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RICHARD T. MAUGHAN  
DAVIS COUNTY, UTAH RECORDER  
9/16/2022 4:26:00 PM  
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DEP eCASH REC'D FOR COTTONWOOD TITLE INS

WHEN RECORDED MAIL TO:

ABS Partners, LLC  
PO Box 346  
Kaysville, UT 84037

File No.: 162685-KAP

## Ground Lease Agreement

In Reference to Tax ID Number(s):

09-051-0069

## GROUND LEASE AGREEMENT

This GROUND LEASE AGREEMENT ("Lease") is made this 16th day of September, 2022 (the "Effective Date"), by and between ABS Partners, LLC, a Utah limited liability company ("Landlord"), and CKQ Layton 1, L.L.C., a Utah limited liability company ("Tenant"). Landlord and Tenant are sometimes referred to individually as a "Party" or "party" and collectively as the "Parties" or "parties."

### RECITALS

A. Landlord is or will be the owner of certain property located in Layton, Utah, with a tax parcel number of 090510069, and more particularly described/depicted in Exhibit A, attached (the "Property").

B. Landlord desires to lease the Property to Tenant, pursuant to the terms of this Lease.

C. Tenant desires to lease the Property for the purpose of constructing and operating a car wash facility, to include an express car wash, together with related office administration, and the incidental sales of beverages, snacks, and general merchandise now or hereafter offered for sale in similar car wash facilities (the "Business").

D. The parties desire to enter into a ground lease agreement defining their rights, duties, and liabilities relating to the Property and the Leased Premises (as defined hereafter).

### AGREEMENT

IN CONSIDERATION OF THE MUTUAL COVENANTS CONTAINED HEREIN, THE PARTIES AGREE AS FOLLOWS:

1. Contingency: Subject and Purpose.

a. Notwithstanding anything herein to the contrary, this Lease, and all of Landlord's and Tenant's obligations hereunder, are contingent upon Landlord closing the purchase of and taking fee title to the Property within twenty (20) days of this Lease being fully executed (the "Contingency Date"). Landlord will use commercially reasonable efforts to satisfy the foregoing contingency on or before the Contingency Date, and if Landlord has not satisfied such contingency on or before the Contingency Date, Landlord and Tenant will each have the right to terminate this Lease by giving written notice to the other. Landlord and Tenant acknowledge that Landlord will conduct due diligence prior to closing the purchase of the Property and that Landlord is not obligated to close the purchase of the Property if the Property is not acceptable to Landlord for any reason. If this Lease is terminated under this section, then Landlord and Tenant will be released from all obligations hereunder, except for those that expressly survive the termination of this Lease, and Landlord shall promptly disburse to Tenant all prepaid rent or deposits paid by Tenant.

b. Subject to the foregoing, Landlord hereby leases the Property to Tenant, for the purpose of operating the Business thereon. As used herein, the term "Leased Premises" refers to the Property, together with the Improvements (as defined in Section 14) constructed, installed and located thereon, from time to time, during the term hereof.

c. For a period of forty-five (45) days following the Effective Date (the "Diligence Period"), Tenant shall have the right, but not the obligation, at its sole cost and expense, to conduct: (i) a complete physical inspection of the Property; (ii) investigations regarding zoning and code requirements; (iii) environmental, engineering and architectural studies and testing of the Property (including, without limitation, geotechnical and environmental tests, studies and examinations, soil tests, borings, percolation tests, historical use evaluations, and other tests needed to determine surface, subsurface and topographic conditions); (iv) examinations of the status of title and access to the Property; (v) market studies; (vi) an appraisal of the Property; (vii) review of all agreements, books and records, and any and all other information and documents pertaining to the ownership and operation of the Property; (viii) review of any survey that Tenant may wish to obtain, and (ix) any and all other testing of the Property, review of information, analyses of data and other inquiries that Tenant, in its sole discretion, deems pertinent to the Property or this Lease. Tenant shall promptly repair any damage to the Property resulting from the foregoing tests and inspections and shall indemnify, defend and hold Landlord harmless against any loss, cost or damage incurred by Landlord by reason of such damage to the Property caused by Tenant's entry onto the Property during the Diligence Period, except to the extent such losses, costs, damages, liens, claims, liabilities, or expenses are caused by or resulting from: (a) Landlord's negligence or willful misconduct; and/or (b) any pre-existing, dangerous, illegal, or defective condition at the Property. The preceding sentence shall survive any termination of this Agreement for a period of one (1) year. In connection with such investigation, if Tenant determines, in its sole and absolute discretion, that the Property is not satisfactory for lease by Tenant, for any or no reason, Tenant shall have the right, without any further obligation or liability to Landlord (except with respect to the indemnity provision contained herein), to terminate this Lease by delivering written notice to Seller prior to the expiration of the Diligence Period. In the event of such termination, the parties shall have no further liability hereunder (except with respect to those obligations hereunder which expressly survive the termination of this Lease).

d. Tenant covenants that Tenant will comply in all material respects with all recorded encumbrances and restrictions of record (the "Restrictions"), and all laws, ordinances, orders, rules, regulations and requirements of all federal, state and municipal governments and appropriate departments, commissions, boards and officers hereof, applicable to the Leased Premises, any Improvements thereon or the use or manner of use of the Leased Premises by Tenant ("Applicable Laws").

## 2. Term; Rent, Deposit and Additional Rent.

a. The initial term of this Lease shall commence on the Effective Date (the "Commencement Date") and shall continue for a period of Twenty (20) Lease Years, unless this Lease shall sooner terminate as provided herein. In addition to the initial term, this Lease shall be renewed and extended for Six (6) separate extension periods of Five (5) years each (each individually an "extension period" and collectively the "extension periods"), unless Tenant provides written notice to Landlord, not less than one hundred eighty (180) days prior to the end of the initial term or an extension period, as the case may be, of Tenant's election not to have the term of this Lease extended for the applicable extension period. For the purposes of this Lease, use of the word "term" shall include the initial term together with the extension periods, unless the context dictates otherwise, and the words "Lease Year" or similar terms means (a) with respect to the first Lease Year, the period beginning upon the Commencement Date and continuing until the last day of the twelfth full calendar month immediately following the Commencement Date, and (b) with respect to subsequent Lease Years, each successive twelve-month period thereafter.

b. The rent under this Lease shall commence on the date that is six (6) months following the earlier of (i) October 1, 2023 or (ii) the date that Tenant opens for business to the public (the "Rent Commencement Date"). Rent during the term shall be payable on a monthly basis, due in advance on the first day of each calendar month of the term, and shall be prorated for any periods representing less than a full calendar month. Monthly rent for the term shall be Ten Thousand Dollars (\$10,000) per month, which rent shall increase by ten percent (10%) over the then-current rent each and every five Lease Years of the term, including any extension periods. For example, the rent shall increase on the fifth (5<sup>th</sup>) anniversary of the Commencement Date to Eleven Thousand Dollars (\$11,000) per month.

c. All rent due and owing under this Lease shall be made by Tenant to Landlord, at Landlord's election, by check made payable to Landlord and delivered to Landlord at the address set forth in Section 13 or by wire transfer or automated clearing house transfer from Tenant directly to Landlord to the account provided by Landlord from time to time. In the event Tenant fails to make any rent payment within five (5) calendar days of the due date thereof, Tenant shall pay as additional rent an amount equal to five percent (5%) of the amount of rent due. In addition, if Tenant fails to pay any rent within five (5) days of the due date thereof, all rent sums then due shall then commence to accrue interest at the rate of twelve percent (12%) per annum until paid. In the event of a dishonored check, Tenant agrees to pay a \$35.00 dishonored check fee and to replace any dishonored check with certified funds within twenty-four (24) hours' notice of the dishonored check.

d. All taxes, charges, costs and expenses that Tenant assumes or agrees to pay hereunder, together with all interest and penalties that may accrue thereon in the event of the failure of Tenant to pay those items, and all other damages, costs, expenses, attorney fees and other sums that Landlord may suffer or incur, or that may become due, by reason of any default of Tenant, or failure by Tenant to comply with the terms and conditions of this Lease, shall be deemed to be additional rent, and, in the event of nonpayment, Landlord shall have all the rights and remedies against Tenant as herein provided for failure to pay rent.

