

Albuquerque, New Mexico

GROUND LEASE

BETWEEN

RS BLUEWATER, LLC

(LANDLORD)

AND

B&B MERRITT REAL ESTATE, LLC

(TENANT)

EFFECTIVE DATE

November 29, 2021

GROUND LEASE

TABLE OF CONTENTS

	Page
1. FUNDAMENTAL TERMS	1
2. DESCRIPTION OF PROPERTY	4
3. PRIMARY TERM	4
4. EXTENSIONS	4
5. RENT COMMENCEMENT DATE	4
6. RENT	5
7. TENANT'S USE	5
8. TENANT'S CONDUCT OF BUSINESS	5
9. IMPROVEMENTS: OWNERSHIP, MAINTENANCE AND ALTERATIONS	5
10. NON-DISTURBANCE AND ATTORNMENT	6
11. Intentionally Omitted	6
12. REAL ESTATE TAXES	7
13. INSURANCE	7
14. LANDLORD'S TITLE AND QUIET ENJOYMENT	8
15. DAMAGE TO OR DESTRUCTION OF IMPROVEMENTS	9
16. LIENS	9
17. TENANT'S EQUIPMENT AND SUBORDINATION OF LANDLORD'S LIEN	10
18. LEASEHOLD MORTGAGE	10
19. TENANT ASSIGNMENT AND SUBLETTING	10
20. LANDLORD ASSIGNMENT	11
21. PARKING AND CROSS ACCESS	11
22. TENANT'S DEFAULT	12
23. LANDLORD'S DEFAULT	14
24. CONDEMNATION	14
25. COSTS AND ATTORNEYS' FEES	16
26. NOTICES	16
27. HAZARDOUS SUBSTANCES	16
28. ESTOPPEL CERTIFICATE	17
29. INDEMNIFICATION	17
30. REPRESENTATIONS AND WARRANTIES	17
31. MISCELLANEOUS	18

EXHIBIT LIST:

Exhibit A:	Legal Description of the Property
Exhibit A-1:	Legal Description of the Adjacent Property
Exhibit B:	Development and Construction
Exhibit B-1:	Preliminary Site Sketch of the Property
Exhibit B-2:	Elevations for Improvements
Exhibit B-3:	Sign Elevations
Exhibit C:	Form of Memorandum of Lease
Exhibit D:	Lease Term and Rent Schedule Agreement
Exhibit E:	Intentionally Deleted
Exhibit F:	Intentionally Deleted
Exhibit G:	Governing Documents

GROUND LEASE

THIS GROUND LEASE (“**Lease**”) is made by and between **RS BLUEWATER, LLC**, a Texas limited liability company (“**Landlord**”), and **B&B MERRITT REAL ESTATE, LLC**, a _____ limited liability company (“**Tenant**”).

1. FUNDAMENTAL TERMS.

(a) Fundamental Terms. The following is a summary schedule of certain fundamental terms of this Lease.

(i) Landlord: **RS BLUEWATER, LLC**
Address: **2560 King Arthur Blvd., Suite 124-104**
Lewisville, TX 75056
Attn: **Kevin Mattson**
Email: **kmattson@redskyholdings.com**

(ii) Tenant: **B&B MERRITT REAL ESTATE, LLC**
Address: **750 N. 17th Street**
Las Cruces, NM 88005
Attn: **Mary Robin Stamnos**
Email: **rstamnos@merrittgroup.net**

with a copy to:
Kenneth R. Merritt
420 W. Roosevelt
Phoenix, AZ
Email: **krmerritt@cox.net**

(iii) Address for Rent: **2560 King Arthur Blvd., Suite 124-104**
Lewisville, TX 75056

- (iv) Landlord's
Account
Information
For ACH
Deposit: [To be provided separately if requested]
- (v) Notices may be sent by hand delivery, recognized overnight courier service or electronic mail to the addresses set forth above, as more fully set forth in Section 26 of this Lease.
- (vi) Effective Date: The date of the last signatory hereto.
- (vii) Primary Term: **Twenty (20) Lease Years.**
- (viii) Extension(s): **Four (4) consecutive five (5) year renewal options.** Tenant may exercise any one or more of the Extensions by giving Landlord written notice at least one hundred eighty (180) days prior to the expiration of the Primary Term or the then-current Term. Tenant may not give notice of its intent to exercise its Extension nor may Tenant extend into an Extension if (i) Tenant is then in default under the terms of this Lease or (ii) is not open and operating from the Premises.
- | | | | | | |
|------|-------------------|------------|--------|--------------|----------|
| (ix) | Annual Base Rent: | Lease Year | 1-5: | \$105,000.00 | per year |
| | | Lease Year | 6-10: | \$115,500.00 | per year |
| | | Lease Year | 11-15: | \$127,050.00 | per year |
| | | Lease Year | 16-20: | \$139,755.00 | per year |
- (x) Intentionally deleted.
- (xi) Intentionally deleted.
- (xii) Intentionally deleted
- (xiii) Improvements. As used herein, the term "**Improvements**" shall include the building and all other improvements including, but not limited to, grading, utility connections and/or relocations, sidewalks, landscaping, asphalt paving, lighting and approved pylon and/or monument signage (excluding panels) placed upon the Property.
- (xiv) Intentionally deleted:
- (xv) Lease Year: Shall be defined as a successive twelve (12) month period during the Primary Term or any Extension commencing, with respect to the first Lease Year, on the Rent Commencement Date (as defined in Section 5 below), or with respect to any subsequent Lease Year, commencing on the anniversary of the Rent Commencement Date; provided, however, that if the Rent Commencement Date is a day other than the first day of a calendar month, then the first Lease Year

