

FD-25991

11-061-0158

NW 28 4N-1W LEASE

REC'D FOR FOUNDERS TITLE COMPANY
E 1774412 R 3096 P 370
SHERYL L. WHITE, DAVIS CNTY RECORDER
2002 AUG 2 9:39 AM FEE 22.00 DEP KM
REC'D FOR FOUNDERS TITLE COMPANY

This lease is made at Layton, Utah, this **1st day of August, 2002**, by and between **Andrea King and Brian King** ("Lessor") and **King's First Stop Auto, Inc.**, ("Lessee").

Subject to the covenants, terms and conditions set forth below, Lessor leases to Lessee the premises, grounds, and parking access together with all the building and improvements. Said property and building are situated in Davis County, Utah, City of Layton (Zip Code 84041) and more particularly described below:

See Attached Exhibit "A"

The address of said real property is 127 South Main Street, Layton, UT 84041.

1. **TERM.** The term of this lease shall be for 252 months commencing on July 1, 2002 and ending on July 1, 2023.
2. **BASIC RENT.** The basic rent for the full term of this Lease shall be the sum of Seven Hundred Twenty Nine Thousand Two Hundred Eighty Eight and 00/100 Dollars (\$729,288.00), paid in advance at such a place that may be designated in writing, in lawful money of the United States of America in monthly payments at the rate of \$2,894.00 per month through July 1, 2023.
3. **USE.** The premises shall be used and occupied for any lawful business or activity. Lessee shall, at Lessee's expense comply with all covenants, conditions, and restrictions of record and with all applicable statutes, ordinances, zoning restrictions, rules, regulations, orders and requirements of duly constituted public authorities now existing and hereafter enacted which in any manner affect the premises.
4. **UTILITIES.** Lessee shall pay for all water, gas, heat, light power, telephone and all other utilities and services supplied to the premises, together with any taxes thereon.
5. **TAXES, ASSESSMENTS AND SURCHARGES.** In addition to the monthly rent, Lessee shall pay to Lessor on the first day of January of each year that this lease is in force the amount of the property tax of the previous year. "Real Property Taxes and Assessments" shall include Lessee's proportion of all city, county and all other taxes and general and special assessments levied upon or assessed against the real property of which the premises and grounds are a part, or arising in respect to the occupancy, use or possession of the premises or grounds and which are assessed and are, or become a lien during the term of this Lease.
6. **CONDITION AND MAINTENANCE OF PREMISES.** Lessee's acceptance of possession of the premises and grounds shall constitute Lessee's acknowledgment that the premises and grounds are in good and tenantable condition. Should any standard or regulation now or hereafter be imposed on Lessor or Lessee by any body, State or Federal, charged with the establishment, regulation and enforcement of occupational health or safety standards for employers, employees, Lessors, or Lessees, then Lessee agrees, at its sole cost and expense, to comply promptly with such standards or regulations. Lessee shall keep and maintain the premises in good, clean and sanitary order, condition

and repair as they shall be upon the commencement of the term of the Lease, ordinary wear and tear excepted.

On the last day of the term hereof Lessee shall surrender the premises to Lessor in the same condition as when received.

7. **ALTERATIONS AND ADDITIONS.** Lessee shall not make any alterations, improvements, or additions in, on or about the premises, nor install, remove, or change any signs, or modify the landscaping in the grounds ("Alterations") without Lessor's prior consent. Further, Lessee, as a condition in Lessor's consent to any proposed Alterations, shall furnish Lessor with plans and specifications for its approval which have been stamped with notations of approval by the appropriate governmental building department, if such building department approval is required.

Lessee's trade fixtures which have been or may be installed, placed, or attached in or about the premises by Lessee shall remain the property of Lessee. Upon termination of this Lease, Lessee may remove all or any of its trade fixtures so installed, placed or attached in, about or to the premises: provided, however, that any damage caused to the premises by reason of such removal shall be repaired and paid for by Lessee prior to Lessee's vacating of the premises. Any trade fixtures and other property of Lessee not removed from the premises within thirty (30) days after the termination of this Lease, shall be deemed abandoned by Lessee and become the property of Lessor.

8. **MECHANIC'S LIENS.** Lessee shall not permit any mechanic's, laborer's, or materialmen's liens to stand against the premises or against Lessor's or Lessee's interest therein by reason of any work, labor, services or material done for, or supplied to or claimed to be done for or supplied to, Lessee or anyone holding the premises through or under Lessee.