3. Right of First Refusal. Tenant is granted a Right of First Refusal with respect to the Leased Premises, as follows:

a. Tenant shall have a right of first refusal to purchase the Leased Premises from the Landlord upon the terms and conditions provided herein. In the event that the Landlord shall receive a bona fide and enforceable written offer acceptable to it, or shall enter into a bona fide and enforceable written contract, for the purchase of all or a portion of the Leased Premises (the "Contract Property") by a ready, willing and able third person (the "First Offeror"), the Landlord shall promptly give written notice thereof to the Tenant and shall deliver to the Tenant a complete and correct copy of such offer or contract. The date on which both such notice and such copy have been received by the Tenant is herein referred to as the "Notice Date". Notwithstanding the foregoing, the right of first refusal set forth herein shall not apply to any transfer by Landlord of the Property to an affiliate of Landlord; provided that upon such transfer the right of first refusal set forth herein shall continue in full force and effect against the transferee in favor of Tenant.

b. From the Notice Date, Tenant shall have the right, at its option, to purchase the Contract Property at the same price and upon the same terms and conditions contained in such offer or contract. Tenant shall give Landlord written notice of exercise of its right to purchase within twenty (20) days after the Notice Date. The date on which the notice of exercise has been received by Landlord is referred to herein as the "Exercise Date". Tenant shall execute a purchase agreement

with Landlord containing the offered or contracted price, terms and conditions, within twenty (20) days of the Exercise Date.

c. If Tenant does not (a) within twenty (20) days after the Notice Date give written notice that it will so purchase the Contract Property, and (b) within twenty (20) days after the Exercise Date execute a purchase agreement, other than as a result of delays caused by Landlord, then Landlord shall be free to complete the sale of the Contract Property to the First Offeror, upon the same terms and conditions contained in such offer or contract, and Tenant's rights under this Section 3 shall terminate. If the proposed sale to the First Offeror is not completed as provided therein, upon the same terms and conditions contained in such offer or contract, then the rights of Tenant under this Lease shall be fully restored and reinstated as if such offer or contract had never been presented to Tenant as herein required.

d. If the proposed sale to the First Offeror is closed, Tenant's rights under this Section shall terminate and shall not run with the land; provided that, in the event that the Contract Property represents only a portion of the Leased Premises, then the rights of Tenant hereunder shall continue with respect to the remaining portion of the Leased Premises.

4. Representations and Acceptance; Warranties of Quiet Title; Access to Leased Premises.

a. Except as otherwise set forth herein, by acceptance of this Lease, Tenant shall be deemed to have agreed that the Leased Premises is in good condition, suitable for the purpose for which leased and to have waived any and all defects therein, unless otherwise reserved, conditioned, or provided in this Lease. Tenant shall be solely responsible to perform Tenant's due diligence with respect to the Leased Premises. Tenant represents that Tenant is a knowledgeable, experienced and sophisticated lessee of real estate. Except as expressly set forth in this Section 4, Landlord will not be deemed to have represented or warranted the truth or accuracy of any materials or other information furnished to Tenant. Tenant acknowledges and agrees that Landlord makes no representation or warranty, express or implied, concerning the Leased Premises including, but not limited to, warranties or representations as to (a) the presence of Hazardous Substances (defined below) in, on, under or in the vicinity of the Leased Premises, (b) limitations regarding availability of or restrictions on water, (c) whether, and to the extent to which, the Leased Premises is affected by geologic conditions, soil conditions or flooding, (d) zoning or building entitlements to which the Leased Premises may be subject, (e) the availability of any utilities to the Leased Premises, (f) usages of adjoining property, (g) access to the Leased Premises or any portion thereof, (g) the suitability of the Leased Premises for the Business, or (h) any other matter with respect to the Leased Premises; provided that the foregoing shall not release or otherwise limit Landlord's obligation to disclose to Tenant any defects known to Landlord which affect the physical condition of or title to the Property. Landlord's decision to purchase the Property shall not be considered a representation or warranty by Landlord with respect to the suitability of the Property for the Business.

b. Notwithstanding anything to the contrary set forth herein, Landlord represents and warrants to Tenant that (i) as of the date possession of the Leased Premises is delivered to Tenant, Landlord shall be seized of the Leased Premises in fee simple and (ii) Landlord has full right and authority to enter into and perform its obligations under this Lease. Subject to the contingency set forth in Section 1(a), Landlord further covenants and warrants that Tenant shall have quiet and peaceable possession of the Leased Premises during the term hereof, if Tenant pays the rent and other charges provided herein and otherwise performs the terms and conditions of this Lease.

c. Tenant shall permit Landlord, or its agents, to enter the Leased Premises, upon reasonable notice of not less than 24 hours, to inspect the Leased Premises or make repairs that Tenant may neglect or refuse to make in accordance with the provisions of this Lease, and also to show the Leased Premises to prospective buyers. At any time within one hundred eighty (180) days prior to expiration of the term, Landlord may show the Leased Premises to persons wishing to rent the Leased Premises or post signs indicating their availability.

5. Delivery of Possession. Provided that Tenant does not terminate this Lease prior to the end of the Diligence Period, Tenant accepts the Leased Premises in its "AS IS, WHERE IS" condition, subject only to the express warranties of Landlord in this Lease. Tenant acknowledges that Landlord has no obligation to perform any work on, or build or install any improvements upon, the Lease Premises.

6. Uses Prohibited; Exclusive Rights; Signage.

a. Tenant shall not use, or permit the Leased Premises, or any part thereof, to be used for any unlawful purpose. Any use that requires use of underground storage tanks, with the exception of water storage tanks, shall require the prior written consent of Landlord. In addition, if Tenant, or any sublessee to whom Landlord consents under Section 12, below, attempts to use or permits the Leased Premises, or any part thereof, to be used for any purpose other than the "Business" as defined in Recital B, such use shall require the prior written consent of Landlord.

b. During the term of this Lease, Landlord shall not permit any portion of any adjacent property owned now or in the future by Landlord or any of its affiliates to be used for the purpose of operating a car wash business, provide that such restriction shall not apply to Landlord's acquisition, resale or operation of the current self-serve car wash located at 1475 E Highway 193, Layton, Utah.

c. Tenant shall be permitted to install the maximum building, pylon and other signage on the Property permitted by applicable law.

7. Taxes and Assessments

a. As used in this Section 7, the term "Real Property Taxes" shall include any form of ad valorem tax, general or special assessment, license fee, commercial rental or gross receipts tax, levy, penalty, duty, charge, or tax imposed against the Leased Premises by any authority having the direct or indirect power to tax, including any city, county, state or federal government, or any school, agricultural, lighting, drainage, sewer, or other improvement district, or any tax imposed in substitution, partially or totally, of any tax previously included within the definition of Real Property Taxes. Tenant shall pay, directly to the appropriate governmental authority, all Real Property Taxes imposed on the Leased Premises during the term. All such payments shall be made at least ten (10) days prior to the delinquency date of such Real Property Taxes. Tenant shall also pay, prior to delinquency, all taxes assessed against and levied on all trade fixtures, furnishings, equipment and other personal property, including leasehold improvements that may be located or used by Tenant on the Leased Premises. Tenant shall, within thirty (30) days of written request by Landlord, produce satisfactory evidence of payment of any such taxes to Landlord. Real property taxes on the Leased Premises for any portions of the term that are less than one calendar year shall be prorated.

b. Tenant shall pay when due all assessments that may be made against the Leased Premises for improvements by any governmental entity and, if available, may pay such assessments in installments; provided that the obligations for assessments for any portions of the term that are less than one calendar year shall be prorated.

8. Utilities. Tenant shall pay all costs, expenses, charges and amounts, of whatever kind or character, for all water, gas, electricity, telephone, sewer service, communication services, protective service, trash disposal and other utilities and services supplied to the Leased Premises during the term, together with any taxes on such utilities and services, including without limitation, all line extension costs, all initial utility deposits and connection and impact fees, and all periodic or monthly service or usage charges. In the event any utility charges for the Leased Premises are billed to Landlord, Tenant will reimburse Landlord within ten (10) days of the date that Landlord notifies Tenant of any such amounts paid by Landlord. Landlord shall not be liable for damages in the event of any interruption in the supply of any utility service to the Leased Premises, except to the extent resulting from willful misconduct or negligence of Landlord, its agents, employees, representatives, contractors, guests or invitees.

9. Waste and Nuisance Prohibited.

a. During the term of this Lease, Tenant shall comply in all material respects with all applicable laws affecting the Leased Premises. Tenant shall not commit, or suffer to be committed, any waste or any nuisance on the Leased Premises. Tenant shall not use, or permit the Leased Premises, or any part thereof, to be used for any purposes other than the Business or other uses reasonably related thereto.

b. Beyond operation of the Business in a commercially reasonable manner, Tenant will not do or permit any act or thing that may impair the value of the Leased Premises or any part thereof, or that materially increases the dangers, or poses an unreasonable risk of harm, to third parties (on or off the Leased Premises) arising from activities thereon, or that constitutes a public or private nuisance or waste to the Leased Premises or any part thereof. Tenant shall, at tenant's own expense, comply with all Environmental Laws (defined below). In addition, Tenant shall not conduct any activity on the Leased Premises or use the Leased Premises in any manner (i) which would cause the Leased Premises to become a hazardous waste treatment, storage or disposal facility, (ii) so as to cause a release or threat of release of Hazardous Substances from the Leased Premises, or (iii) so as to cause a discharge of pollutants or effluents into any water source or system, or the discharge into the air of any emissions, in violations of any Environmental Laws. In the event Landlord has reasonable cause to believe Tenant has violated any of the provisions of this subparagraph b, of this Section 9, Tenant shall, upon request of Landlord, provide Landlord, at Tenant's expense, with an appropriate environmental audit report of the Leased Premises prepared by an independent qualified third party. Tenant shall promptly give to Landlord copies of all reports given to, and notices received from, governmental agencies regarding the environmental conditions of the Leased Premises and the operations conducted thereon. In addition, Tenant shall be responsible for any contamination occurring on the Leased Premises which is caused or permitted by Tenant, and shall be responsible for the costs and fees associated with any remediation or clean up associated with removing said contamination.

