as set forth in the Plans. Landlord shall also provide and install fire-sprinklers if required by local code.
- Underground plumbing system per the Plans (a minimum of one-inch (1”) water service to Premises).
- Flooring for the Premises in compliance with applicable code and the Plans.
- Water heater per the Plans (Rinnai #R94LSi tank-less water heater)
- Exterior grease-trap as per local codes connected to interior plumbing
- Conduit for telephone and exterior signage