9. **INSURANCE**

A. **GENERAL.** All insurance provided for herein, whether obtained by Lessor or Lessee, shall name Lessor as an additional insured. In the event there is a deductible clause in any standard form policy in use in the State of Utah, the amount deducted from the coverage by said clause shall be borne by Lessee. Any insurance containing a deductible clause of Five Thousand Dollars (\$5,000) or less in the standard form policy shall not, by virtue of said deductible clause, be regarded as unsatisfactory.

B. **PUBLIC LIABILITY INSURANCE.** Lessee, at its own cost and expense, shall procure and keep in force during the term of this Lease policy of comprehensive public liability insurance covering the premises and grounds, including any liability Lessee assumes under the Lease, with a combined single limit coverage of not less than \$1,000,000 with respect to personal injury, death, or property damage resulting from any one occurrence. The minimum limits of coverage mentioned above shall not limit Lessee's liability under this Lease.

C. **FIRE INSURANCE.** Lessee, at Lessee's sole expense shall maintain fire insurance insuring the premises, grounds against loss or damage by those risks embraced by coverage of the broad form, "all risk" or special extended coverage, including, but not limited to, endorsements covering losses sustained by reason of fire and lighting, riot and civil

commotion, vandalism and malicious mischief. The fire insurance policy, and all endorsements thereto, shall be in the full replacement value of the premises.

The policies evidencing all insurance referred to in this sub-paragraph C shall provide for losses to be adjusted with and payable to Lessor, and payable to any encumbrancer of record as their respective interests may appear, and said policies, if requested by Lessor, shall be endorsed with a standard form mortgagee loss payable endorsement in use in the State of Utah.

- D. **RELEASE OF SUBROGATION RIGHTS.** Lessor and Lessee release the other to the extent the proceeds of the releasing party's insurance coverage, from any and all liability or responsibility to the other or anyone claiming through or under the releasing party by way of subrogation or otherwise for loss, injury, or damage caused by any of the perils for which they have respectively agreed to provide insurance, notwithstanding that such perils, loss, damage, or injury may be due to or shall have been caused by the fault or negligence of the released party, its agents, or anyone for whom the released party may be responsible: provided, however, that this release shall be applicable and in force and effect only with respect to a loss, injury, or damage covered under the releasing party's policies of fire and extended coverage insurance (including contents insurance), if any, in existence in regard to the premises, and occurring during such time as said policies contain a provision to the effect that this release shall not affect the coverage or effectiveness of said policies or the right of the releasing party to cover thereunder.
10. **EXEMPTION AND INDEMNITY OF LESSOR FROM LIABILITY.** Lessee agrees to protect, indemnify and save Lessor, the premises and grounds and parking areas free and harmless from and against any and all claims, demands, and causes of action of any nature whatsoever (other than arising from the negligence of Lessor or its employees), and claim or action for injury to or death of persons or loss or damage to property occurring on the premises, grounds, and parking areas or the adjoining sidewalks, streets, or ways, or in any manner growing out of, or connected with the Lessee's use and occupation of the premises, grounds and parking areas, or the conditions thereof, or of the adjoining sidewalks, streets or ways. Lessor shall not be liable for any personal injury to Lessee or to its officers, agents, or employees or to any other occupant or user of the premises, grounds and parking areas, or for any damage to any property of Lessee or of any other occupant of the premises or grounds and parking area.
11. **BREACH BY LESSEE.** Lessee shall be in breach of this Lease if at any time during the term of this Lease:
- A. Lessee fails to make payment of any basic monthly installment of rent or of any other sum, herein specified to be paid by Lessee, and such failure is not cured within three (3) days after Lessor's written notice to Lessee of such failure of payment; or
- B. Lessee fails to observe or perform any of its other covenants, agreements, or obligations hereunder, and such failure is not cured within thirty (30) days after Lessor's written notice to Lessee of such failure: provided, however, that if the nature of Lessee's obligation is such that more than thirty (30) days are required for performance, then Lessee shall not be in breach if

Lessee commences performance within such 30-day period and thereafter diligently prosecutes the same to completion.