c. The term "Hazardous Substances" shall mean any substance: (i) which is flammable, explosive, radioactive, toxic, corrosive, infectious, carcinogenic, mutagenic or otherwise hazardous and which is or becomes regulated by any governmental authority, agency, department, commission, board or instrumentality of the United States, the state in which the Leased Premises is

located or any political subdivision thereof; (ii) which contains asbestos; organic compounds known as polychlorinated biphenyl; chemicals known to cause cancer or reproductive toxicity; petroleum, including crude oil or any fraction thereof; or which is or becomes defined as a pollutant, contaminant, hazardous waste, hazardous substance, hazardous material or toxic substance under the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901-6992k; the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9601-9657; the Hazardous Materials Transportation Authorization Act of 1994, 49 U.S.C. §§ 5101-5127; the Clean Water Act, 33 U.S.C. §§ 1251-1387; the Clean Air Act, 42 U.S.C. §§ 7401-7671q; the Toxic Substances Control Act, 15 U.S.C. §§ 2601-2692; the Safe Drinking Water Act, 42 U.S.C. §§ 300f to 300j-26; the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. §§ 11001-11050; and title 19, chapter 6 of the Utah Code, as any of the same have been or from time to time may be amended; and any similar federal, state and local laws, statutes, ordinances, codes, rules, regulations, orders or decrees relating to environmental conditions, industrial hygiene or Hazardous Substances on the Leased Premises, including all interpretations, policies, guidelines and/or directives of the various governmental authorities responsible for administering any of the foregoing, now in effect or hereafter adopted, published and/or promulgated (collectively, "Environmental Laws"); (iii) the presence of which on the Leased Premises requires investigation or remediation under any Environmental Laws; or (iv) the presence of which on the Leased Premises causes or threatens to cause a nuisance on the Leased Premises or to adjacent properties or poses or threatens to pose a hazard to the health and safety of persons on or about the Leased Premises.

10. Abandonment of Leased Premises. Tenant shall not vacate or abandon the Leased Premises at any time during the term hereof; if Tenant shall abandon, vacate or surrender the Leased Premises, or be dispossessed by process of law, or otherwise for a period exceeding four weeks, any personal property belonging to Tenant and left as a part of the Leased Premises by the Tenant, shall be deemed to be abandoned at the option of Landlord.

11. Easements, Agreements or Encumbrances. The parties shall be bound by all existing easements, agreements and encumbrances of record relating to the Leased Premises, and Landlord shall not be liable to Tenant for any damages resulting from any action taken by a holder thereunder, except as otherwise provided in Section 12 hereof.

12. Assignment and Subletting; Non-Disturbance and Attornment; Estoppel.

a. Tenant may not assign or sublet the Leased Premises in whole or in part without the prior written consent of Landlord. Landlord shall not unreasonably withhold, condition or delay consent to any assignment or sublease, but shall be entitled, in good faith, to consider those factors that may be material to such consent, including but not limited to the economic viability of the proposed assignee or sublessee, the credit rating and financial strength of the proposed assignee or sublessee, and the ability of the proposed assignee or sublessee to uphold and comply with the provisions of this Lease. Any such consent, unless expressly provided to the contrary, shall not be deemed to be a consent to any subsequent assignment or sublease. In the event of Tenant's assignment of all of its right, title and interest herein, as to which Landlord provides its written consent or as a result of a Permitted Affiliate Assignment, both Tenant and any person (s) guaranteeing Tenant's performance of this Lease shall be released from all obligations and liabilities arising under this Lease after the date of such assignment. Neither this Lease nor the leasehold estate of Tenant, nor any interest of Tenant hereunder in the Leased Premises, or any Improvements thereon, shall be subject to involuntary assignment, transfer, or sale, or to assignment, transfer, or sale by operation of law in any manner whatsoever without Landlord's consent, and any such



attempted involuntary assignment, transfer, or sale shall be void and of no effect and shall, at the option of Landlord, terminate this Lease.

b. Notwithstanding anything to the contrary in the Lease, Landlord's consent and prior approval will not be required for any of the following assignments or changes in ownership:

i. Any change in ownership due to a corporate restructuring in the normal course of business (and not for the purpose of evading Tenant's obligations under this Lease), including, but not limited to, assignments, transfers, or mergers to or with Tenant's parents, subsidiaries, or affiliates; and

ii. Any transfer to (or merger with) a third party pursuant to which all or substantially all of the ownership interests in Tenant (e.g., equity sale) or all or substantially all of the assets of Tenant (e.g., a so-called asset sale) are sold, so long as the purchaser has a net worth exceeding Tenant's net worth at the time of the transfer.

The occurrence of any of the foregoing will be called a "Permitted Affiliate Assignment." Tenant will provide notice to Landlord on a prompt basis after the occurrence of any Permitted Affiliate Assignment. If the Permitted Affiliate Assignment results in a new tenant, the new/resulting tenant must agree to fully perform under the Lease for the remainder of the term of the Lease after the assignment.

c. Landlord may assign all of its interest in this Lease to any third party. In the event of such assignment, the assigning Landlord shall be relieved from all liability under this Lease occurring or accruing after the date of said assignment; provided that Landlord shall not be relieved of liability, under this Lease or otherwise, for the acts or omissions of Landlord, its employees, agents, representatives, or lessees, whether occurring prior to or after any assignment by Landlord.

d. In the event of any assignment by Landlord or in the event of the foreclosure of any trust deed or other security instrument related to Landlord, and subject to Tenant's attornment below, such assignee, lienholder or a purchaser at a foreclosure sale shall not disturb Tenant in Tenant's use and occupation of the Leased Premises and rights arising hereunder, including those rights set forth in Section 3 hereof, pursuant to the terms of this Lease, so long as Tenant has fulfilled its obligations under this Lease or otherwise cured any default under this Lease within the applicable cure period.

e. In the event of the sale or assignment of Landlord's interest in the Leased Premises, 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 trust deed or other security instrument made by Landlord covering the Property, Tenant shall attorn to the assignee or purchaser and recognize such purchaser as Landlord under this Lease, provided that such transferee or successor assumes in writing Landlord's obligations under the Lease.

f. Tenant shall, within ten (10) days after a request by Landlord, execute and deliver to Landlord an estoppel certificate, in commercially reasonable form in favor of Landlord and such other persons as Landlord may reasonably request. Tenant's failure to execute and deliver such estoppel certificate within the ten (10) day period shall be a default and further shall be deemed to make conclusive and binding upon Tenant the statements contained therein as true and correct without exception. Landlord and third parties reasonably designated by Landlord shall be entitled to

conclusively rely on any estoppel certificate described in this Section 12(e).

13. Notices. All notices, demands, or other writings in this Lease provided to be given or made or sent, or which may be given or made or sent, by either party hereto to the other, shall be deemed properly given (a) if hand delivered, when delivered, (b) if sent by registered or certified mail, postage prepaid and return receipt requested, three (3) business days after mailing, or (c) if by Federal Express or other nationally recognized overnight courier service, on the next business day after delivered to such courier service for delivery on the next business day, to the party to be notified at the address for each party below, or at such other address as the party to be served with notice has furnished in writing to the party seeking or desiring to serve notice as a place for the service of notice:

If to Landlord:                   ABS Partners, LLC  
285 South Mountain Road  
Fruit Heights, Utah 84037

With a copy to (which shall not constitute notice to Landlord):  
Bennett Tueller Johnson & Deere, LLC  
3165 East Millrock Drive, Suite 500  
Salt Lake City, Utah 84121  
Attn: Stephen M. Tumblin

If to Tenant:                    Twin Towers, LLC  
3072 East 750 North  
St. George, Utah 84790

With a copy to (which shall not constitute notice to Tenant):  
Dentons Durham Jones Pinegar P.C.  
192 East 200 North, Third Floor  
St. George, Utah 84770  
Attn: Rick L. Guerisoli

Nothing herein shall be construed to preclude personal service of any notice in the manner prescribed for personal service of a summons or other legal process, which shall be deemed given when personally served at the above address of a party. Refusal to accept delivery of a notice or the inability to deliver a notice because of an address change which was not properly communicated shall not defeat or delay the giving of notice.