shall include that period of time from the Rent Commencement Date up to the first day of the next calendar month and the following twelve (12) months, and any subsequent Lease Year shall be the twelve (12) month period beginning on the anniversary of the first day of the next calendar month following the Rent Commencement Date.

(xvi) Lease Month: Shall be defined as those successive calendar month periods beginning with the Rent Commencement Date and continuing through the Primary Term of this Lease; provided, however, if the Rent Commencement Date is a day other than the first day of a calendar month, then the first Lease Month shall include that period of time from the Rent Commencement Date up to the first day of the next calendar month, and each subsequent Lease Month shall be a calendar month period beginning on the first day of each succeeding calendar month.

(xvii) Inspection Period: One Hundred Twenty (120) days after the Effective Date. Tenant's rights and obligations during the Inspection Period are set forth in *Exhibit B*.

(xvii) Permit Period: One Hundred Twenty (120) days beginning the business day after the last day after the Inspection Period. Tenant's rights and obligations during the Permit Period are set forth in *Exhibit B*.

(xix) Construction Period: One Hundred Fifty (150) days beginning the business day after the last day of the Permit Period. Tenant's rights and obligations during the Construction Period are set forth in *Exhibit B*.

(b) Exhibits. The following exhibits (each, an "**Exhibit**") are attached hereto and, by this reference, incorporated herein:

Exhibit A: Legal Description of the Property

Exhibit A-1: Legal Description of the Adjacent Property

Exhibit B: Development and Construction

Exhibit B-1: Preliminary Site Sketch of the Property

Exhibit B-2: Elevations for Improvements

Exhibit B-3: Sign Elevations

Exhibit C: Form of Memorandum of Lease

Exhibit D: Lease Term and Rent Schedule Agreement

Exhibit E: Intentionally deleted.

Exhibit F: Intentionally deleted.

Exhibit G: Governing Documents

2. DESCRIPTION OF PROPERTY. In consideration of the mutual covenants contained herein, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord that parcel of land located in the City of Albuquerque, State of New Mexico and more particularly described in *Exhibit A*, together with all rights, easements and appurtenances belonging or appertaining to the land, and all right, title and interest of Landlord in and to any and all roads, streets, alleys and public and private rights of way, bounding the land (the property and rights described above are collectively called the “**Property**”). Final dimensions of the Property shall be established by the survey contemplated by *Exhibit B*, and to the extent necessary *Exhibit A* shall then be modified to set forth such final dimensions.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, LANDLORD REPRESENTS AND WARRANTS THAT IT HAS ENTERED INTO A VALID CONTRACT FOR THE ACQUISITION OF THE PROPERTY. IN THE EVENT THAT LANDLORD FAILS TO ACQUIRE THE PROPERTY FOR ANY REASON PRIOR TO THE EXPIRATION OF THE PERMITTING PERIOD, THEN TENANT OR LANDLORD SHALL HAVE THE RIGHT TO TERMINATE THIS LEASE BY PROVIDING WRITTEN NOTICE TO THE OTHER PARTY NO LATER THAN THE DATE LANDLORD ACQUIRES THE PROPERTY. IF EITHER PARTY TERMINATES THIS LEASE IN ACCORDANCE WITH THIS PARAGRAPH, FOLLOWING RECEIPT OF SUCH NOTICE BY THE OTHER PARTY, THIS LEASE SHALL BE VOID AND OF NO FURTHER FORCE AND EFFECT.

3. PRIMARY TERM. The Primary Term of twenty (20) Lease Years shall commence on the Rent Commencement Date, unless this Lease is sooner terminated pursuant to the terms of this Lease. It is understood that the Primary Term will be exactly twenty (20) years in length only if the Rent Commencement Date falls on the first day of the month; in all other cases the Primary Term will be twenty (20) years plus the partial month that begins on the Rent Commencement Date. Landlord and Tenant agree to execute and record a written Memorandum of Lease, substantially in the form of *Exhibit C* contemporaneously with the execution of this Lease, which Memorandum of Lease may be filed at the end of the Permit Period if Tenant has not terminated this Lease as provided herein. Landlord and Tenant further agree once the Rent Commencement Date is ascertained, to execute a “Lease Term and Rent Schedule Agreement” substantially in the form of *Exhibit D*, no later than ten (10) days after written request from either party.