12. **SALE OF PREMISES.** In the event of the sale, transfer, or assignment of Lessor's interest in the premises during the term of this Lease, the Lessor's successor in interest shall be bound by all of the covenants or conditions, express or implied, contained in this Lease in favor of Lessee, and in such event Lessee agrees to look solely to the responsibility of Lessor's successor in interest, and Lessee will attorn to Lessor's successor in interest and recognize such successor in interest as Lessor under this Lease.
13. **LESSOR'S ACCESS.** Lessor and Lessee's agents shall have the right to enter the premises at reasonable times for the purpose of inspecting the same, and making such alterations, repairs, improvements or additions as allowed under the Lease.
14. **ATTORNEY'S FEES.** In the event either Lessor or Lessee shall bring any action or proceeding for damages for any alleged breach of any provision of the Lease, to recover rents, or to enforce, protect, or establish any right or remedy of either party, the prevailing party shall be entitled to recover as part of, or incident of, such action or proceeding, all attorney's fees and court costs incurred in the preparation and processing of such action or proceedings.
15. **MISCELLANEOUS:**
 - A. **SUCCESSORS.** This Lease, subject to the provisions on assignment and insolvency, shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto. Any transfer of this Lease whether by Lessee or any assigns of Lessee by operation of law or by voluntary assignment, with or without the consent of Lessor shall not diminish, alter, or prejudice the direct and primary liability of Lessee under this Lease and the covenants hereof.
 - B. **INTERPRETATION.** This Lease shall be construed according to the laws of the State of Utah.
 - C. **SEVERABILITY.** Any provision of this Lease determined to be invalid by a court of competent jurisdiction, shall in no way affect any other provision hereof.
 - D. **TIME OF ESSENCE.** Time is of the essence in the performance of all conditions hereof of which time is a factor.

Any notice or other document or thing required or permitted to be given to Lessor or Lessee hereunder shall be deemed delivered upon personal deliver thereof or two (2) days after deposit thereof in a sealed wrapper, by United States registered or certified mail, first class postage prepaid, addressed to the party.

Lessor and Lessee have caused this Lease to be executed as of the day and year first above written.

LESSOR:

Andrea King
Andrea King, Individually

Brian King
Brian King, Individually

LESSEE: **King's First Stop Auto, Inc.**

By: Andrea King
Andrea King, President

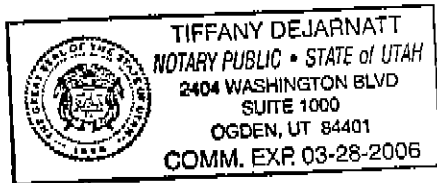
CURRENT ADDRESS LESSEE: 127 South Main Street, Layton, UT 84041

CURRENT ADDRESS LESSOR: 127 South Main Street, Layton, UT 84041

ACKNOWLEDGEMENT

STATE OF UTAH)
)
)
COUNTY OF DAVIS)

On this 1st day of August, 2002, personally appeared before me Andrea King and Brian King, who being by me duly sworn, did say that they executed the same.

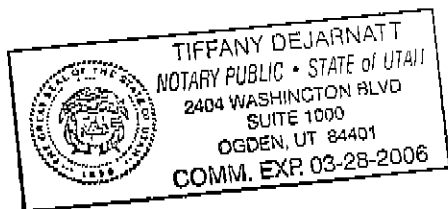


Tiffany DeJarnatt
NOTARY PUBLIC
Residing at: Ogden, Utah

ACKNOWLEDGEMENT

STATE OF UTAH)
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)
COUNTY OF DAVIS)

On this 1st day of August, 2002, personally appeared before me Andrea King, who being by me duly sworn, did say that she is the President of King's First Stop Auto, Inc., a corporation, and that the foregoing instrument was signed in behalf of said corporation by authority of a resolution of its board of directors.



Tiffany DeJarnatt
NOTARY PUBLIC
Residing at: Ogden, Utah

EXHIBIT "A"

Debtor and Trustor: Andrea King and Brian King
to assist, King's First Stop Auto, Inc.

Secured Party and Beneficiary: Northern Utah Capital, Inc. and
The U. S. Small Business Administration

Real Property Description

Beginning on a point on the East line of Highway 91 North 89°27'20" West 1473.12 (1459.80 feet; and South 727.24 (740.74) feet from the North Quarter Corner of Section 28, Township 4 North, Range 1 West, Salt Lake Base and Meridian US Survey; thence North 25°25'00" West 159.47 feet along the East line of Highway 91; thence North 76°33'00" East 136.00 feet; thence South 19°51'55" East 157.19 feet; thence South 76°39'00" West 120.50 feet to the point of beginning.

The following is shown for informational purposes only: Tax Parcel No. 11-061-0158

The address of such property is: 127 South Main Street, Layton, UT 84041

The owner of such real property is: Brian R. King and Andrea L. King