14. Construction of Improvements.

a. Tenant shall, at Tenant's sole expense, prepare plans and specifications (the "Plans") relating to construction of one or more buildings, facilities and improvements, including parking areas, to be constructed or installed on and as a part of the Leased Premises (the "Improvements"), generally as depicted in Exhibit B. Prior to the commencement of construction of the Improvements, the Plans shall be submitted to Landlord for its review and written approval, which shall not be unreasonably withheld, conditioned or delayed. In the event that Tenant is unable to secure Landlord approval, despite good faith efforts of the parties, this Lease may be terminated at the election of Tenant, whereupon any deposits shall be refunded to Tenant and the parties shall have no further obligations under this Lease. Following submission to and written approval of Landlord, Tenant shall, at Tenant's sole expense, commence, and thereafter diligently prosecute to completion,

the construction of the Improvements in accordance with the Plans. Tenant shall enter into a construction contract with a reputable general contractor selected by Tenant in Tenant's name for the completion of construction of the Improvements and all other work, licenses and costs necessary to operate on the Leased Premises in accordance with this Lease (collectively, the "Tenant's Construction"). Tenant shall use commercially reasonable efforts to commence the Tenant's Construction promptly upon receiving a building permit therefor and diligently complete the same at Tenant's sole cost and expense. If requested by Landlord's mortgagee, said contractor shall agree that, if Landlord or Landlord's mortgagee succeeds to Tenant's interest in the Leased Premises prior to such contractor's completion of Tenant's Construction, such contractor will, upon request of Landlord or its mortgagee, complete Tenant's Construction pursuant to the terms of its contract with Tenant, provided that Landlord or its mortgagee pays such contractor for work performed as required by the construction contract. The foregoing agreement shall not be deemed to impose upon Landlord or its mortgagee any liability for the performance of or obligations of Tenant under such contract. Such construction shall be completed in a good and workmanlike manner, in accordance with the approved Plans and with applicable building codes. Tenant's contractor shall provide Landlord a written waiver of such contractor's right (and any subcontractor's right) to file a lien against the Property in connection with Tenant's Construction and any such lien shall attach only to the Improvements. Tenant shall be responsible for all preconstruction excavation and grading, which shall be in accordance with the approved Plans.

b. Upon completion of Tenant's Construction, the architect supervising construction or the contractor shall certify in writing to Landlord and Tenant that Tenant's Construction is complete and Tenant's building is ready for use and occupancy. Simultaneously, Tenant shall secure, at Tenant's sole cost and expense, a proper final certificate of occupancy or such other permit which may be required from the applicable governmental authority prior to Tenant's beginning to transact business in, on or from the Leased Premises. Tenant shall pay all sums necessary for completion of Tenant's Construction in accordance with the approved Plans; provided that Landlord shall deliver a payment for reimbursement of Tenant's construction costs not to exceed \$75,000 within thirty (30) days following the Rent Commencement Date (the "Allowance"). If Landlord fails to pay the Allowance in full by the due date thereof, any unpaid portion thereof shall commence to accrue interest at the rate of twelve percent (12%) per annum until paid.

c. Tenant shall have the right, after receiving written approval from Landlord, to make such alterations, improvements, and changes to any of the Improvements, which may from time to time be on the Leased Premises, as Tenant may deem necessary, provided that the value of the Improvements shall not be diminished and the structural integrity of any building shall not be adversely affected by any such alterations, improvements, or changes, or Tenant may replace any such building with a new building, after receiving written approval from the Landlord, provided that any proposed new building is at least equal in value to the one which it is to replace.

d. Any Improvements constructed by Tenant on the Leased Premises, and all alterations, improvements, changes, or additions made in or to the Leased Premises shall be the property of Tenant until the expiration or earlier termination of this Lease, at which time any such Improvements, and all alterations, improvements, changes, or additions, shall become the property of Landlord; provided that Tenant shall continue to be the owner of all trade fixtures, furniture, fixtures and equipment which may be removed from the Leased Premises without causing material damage to any building or its structural integrity.

e. During the period of construction, Landlord and Landlord's duly authorized representatives shall have access to the Leased Premises, at reasonable times and without

unreasonable disruption, for the purpose of tracking the construction and installation of the Improvements.

f. In connection with Tenant's construction of any Improvements on the Property and notwithstanding any other provision of this Lease to the contrary, Landlord agrees to consent to Tenant's use of its leasehold interest as security in obtaining financing for the construction of the Improvements on the Property on commercially reasonable terms.

g. Tenant shall, prior to the commencement of construction of Tenant's Improvements and thereafter until the completion of the Tenant's Construction, obtain at Tenant's sole cost and expense a "course of construction" policy of insurance, including, but not limited to, provisions for fire and extended coverage covering the building and appurtenances to be constructed by Tenant on the Leased Premises. Landlord, Tenant's contractor, Tenant's construction lender and Tenant shall be named as insureds under such policy. Tenant agrees that any "course of construction" policy obtained shall provide that any insurance carried by Landlord shall be in excess of said "course of construction" policy and shall not contribute to payment of any loss thereunder.

15. Repairs and Maintenance. Tenant shall, throughout the term of this Lease, at its own cost, and without any expense to Landlord, keep and maintain the Leased Premises, including all Improvements of every kind which may be a part thereof, and all appurtenances and improvements thereto, in good and sanitary order, condition and repair, and, except as specifically provided herein, restore and rehabilitate any improvements of any kind which may be destroyed or damaged by fire, casualty, or any other cause whatsoever; provided that Landlord, and not Tenant, shall be obligated to make any repairs, replacements, or renewals of any kind, nature, or description, whatsoever, to the Leased Premises or any Improvements thereon caused by the negligence or willful misconduct of Landlord, its agents, representatives and employees.

16. Damage or Destruction.

a. If any portion of Improvements are damaged or destroyed by any casualty, whether wholly or in part, Tenant shall, at Tenant's sole cost and expense, as soon as reasonably possible after the casualty, repair and restore the Improvements to substantially the condition in which they existed immediately prior to such destruction, with such approved modifications as Tenant shall determine to make in accordance with Section 14. In the event of such repair and restoration, the proceeds of all property insurance procured under Section 21 shall be paid over to Tenant. Such repair and restoration shall be of a value and quality equal to or greater than the value or quality of the Improvements prior to such damage or destruction.

b. Notwithstanding Section 16.a., to the contrary, if the Improvements are damaged or destroyed by a casualty during the last three (3) years of the initial term or any extension period to the extent of twenty percent (20.0%) or more of their then replacement cost and if Tenant will satisfy all existing liens or encumbrances against the Improvements, then Tenant may, by written notice given to Landlord within ninety (90) days after the occurrence of such damage or destruction, elect not to repair and restore the Improvements, retain the property insurance proceeds less the portion reasonably necessary to remove such Improvements, which shall be delivered to Landlord, and terminate this Lease. If such notice is not received by Landlord within such ninety (90) day period, Tenant shall be deemed to have elected to repair and restore the Improvements and to have waived any rights of termination of the Lease pursuant to this Section 16.b.

17. Liens. Except as otherwise provided in Section 14(f) of this Lease, Tenant shall keep the Leased Premises and every part thereof and all Improvements, at any time located thereon, free and clear of any and all mechanic's, materialmen's or other liens. Tenant shall hold Landlord harmless against any claim, liability, cost or expense, including attorneys' fees, due to any lien filed against the Leased Premises on account of non-payment or dispute with respect to labor or materials furnished in connection with the construction referred to in this Lease, and Tenant shall cause no judgment to attach against the Leased Premises. Tenant shall notify Landlord within ten (10) days of Tenant's receipt of notice of filing of any such lien, and such lien shall be removed within sixty (60) days after filing or shall be protected by bond, surety, or cash security reasonably satisfactory to Landlord, should Tenant desire to contest such lien.

18. Indemnity.

a. Tenant shall indemnify, defend and hold harmless Landlord and Landlord's employees, officers, directors, members, managers and agents, and their respective successors and assigns ("Landlord Indemnified Parties") from and against all demands, claims, causes of action, judgments, losses, damages, liabilities, fines, penalties, costs and expenses, including attorneys' fees ("Losses"), arising from or related to (a) the occupancy or use by Tenant or any subtenant of any portion of the Leased Premises, or any of their respective agents, employees, representatives, invitees or licensees, (b) any Hazardous Substance deposited, released or stored by the Tenant or any subtenant, or any of their respective agents, employees, representatives, or invitees in, on or around the Leased Premises, (c) any act or omission done, permitted or suffered by Tenant or any subtenant, or any of their respective agents, employees, representatives, or invitees in, on or around the Leased Premises, (d) any default or nonperformance by Tenant under this Lease, or (e) any claims to or against the Leased Premises arising out of the act or omission of Tenant or subtenant, or any of their respective agents, employees, representatives, or invitees. Notwithstanding anything else contained herein, Tenant shall not be obligated to indemnify any Landlord Indemnified Party for any harm or damage to the extent that the same is caused by such Landlord Indemnified Party's negligence or willful misconduct.

b. Landlord shall indemnify, defend and hold harmless Tenant and Tenant's employees, officers, directors, members, managers and agents, and their respective successors and assigns ("Tenant Indemnified Parties") from and against all Losses, arising from or related to (a) any presence on or use of the Leased Premises by Landlord, or any of its respective agents, employees or representatives, (b) any Hazardous Substance deposited, released or stored by the Landlord or its agents, employees or representatives in, on or around the Leased Premises, (c) any act or omission done, permitted or suffered by Landlord or its agents, employees or representatives in, on or around the Leased Premises, (d) any default or nonperformance by Landlord under this Lease, (e) any breach or inaccuracy of any representation or warranty made by Landlord in this Lease, or (f) any claims to or against the Leased Premises to the extent arising out of any negligent act or omission or willful misconduct of Landlord or its agents, employees or representatives.

c. If any action or proceeding is brought against any Landlord Indemnified Party or Tenant Indemnified Party by reason of any of the matters set forth in this Section, on notice from such Indemnified Party, the other party shall defend such Indemnified Party at the other party's sole cost and expense with counsel reasonably satisfactory to such Indemnified Party. The foregoing provisions of this Section 18 shall survive the expiration of the term or sooner termination of this Lease.