4. Intentionally deleted.

5. RENT COMMENCEMENT DATE. The “**Rent Commencement Date**” shall be the earlier of (a) the day after the last day of the Construction Period, or (b) the date Tenant opens for business at the Property.

6. RENT.

(a) Tenant's obligation to pay Rent (as hereinafter defined) to Landlord shall commence on the Rent Commencement Date. "**Rent**" shall consist of the Annual Base Rent plus any other amounts due and payable under this Lease as set forth herein ("**Additional Rent**"). Annual Base Rent shall be payable in equal monthly installments in advance, with the first monthly installment payment made no later than on the first day of the calendar month following the Rent Commencement Date (or on the Rent Commencement Date if the Rent Commencement Date is the first day of a calendar month), and each subsequent installment thereafter on the first day of each and every calendar month during the Primary Term. If the Rent Commencement Date is any day other than the first day of a calendar month, the Rent for the first partial Lease Month shall be prorated for the number of days in such partial Lease Month based on the actual number of days in such month. Additional Rent shall be due at the times set forth for such items in this Lease.

(b) Intentionally deleted

7. **TENANT'S USE.** Tenant shall use the Property only for the construction and operation of a Sonic fast-food restaurant ("**Tenant's Use**"). Any change in Tenant's Use requires Landlord's prior written consent, not to be unreasonably conditioned, withheld, or delayed. Any denial on the part of Landlord for a request to change Tenant's Use that competes with a then-existing use in the Development or that results in a violation of the Restricted Uses, the Permitted Encumbrances, or any then-existing use restriction of record affecting the Property shall be deemed to be reasonable. Tenant shall comply with all applicable laws, codes, rules and regulations and the Governing Documents in any construction and operation on the Property. Notwithstanding anything contained herein to the contrary, the Property shall not be used for: (i) operating a convenience store; (ii) operating a motor fuel facility; (iii) selling cigarettes and tobacco products, including e-cigarettes and vape products, (iv) selling beer or wine for off-premises consumption; or (v) for the primary business of selling coffee, blended drinks, smoothies or energy drinks, provided, however, that for so long as the Property is operating for Tenant's Use, the sale of coffee, milk shakes, blended ice cream beverages, coffee flavored milk shakes, energy drinks, slushes, and smoothies typically sold from Sonic Restaurants shall be permitted (the "**Restricted Uses**").

8. Intentionally omitted.

9. IMPROVEMENTS: OWNERSHIP, MAINTENANCE AND ALTERATIONS

(a) Upon the expiration of the Term of this Lease, title to the Improvements, as well as any subsequent alterations, additions, or improvements thereto automatically vests in Landlord. Upon Landlord's request, Tenant agrees to execute any commercially reasonable documents requested by Landlord to evidence Landlord's title to the Improvements, which obligation survives the termination of this Lease.

(b) Tenant covenants and agrees at its sole cost and expense at all times during the Term of this Lease to maintain and keep the Property and the Improvements in first class condition, commensurate with like businesses, and in a state of good repair, excepting normal wear and tear. Tenant shall be responsible for the condition of the Property and the Improvements, including any defects or problems with the electrical, water, air ventilating, heating, air conditioning, sewerage,

GROUND LEASE

and other equipment and systems. Tenant shall be responsible for the continued maintenance, repair and upkeep of the Property and the Improvements, including without limitation any items required of the owner of the Property per the Governing Documents. Landlord shall have no maintenance or repair obligations with respect to the Property or the Improvements at the beginning or at any time during the Term of this Lease. Notwithstanding anything to the contrary in this Lease or as otherwise provided by applicable law, Tenant shall be responsible for and at its expense shall perform all necessary or appropriate maintenance and repairs to the Property and the Improvements, including without limitation the structural components, roof, mechanical systems and HVAC. Landlord shall have no responsibility whatsoever for the repair, maintenance or replacement of Improvements.

(c) Subject to Landlord's prior written approval, which shall not be unreasonably withheld, conditioned or delayed, during the Term, Tenant shall have the right, but no obligation, to alter, renovate, add, remodel, modify and/or change the Improvements upon the Property as Tenant may deem desirable; provided, however, Tenant shall be entitled to make interior, non-structural alterations and any landscaping changes without Landlord's prior written approval, so long as necessary approvals are obtained under and such changes are compliant with the Governing Documents.