19. Attorney Fees. Should any party default in any of the covenants or agreements herein contained, that defaulting party shall pay all costs and expenses, including reasonable attorney fees, which may arise or accrue from enforcing this Lease or in pursuing any remedy provided hereunder or by applicable law, whether such remedy is pursued by filing suit or otherwise. This obligation of the defaulting party to pay costs and expenses includes, without limitation, all costs and expenses, including reasonable attorney fees, incurred on appeal and in bankruptcy proceedings.

20. Redelivery of Leased Premises. Tenant shall pay the rent and all other sums required to be paid by Tenant hereunder in the amounts, at the times, and in the manner herein provided, and shall keep and perform all other terms and conditions hereof on its part to be kept and performed, and, at the expiration or sooner termination of this Lease, peaceably and quietly quit and surrender the Leased Premises to Landlord in good order and condition, ordinary wear and tear excepted. During the term of this Lease, title to the Improvements located on the Leased Premises shall be vested in Tenant. At the expiration of the term or sooner termination of this Lease, title to the Improvements shall vest in the Landlord, free and clear of any claim of Tenant, except as otherwise provided in this Lease.

All liability policies maintained by Tenant shall contain a provision that Landlord and any other additional insured, although named as an insured, shall nevertheless be entitled to recover under such policies for any loss sustained by Landlord or Landlord's managers, members, agents, officers, directors and employees as a result of the acts or omissions of Tenant or a subtenant.

21. Insurance.

a. During the term of this Lease, Tenant, at Tenant's sole cost and expense, shall procure and continue in force the following insurance coverage:

- i. commercial general liability insurance with a combined single limit for bodily injury and property damage of not less than Two Million Dollars (\$2,000,000.00) per occurrence, which amount shall be increased from time to time in keeping with good commercial practice in the State of Utah;
- ii. hazard insurance with special causes of loss including theft coverage, insuring against fire, extended coverage risks, vandalism and malicious mischief, including sprinkler leakage coverage, if applicable, in an amount equal to at least the full replacement cost of the Improvements and all furnishings, trade fixtures, leasehold improvements, equipment, merchandise and other personal property from time to time situated at the Leased Premises, which coverage shall also include twelve (12) months' coverage due to business interruption;
- iii. workers' compensation insurance satisfying Tenant's and all subtenants' obligations under the workers' compensation laws of the State of Utah.

b. Liability insurance shall name Landlord and any mortgagee of Landlord of which Tenant has been notified in writing by Landlord as an additional insured, and property insurance shall name Landlord as a loss payee as Landlord's interests may appear. Both liability and

property insurance shall be with companies reasonably acceptable to Landlord having authority to write insurance in the State of Utah.

c. Tenant shall furnish Landlord with certificates of coverage prior to delivery of possession of the Leased Premises to Tenant.

d. No such policy shall be cancelable or subject to reduction of coverage or other modification except after thirty (30) days' prior written notice to Landlord by the insurer.

e. All such policies shall be written as primary policies, not contributing with and not in excess of the coverage which Landlord may carry.

f. Tenant shall, at least ten (10) days prior to the expiration of such policies, furnish Landlord with renewals of, or binders for, such policies.

g. Tenant may carry insurance required hereby through one or more blanket policies, in which event, Tenant shall provide Landlord and Landlord's mortgagee, as required hereby, with copies and certificates thereof upon reasonable request.

h. Landlord and Tenant waive all rights to recover against each other and against the officers, directors, shareholders, partners, joint venturers, managers, members, employees, agents, customers, invitees or business visitors of each other for any loss or damage arising from any cause covered by any insurance carried by the waiving party, to the extent that such loss or damage is actually covered.

i. To the extent reasonably available, Landlord and Tenant shall cause their respective insurance carriers to issue appropriate waivers of subrogation rights endorsements to all policies of insurance carried in connection with the Premises or the contents of the Premises.

j. Tenant shall be solely responsible for furnishing fire and extended coverage insurance on personal property, including Improvements, located or used on the Leased Premises.

k. Tenant acknowledges that Landlord may, but shall not be required to, maintain insurance coverage for the Leased Premises and, in any event, Tenant shall not be covered by, or entitled to the proceeds of, such insurance.

22. Liability of Landlord. Tenant shall be in exclusive control and possession of the Leased Premises, and Landlord shall not be liable for any injury or damages to any property or to any person on or about the Leased Premises, nor for any injury or damage to any property of Tenant, unless caused by the negligence or willful misconduct of Landlord, its agents, employees or representatives.

23. Condemnation. Rights and duties in the event of condemnation are as follows:

a. If the whole or substantially all of the Leased Premises shall be taken or condemned by any competent authority for any public or quasi-public use or purpose, this Lease shall cease and terminate as of the date on which title shall vest thereby in that authority, in the same manner as if the term of the Lease had expired, and the rent reserved hereunder shall be apportioned and paid up to that date. For the purposes of this Section 23, "substantially all of the Leased Premises" or a "substantial portion" includes (a) any Improvement (or portion of an Improvement)

which cannot be restored to an economically useful condition in Tenant's reasonable judgment, or (b) all reasonable access to public roads.

b. If only a portion of the Leased Premises, less than a substantial portion, shall be taken or condemned, rent shall be reduced during the balance of the term based on the relative impact upon or such taking or condemnation on the Business and operations Tenant.

c. In the event of any taking or condemnation in whole or in part, Landlord shall be entitled to an award of consequential damages, including the value of its reversionary interest in any Improvements on the Leased Premises, assuming that the term would end at the expiration of the final extension term. The Tenant shall be entitled to the value of its leasehold estate with respect to any Improvements placed on the Leased Premises (less the value of Landlord's reversionary interest as described in the preceding sentence), the value of its leasehold interest in the real property portion of the Leased Premises, and any other amounts recoverable by Tenant, including but not limited to any claims which might be asserted in separate proceedings for, among other things, loss of personal property, loss of business, loss of business investment, or business relocation expenses.

24. Waivers. The failure of either party to insist on a strict performance of any of the terms and conditions hereof shall be deemed a waiver of the rights or remedies of that party regarding that specific instance only, and shall not be deemed a waiver of any subsequent breach or default in any terms and conditions.

25. Default or Breach. Each of the following events shall constitute a material default or breach of this Lease by Tenant:

a. Tenant's failure to pay Landlord any rent or other amount required to be paid by Tenant hereunder within fifteen (15) days after written notice is given to Tenant that the same is past due, provided that Landlord shall not be required to provide notice of non-payment of rent more than two (2) times in any Lease Year.

b. Tenant's failure to perform or comply with any of the conditions of this Lease, other than payment of rent as referenced in subparagraph a. of this Section 25, if the nonperformance shall continue for a period of thirty (30) days after (i) written notice thereof by Landlord to Tenant or (ii) receipt by Tenant of any written notice from any third party of any condition or event that would be a breach of this Lease, or if the performance cannot reasonably be cured within the thirty (30) day period and Tenant shall not in good faith have commenced performance within the thirty (30) day period and does not diligently proceed to completion of performance, but in no event shall such failure continue for more than one hundred twenty (120) days after such written notice from Landlord.

c. If Tenant shall vacate, abandon or fail to occupy the Leased Premises.

d. If Tenant or any guarantor shall become the subject of any bankruptcy, reorganization, assignment for benefit of creditors or any other procedures with similar purpose, whether voluntary or involuntary.

e. Any guarantor (i) revokes or otherwise terminates, or purports to revoke or otherwise terminate, any guaranty of all or any portion of Tenant's obligations under the Lease, (ii) breaches the terms of such guaranty (after taking into account any applicable cure periods), or (iii) dissolves, liquidates or becomes insolvent, and no substitute guaranty that is reasonably acceptable to



Landlord is provided to Landlord within thirty (30) days of such event. Unless otherwise expressly provided in such guaranty, no guaranty of this Lease is revocable.

26. Remedies on Default. In the event of any default hereunder (or threatened default in the case of subparagraph b, of this Section), the rights and remedies of Landlord shall be as follows:

a. Landlord may elect, but shall not be obligated, to make any payment required of Tenant herein or comply with any agreement, term or condition required hereby to be performed by Tenant, and Landlord shall have the right to enter the Leased Premises for the purpose of correcting or remedying any such default and to remain until the default has been corrected or remedied. However, any expenditure hereunder by Landlord shall not be deemed to waive or release the default of Tenant or the right of Landlord to take any action as may be otherwise permissible hereunder in the case of any default.

b. Landlord shall have the right of injunction to restrain Tenant and the right to invoke any remedy allowed by law or in equity, as if the specific remedies of indemnity or reimbursement were not provided herein.

c. Landlord shall have the right to cancel and terminate this Lease, as well as all of the right, title and interest of Tenant hereunder, by giving to Tenant not less than twenty (20) days written notice of the cancellation and termination. On expiration of the time fixed in the notice, this Lease and the right, title and interest of Tenant hereunder shall terminate in the same manner and with the same force and effect, except as to Tenant's liability for sums accrued prior to the date of termination, as if the date fixed in the notice of cancellation and termination were the end of the term herein originally determined

d. Reenter and take possession of the Leased Premises by any lawful means (with or without terminating this Lease).

e. Proceed under any rights provided pursuant to Utah Code pertaining to forcible entry and/or detainer of the Leased Premises.

f. Landlord have a right to the reasonable cost of recovering possession of the Leased Premises, all reasonable costs of reletting, including reasonable renovation, remodeling and alteration of the Leased Premises, the amount of any commissions paid by Landlord in connection with such reletting, the unamortized amount of any tenant improvement allowance or other concessions given to Tenant under this Lease, and all other reasonable costs and damages arising out of Tenant's default, including attorneys' fees and costs. Notwithstanding any reentry, and unless Landlord specifically terminates this Lease (by written notice as provided above), the liability of Tenant for the rent payable in this Lease shall not be extinguished for the balance of the unexpired initial term or then current extension term and therefore tenant shall compensate Landlord on demand for any deficiency accrued to that point from reletting the Leased Premises at a lesser rent than would be payable under this Lease. In the event the Leased Premises may relet at a premium, the Tenant shall be entitled to any offset for the increased revenues to Landlord. Notwithstanding anything contained in this Section 26.f. to the contrary, Landlord's obligation to mitigate damages for unpaid rent shall not commence unless, and until, Tenant has vacated and surrendered the Leased Premises to Landlord.

27. Application of Remedies. The rights and remedies given to Landlord in this Lease are distinct, separate and cumulative, and no one of them, whether or not exercised by Landlord, shall be deemed to be in exclusion of any of the others herein, by law, or by equity, provided.

28. Total Agreement Applicable to Successors. This Lease contains the entire agreement between the parties as to the subject matter hereof, and cannot be changed or amended except by a written instrument subsequently executed by the parties hereto. Should any provision of this Lease be determined to be unenforceable, the remaining provisions hereof shall remain in full force and effect. This Lease and the terms and conditions hereof shall inure to the benefit of, and shall be binding on, the heirs, legal representatives, successors and assigns of both parties.

29. No Business Relationship. Nothing in this Lease shall be deemed to create the relationship of partners, partnership, joint venture, or any other business relationship between the parties hereto. The only relationship intended between the parties to this Lease shall be as Landlord and Tenant.

30. Applicable Law. This Lease shall be governed by and construed in accordance with the laws of the State of Utah. The parties agree that jurisdiction and venue will be vested in the state and federal courts residing in the county in which the Property is located, and waive any objections thereto.

31. Time of the Essence. Time is of the essence in all provisions of this Lease.

32. Captions; Recitals and Exhibits. The captions appearing under the section number designations of this Lease are for convenience only and are not a part of this Lease and do not in any way limit or amplify the terms and provisions of this Lease. The recitals contained herein and the exhibits herein referenced are incorporated herein and shall be and form a part of this Lease.

33. Memorandum of Lease. Concurrently with the execution of this Lease, Landlord and Tenant shall execute a Memorandum of Lease in substantially the form attached hereto as Exhibit C, setting forth, among other things, the names and addresses of the parties, a reference to the Lease and its date, the legal description of the Property, the Commencement Date, Tenant's right of first refusal to purchase the Leased Premises, and such other information as may be reasonably required to give appropriate notice of the Lease. The Memorandum of the Lease may be recorded by either Landlord or Tenant. Upon the expiration of sooner termination of this Lease, Tenant shall promptly execute and deliver any documentation requested by Landlord to terminate such recorded Memorandum of Lease.

34. Guaranty. Contemporaneously with Tenant's execution of this Lease, the entities and persons identified therein shall execute and deliver to Landlord a Lease Guaranty in the form attached hereto as Exhibit D. If Tenant fails to so deliver the Lease Guaranty, Landlord may, at its option, terminate this Lease by providing Tenant with written notice of such termination.

35. Counterparts. This Lease and any amendments may be executed in any number of original, telecopy, or electronic counterparts, each of which will be effective on delivery and all of which together will constitute one binding agreement of the parties. Any signature page of the Lease may be detached from any executed counterpart of the Lease without impairing the legal effect of any signatures and may be attached to another counterpart of the Lease that is identical in form to the document signed (but that has attached to it one or more additional signature pages).

[Signature page follows]

IN WITNESS WHEREOF, this Lease has been entered into the day and year first above written.

LANDLORD:           ABS Partners, LLC

By: DocuSigned by:  
Brandon Wood  
Title: Manager

TENANT:             CKQ Layton 1, L.L.C.

By: DocuSigned by:  
Conner Atkin  
Title: Owner

Exhibit A

## PARCEL 1:

**LEGAL DESCRIPTION OF THE PROPERTY**

A part of the Northeast Quarter of Section 10, Township 4 North, Range 1 West, Salt Lake Base and Meridian: Beginning at a point on the Northerly line of Utah State Highway 193, located 938.06 feet South 89°13'30" East along the Section Line; and 711.85 feet South 0°46'30" West from the North Quarter Corner of said Section 10; and running thence Southwesterly along the arc of a 5654.65 foot radius curve to the right a distance of 202.66 feet (center bears North 6°02'49" West; central angle = 2°03'13" and long chord bears South 84°58'47" West 202.65 feet) along said Northerly line; thence North 121.58 feet; thence East 182.47 feet; thence South 10°35'06" East 105.64 feet to the point of beginning.

## ALSO:

A part of the Northeast Quarter of Section 10, Township 4 North, Range 1 West, Salt Lake Base and Meridian: Beginning at a point located 917.25 feet South 89°13'30" East along the Section Line and 608.28 feet South 0°46'30" West from the North Quarter corner of said Section 10; and running thence West 182.47 feet; thence North 128.26 feet; thence East 158.50 feet; thence South 10°35'06" East 130.48 feet to the point of beginning.

## PARCEL 1A:

A perpetual Easement for vehicular and pedestrian ingress and egress, appurtenant to Parcel 1 described above, as disclosed in Reciprocal Easement and Maintenance Agreement recorded September 30, 2009 as Entry No. 2484512 in Book 4871 at Page 1321 of the official records of the Davis County Recorder's Office, which is described as follows:

A part of the Northeast Quarter of Section 10, Township 4 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey in Davis County, Utah: Beginning at the Northwest Corner of Lot 1, Greyhawk Plaza Phase 1 Subdivision, recorded as Entry No. 2554320, on the Easterly line of Church Street as it exists 33.00 foot half-width located 245.35 feet South 89°13'30" East along the Section Line; and 511.51 feet South 0°46'30" West from the North Quarter Corner of said Section 10; and running thence East 175.30 feet along the North line of said Lot 1 to the Northeast Corner thereof; thence South 212.00 feet along the East line of said Lot 1; thence West 18.00 feet; thence North 189.50 feet to a point of curvature; thence Northwesterly along the arc of a 12.00 foot radius curve to the left, a distance of 18.85 feet (central angle equals 90°00'00" and long chord bears North 45°00'00" West 16.97 feet) to a point of tangency; thence West 149.21 feet to the Easterly line of Church Street; thence Northeasterly along the arc of a 467.00 foot radius curve to the right a distance of 11.21 feet (center bears South 70°13'19" East; central angle equals 1°22'30" and long chord bears North 20°27'57" East 11.21 feet) along said Easterly line of Church Street to the point of beginning.

## ALSO:

A part of the Northeast Quarter of Section 10, Township 4 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey in Davis County, Utah: Beginning at the Northwest Corner of Lot 1, Greyhawk Plaza Phase 1 Subdivision, recorded as Entry No. 2554320, on the Easterly line of Church Street as it exists 33.00 foot half-width located 245.35 feet South 89°13'30" East along the Section Line; and 511.51 feet South 0°46'30" West from the North Quarter Corner of said Section 10, and running thence Northeasterly along the arc of a 467.00 foot radius curve to the right a distance of 14.01 feet (center bears South 68°50'48" East; central angle equals 1°43'14" and long chord bears North 22°00'48" East 14.02 feet) along said Easterly line; thence East 482.81 feet; thence South 26.00 feet; thence West 303.27 feet; thence South 199.00 feet; thence West 9.50 feet to the East line of Lot 1; thence along the boundaries of said Lot 1 the following two courses: North 212.00 feet to the Northeast Corner of said Lot 1; and West 175.30 feet to the point of beginning.

Tax Id No.: 09-051-0069

Exhibit B

**DEPICTION OF THE LEASED PREMISES  
(Site Plan)**



Exhibit C**FORM OF MEMORANDUM OF LEASE**When Recorded, Return to:

ABS Partners, LLC  
285 S Mountain Road  
Fruit Heights, UT 84037

Tax No.: 090510069

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**MEMORANDUM OF LEASE**

This Memorandum of Lease (this "Memorandum"), dated as of September 16, 2022, is executed by ABS Partners, LLC, a Utah limited liability company ("Landlord").

WHEREAS, Landlord and CKQ Layton 1, L.L.C., a Utah limited liability company ("Tenant") Tenant have entered into that certain Ground Lease dated September 16, 2022 (the "Lease"); and

WHEREAS, Tenant and Landlord desire to file this Memorandum in the public records of Davis County, State of Utah to provide record notice of the Lease with respect to the real property which is governed by the Lease, which real property is described more particularly on the attached Exhibit A (the "Leased Premises").

NOW, THEREFORE, know all persons that Tenant and Landlord are a party to the Lease containing the following terms and conditions:

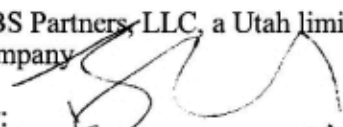
1. Leased Premises. Subject to the terms and conditions of the Lease, Tenant has leased the Leased Premises.
2. Term of Lease. The initial term of the Lease expires at midnight on September 15, 2042 unless otherwise terminated in accordance with the terms of the Lease. In addition to the initial term, the Lease may be renewed and extended for six (6) separate extension periods of five (5) years subject to the terms of the Lease.
3. Right to of First Refusal. Subject to the terms and conditions set forth in the Lease, Tenant has a right of first refusal to purchase the Leased Premises.
4. Conflict. This Memorandum is intended only for recording purposes to provide notice of certain terms and conditions contained in the Lease and is not to be construed as a complete summary of the terms and conditions thereof. This Memorandum is subject to the Lease and any amendments, modifications, alterations, renewals, and extensions of the Lease. The terms and provisions of the Lease are incorporated in this Memorandum by reference. In the event of any conflict between this Memorandum and the Lease, the provisions of the Lease shall control.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum as of the date first above written.

LANDLORD:

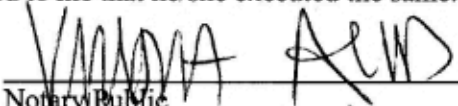
ABS Partners, LLC, a Utah limited liability company

By:   
Name: Brandon Wood  
Title: Manager

STATE OF UTAH }  
  } ss.  
COUNTY OF DAVIS }



On this 16<sup>th</sup> day of September, 2022, personally appeared before me BRANDON WOOD, the signer of the foregoing instrument, who known to me (or proved on the basis of sufficient identification), acknowledged to me that he/she executed the same. for ABS Partners, LLC, a Utah

  
Notary Public  
My Commission Expires: 03-08-2026

limited liability company  
as Manager



**EXHIBIT A**  
**TO**  
**MEMORANDUM OF LEASE**  
**THE PROPERTY**

Parcel ID: 090510069

Legal Description:

**PARCEL 1:**

A part of the Northeast Quarter of Section 10, Township 4 North, Range 1 West, Salt Lake Base and Meridian: Beginning at a point on the Northerly line of Utah State Highway 193, located 938.06 feet South 89°13'30" East along the Section Line; and 711.85 feet South 0°46'30" West from the North Quarter Corner of said Section 10; and running thence Southwesterly along the arc of a 5654.65 foot radius curve to the right a distance of 202.66 feet (center bears North 6°02'49" West; central angle = 2°03'13" and long chord bears South 84°58'47" West 202.65 feet) along said Northerly line; thence North 121.58 feet; thence East 182.47 feet; thence South 10°35'06" East 105.64 feet to the point of beginning.

**ALSO:**

A part of the Northeast Quarter of Section 10, Township 4 North, Range 1 West, Salt Lake Base and Meridian: Beginning at a point located 917.25 feet South 89°13'30" East along the Section Line and 608.28 feet South 0°46'30" West from the North Quarter corner of said Section 10; and running thence West 182.47 feet; thence North 128.26 feet; thence East 158.50 feet; thence South 10°35'06" East 130.48 feet to the point of beginning.

**PARCEL 1A:**

A perpetual Easement for vehicular and pedestrian ingress and egress, appurtenant to Parcel 1 described above, as disclosed in Reciprocal Easement and Maintenance Agreement recorded September 30, 2009 as Entry No. 2484512 in Book 4871 at Page 1321 of the official records of the Davis County Recorder's Office, which is described as follows:

A part of the Northeast Quarter of Section 10, Township 4 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey in Davis County, Utah: Beginning at the Northwest Corner of Lot 1, Greyhawk Plaza Phase 1 Subdivision, recorded as Entry No. 2554320, on the Easterly line of Church Street as it exists 33.00 foot half-width located 245.35 feet South 89°13'30" East along the Section Line; and 511.51 feet South 0°46'30" West from the North Quarter Corner of said Section 10; and running thence East 175.30 feet along the North line of said Lot 1 to the Northeast Corner thereof; thence South 212.00 feet along the East line of said Lot 1; thence West 18.00 feet; thence North 189.50 feet to a point of curvature; thence Northwesterly along the arc of a 12.00 foot radius curve to the left, a distance of 18.85 feet (central angle equals 90°00'00" and long chord bears North 45°00'00" West 16.97 feet) to a point of tangency; thence West 149.21 feet to the Easterly line of Church Street; thence Northeasterly along the arc of a 467.00 foot radius curve to the right a distance of 11.21 feet (center bears South 70°13'19" East; central angle equals 1°22'30" and long chord bears North 20°27'57" East 11.21 feet) along said Easterly line of Church Street to the point of beginning.

**ALSO:**

A part of the Northeast Quarter of Section 10, Township 4 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey in Davis County, Utah: Beginning at the Northwest Corner of Lot 1, Greyhawk Plaza Phase 1 Subdivision, recorded as Entry No. 2554320, on the Easterly line of Church Street as it exists 33.00 foot half-width located 245.35 feet South 89°13'30" East along the Section Line; and 511.51 feet South 0°46'30" West from the North Quarter Corner of said Section 10, and running thence Northeasterly along the arc of a 467.00 foot radius curve to the right a distance of 14.01 feet (center bears South 68°50'48" East; central angle equals 1°43'14" and long chord bears North 22°00'48" East 14.02 feet) along said Easterly line; thence East 482.81 feet; thence South 26.00 feet; thence West 303.27 feet; thence South 199.00 feet; thence West 9.50 feet to the East line of Lot 1; thence along the boundaries of said Lot 1 the following two courses: North 212.00 feet to the Northeast Corner of said Lot 1; and West 175.30 feet to the point of beginning.

Exhibit D**FORM OF LEASE GUARANTY**

THIS LEASE GUARANTY (this "*Guaranty*"), effective as of September 16, 2022, is entered into by and between, Tycoons, LLC, a Utah limited liability company, with its address at 3072 East 750 North, St. George, Utah 84790 ("*Guarantor*"), and ABS Partners, LLC, a Utah limited liability company, and its successors, transferees, and assigns ("*Landlord*").

**RECITALS**

WHEREAS, on the effective date of this Guaranty, CKQ Layton 1, L.L.C., a Utah limited liability company ("*Tenant*") has leased certain real property, including certain improvements to be constructed or existing thereon, located in Davis County, State of Utah, as more specifically set forth in that certain Lease Agreement entered into by and among Landlord and Tenant dated as of the date hereof (the "*Lease*") (capitalized terms not defined herein shall have the meanings provided in the Lease);

WHEREAS, Tenant is a wholly-owned subsidiary of Guarantor, and the Lease shall result in a substantial benefit to Guarantor; and

WHEREAS, Landlord has made or agreed to enter into the Lease upon the inducement and representation that Guarantor will guaranty Tenant's obligations to Landlord under the Lease and/or arising in connection with the lease referenced therein, as provided herein.

NOW, THEREFORE, in consideration of, and in order to induce Landlord to enter into the Lease, Guarantor hereby agrees, for the benefit of Landlord, its successors and assigns, as follows:

1. Guarantor hereby unconditionally, irrevocably and absolutely guarantees unto Landlord:

(a) The punctual and full payment as they accrue and become due of all rent, additional rent and all other charges of every type or nature whatsoever due from Tenant or its successors or assigns under the Lease, as the Lease may be amended, modified, supplemented, extended or renewed from time to time; and

(b) The punctual and full payment, performance and observance of each and all of the other covenants, conditions, duties and obligations to be observed and performed by Tenant and its successors and assigns under the Lease, as the Lease may be amended, modified, supplemented, extended or renewed from time to time.

2. The obligations of Guarantor hereunder shall remain in full force and effect without regard to, and shall not be affected or impaired by, the following, any or all of which may be taken without the consent of, or notice to, Guarantor nor shall any of the following give Guarantor any recourse or right of action against Landlord, each and all of which are hereby expressly authorized by Guarantor to be undertaken at any time and from time to time by Landlord in its sole and absolute discretion:

(a) Any express or implied amendment, modification, addition, or supplement of or to the Lease by Landlord and Tenant;

(b) Any renewal, extension or continuation of the Lease or the term thereof, whether pursuant to a written agreement or otherwise, and including without limitation, any holding over by Tenant after the expiration of the term of the Lease, whether or not consented to by Landlord;

(c) Any exercise or non-exercise or delay in the exercise or assertion by Landlord of any right or privilege under this Guaranty or the Lease;

(d) Any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other similar proceeding relating to either Guarantor or to Tenant, or any action taken in respect of Tenant, this Guaranty, the Lease and/or the Leased Premises by any trustee, receiver, debtor-in-possession or the like, by Landlord or by any court, in any such proceeding, including, without limitation, any assumption or rejection of the Lease under the United States Bankruptcy Code (the "*Bankruptcy Code*"), whether or not Guarantor shall have had notice or knowledge of any of the foregoing;

(e) Any extension of time or other indulgence granted to Tenant or any waiver with respect to the payment of rents, additional rents and other charges to be paid by Tenant or with respect to the performance and observance of any other Tenant obligations under the Lease;

(f) Any assignment of the Lease or any subletting of all or any portion of the Leased Premises in violation of the terms of the Lease;

(g) The acceptance by Landlord of any security for the punctual and full payment of said rents or the punctual and full performance and observance of said Tenant obligations, or the release, surrender, substitution or omission to act, by Landlord with respect to any such security;

(h) Any disaffirmance of the Lease or abandonment of the Leased Premises by Tenant, any debtor-in-possession or any trustee of Tenant;

(i) Except as set forth in Section 12(a) of the Lease, any release, substitution, or addition of one or more guarantors under the Lease; and

(j) Any other matter whatsoever whereby Guarantor would or might be released, other than a default by Landlord under the Lease, it being the intent hereof that Guarantor shall at all times be and remain liable to Landlord to the same extent as if Guarantor was jointly and severally liable with Tenant to Landlord for the performance of each and all of the terms, conditions, covenants and provisions of the Lease.

3. Guarantor hereby unconditionally waives:

(a) All presentments, demands for performance, notices of nonperformance, protests, notices of protest, notices of dishonor, notices of acceptance of this Guaranty, and all other notices of any kind to which Guarantor may be entitled;

(b) Any right to require Landlord to proceed against Tenant or any other person at any time or to proceed against or exhaust any security held by Landlord at any time or to pursue any other remedy whatsoever at any time;

(c) Any defense arising out of the absence, impairment or loss of any right of reimbursement, contribution or subrogation or any other right or remedy of Guarantor against Tenant, whether resulting from any action or election of remedies by Landlord or otherwise;

(d) Any defense arising by reason of any invalidity or unenforceability of the Lease (other than as a result of a default by Landlord under the Lease) or any disability of Tenant, or by any cessation from any cause whatsoever of the liability of Tenant, including, without limitation, (i) any rejection or termination of the Lease under the Bankruptcy Code; or (ii) any reduction, diminution or limitation upon or discharge of the liability of Tenant under the Bankruptcy Code;

(e) Any defense based upon an election of remedies by Landlord;

(f) Any duty of Landlord to advise Guarantor of any information known to Landlord regarding the financial condition of Tenant and all other circumstances affecting the ability of Tenant to perform its obligations under the Lease;

(g) Any duty of Landlord to give Guarantor notice of any demand by Landlord or any notice of any type or nature under the Lease, including without limitation, any notice relating to any default by Tenant under the Lease; and

(h) Any defense based upon any express or implied amendment, modification, addition or supplement of or to the Lease or of or to Tenant's obligations under the Lease made without the consent of Guarantor, which consent shall not be required.

4. Landlord may, without notice, assign its right, title, claim, interest and estate in the Lease (and thereby its rights under this Guaranty) in whole or in part, and whether in connection with any sale or transfer of the Leased Premises or otherwise, and no assignment or transfer of the Lease and this Guaranty shall operate to extinguish or diminish the liability of Guarantor hereunder.

5. Until all amounts payable to Landlord under the Lease have been paid in full, Guarantor shall not have any right of subrogation and Guarantor waives, to the fullest extent permitted by law, any right to enforce any remedy which Landlord now has or may hereafter have against Tenant, and Guarantor further waives the benefit of, and any right to participate in, any security, whether real or personal property, now or hereafter held by Landlord as security for the performance of Tenant under the Lease.

6. This Guaranty shall extend to each and every payment to be made and other obligation or condition to be performed or observed under the Lease by Tenant and its successors and assigns. Successive demands may be made upon, and successive actions for the enforcement of such demands may be brought against, Guarantor upon successive defaults in the making of particular payments and the performance and observance of particular obligations or conditions under the Lease, and the enforcement of this Guaranty against Guarantor with respect to any particular payment or obligations or conditions under the Lease shall not operate to exhaust this Guaranty or as a waiver of the right to proceed (a) under this Guaranty as to any future default or defaults; or (b) against any other guarantors under the Lease.

7. The obligations of Guarantor hereunder are primary and independent of the obligations of Tenant and any other guarantor and, in the event of any default hereunder, a separate action or actions may be brought and prosecuted against Guarantor, whether or not Tenant is joined therein or a separate action or actions are brought against Tenant. The liability of Guarantor shall not be affected

by any repossession of the Leased Premises by Landlord, or by the rendering of any judgment against Tenant.

8. All of the terms of this Guaranty shall be binding upon and inure to the benefit of the parties hereto and their respective, heirs, legal representatives, successors, and assigns. No delay or failure by Landlord to execute any remedy against Tenant or Guarantor will be construed as a waiver of that right or remedy. The amount of Guarantor's liability and all rights, powers and remedies of Landlord hereunder and under any other agreement now or at any time hereafter in force between Landlord and Guarantor, including, without limitation, any other guaranty executed by Guarantor relating to the obligations of Tenant to Landlord, shall be cumulative and not alternative and such rights, powers and remedies shall be in addition to all rights, powers and remedies given to Landlord by law. This Guaranty is in addition to and exclusive of the guaranty of any other guarantor of any indebtedness of Tenant to Landlord.

9. This Guaranty shall be one of payment and performance and not merely of collection.

10. Guarantor hereby agrees to be responsible for and to pay any and all costs and expenses, including, without limitation, reasonable attorneys' fees and court costs, incurred by Landlord in connection with the collection of any and all sums or obligations guaranteed hereby, the defense or enforcement of any or all of Landlord's rights hereunder and the defense or enforcement of any or all of Landlord's rights under the Lease.

11. Guarantor agrees that this Guaranty shall be constituted as an absolute, unconditional, irrevocable, continuing and unlimited obligation of Guarantor without regard to the regularity, validity or enforceability of any liability or obligation hereby guaranteed.

12. If any of Guarantor's obligations hereunder shall be held to be unenforceable, the remainder of this Guaranty and its application to all obligations other than those with respect to which it is held unenforceable shall not be affected thereby and shall remain in full force and effect.

13. This Guaranty shall continue for the term of the Lease and any extensions or renewals thereof and until all obligations and liabilities of Tenant and its successors and assigns to Landlord under or relating to the Lease have been fully paid or satisfied.

14. This Guaranty is delivered in and to be performed in the County of Davis, State of Utah, and shall be governed by and construed in accordance with the laws of the State of Utah. Should any action at law or in equity be brought by Landlord to secure, enforce or protect its rights under this Guaranty, such action may be brought by Landlord in the appropriate state or federal court in and for the State of Utah. Guarantor hereby consents to the venue and personal jurisdiction of those courts regarding any matter arising out of this Guaranty.

15. This Guaranty or the provisions hereof shall not be modified, amended or waived in any manner unless the same be in writing and signed by Landlord. To facilitate execution of this document, Guarantor may execute and transmit by facsimile counterparts of the signature pages, provided that executed originals thereof are forwarded to Landlord on the same day by overnight delivery.

16. Guarantor acknowledges that it has received a copy of the Lease, has examined the same, and is familiar with all the terms, covenants and provisions contained therein.

17. Notwithstanding any other provision of this Guaranty or the Lease, (a) Guarantor's unlimited obligations and liability under this Guaranty shall terminate on September 16, 2027 (the "Full Guaranty Termination Date"), unless Tenant is then in breach of or default under the Lease (a "Pre-Existing Default"); (b) Guarantor's unlimited obligations and liability under this Guaranty shall terminate after the Full Guaranty Termination Date upon the cure of all Pre-Existing Defaults; and (c) in the event of any uncured breach of or default by Tenant under the Lease after the Full Guaranty Termination Date, Guarantor's aggregate liability under this Guaranty shall be limited to and shall not exceed the dollar amount of Tenant's monetary obligations under the Lease for the Lease Year (as defined in the Lease) in which such breach or default occurred multiplied by four (4).

IN WITNESS WHEREOF, the undersigned has executed this Guaranty as of the date first above written.

GUARANTOR:

TYCOONS, LLC

DocuSigned by:  
By Conner Atkin  
Name: Conner Atkin  
Title: Owner