(d) Prior to commencing any work requiring Landlord's prior written approval hereunder, Tenant must submit to Landlord for approval (1) details of the proposed work reasonably satisfactory to Landlord; (2) evidence reasonably satisfactory to Landlord that Tenant has obtained, at its own expense, all necessary consents, permits and licenses from all governmental authorities having jurisdiction; and (3) evidence reasonably satisfactory to Landlord that Tenant has the financial resources to pay for all of the proposed work.

(e) All work described in subparagraph (c) above must be performed (1) at the sole expense of Tenant; (2) by licensed and competent contractors and workmen; (3) in a good and workmanlike manner, and using materials properly fit for the purpose; (4) in accordance applicable law and with drawings, plans and specifications reasonably approved in writing by Landlord; and (5) in such manner as does not void any contractor's, manufacturer's or supplier's warranties existing in favor of Landlord. Upon completion, Tenant agrees to record a so-called "notice of completion" in the County where the Property is located, if required or permitted by law, and to provide Landlord with "as-built" or construction-marked plans, and proof of payment for all labor and materials satisfactory to Landlord.

10. NON-DISTURBANCE AND ATTORNMENT. Landlord will obtain from Landlord's Lender, as soon as reasonably practicable, an agreement acceptable to Tenant in recordable form wherein Landlord's Lender agrees, so long as Tenant is not in default under this Lease, not to disturb Tenant's possession, deprive Tenant of any rights or increase Tenant's obligations under this Lease and by which Tenant agrees to attorn to Landlord's Lender (the "NDA"). In addition, Landlord's Lender shall also agree that the deed of trust, mortgage or interest shall not cover or encumber and shall not be construed as subjecting in any manner to the lien thereof any of Tenant's Equipment. In the event Landlord provides an acceptable NDA, Tenant will agree upon request to subordinate this Lease to such future deed of trust, mortgage or encumbrance.

11. Intentionally omitted.

GROUND LEASE

12. REAL ESTATE TAXES.

(a) Tenant shall pay before delinquent all real estate taxes and assessments lawfully imposed on the Property or on any Improvements constructed by Tenant on the Property, including any assessments or reimbursements required of the owner of the Property pursuant to the Governing Documents, ("**Real Estate Taxes**"), beginning on the Rent Commencement Date and through the Term, directly to the applicable taxing or assessing authority. Landlord will provide the real estate tax bill, assessment bill, or bill for reimbursement of Real Estate Taxes to Tenant in a timely manner in order for Tenant to pay the taxes prior to incurring any penalties or late payment fees. A receipted tax bill shall be delivered to Landlord upon written request. In the event any Real Estate Taxes may be payable in installments, Tenant may pay them as the installments become due. Real Estate Taxes shall be prorated on a per diem basis for any partial tax years falling within the Primary Term or any Extensions.

(b) Nothing herein contained shall require Tenant to pay corporation, franchise, income, estate, gift and inheritance taxes or charges imposed on Rent or other similar taxes, charges or impositions which may be levied or assessed against Landlord, any fee owner, or their successor in title.

(c) Tenant shall have the right upon prior notice to Landlord, at its own cost and expense, to initiate and prosecute any proceedings permitted by law for the purpose of obtaining an abatement of or otherwise contesting the validity or amount of Real Estate Taxes assessed or levied upon the Property and the building and/or other Improvements constructed on the Property, provided that Tenant will not take any action that will cause or allow the institution of foreclosure proceedings. Tenant agrees to permit the reasonable participation by Landlord in any such contest at Landlord's request. Landlord shall cooperate with Tenant to the extent reasonably required by Tenant, but at no out of pocket cost to Landlord.

13. INSURANCE.

(a) Liability Insurance. Tenant, at its sole expense, shall obtain and maintain from the Effective Date and throughout the Term of this Lease commercial general liability insurance, written on an "occurrence" policy form, covering bodily injury, property damage, personal injury and advertising injury arising out of Tenant's business operations, or use or occupancy of the Property. Landlord and any lender of Landlord shall be named as an additional insured on the policy by endorsement. The insurance policy includes contractual liability coverage. If in the reasonable opinion of the insurance broker retained by Landlord the amount of liability insurance coverage maintained by Tenant is not adequate, Tenant shall from time to time (but no more frequently than once every five years) increase the insurance coverage as recommended by Tenant's insurance broker following a review by Tenant's broker resulting in a good faith determination by Tenant's broker that an increase in limits is warranted. If Tenant's broker reasonably determines that no increase is warranted at the time of such analysis, Tenant shall not be obligated to increase the limits of its coverage.

(b) Property Insurance. Tenant, at its sole expense, shall procure and maintain throughout the Term of this Lease property insurance. The property insurance must be written on a "Special Form" policy form and shall provide for 100% of the replacement value of the building on the

Property. The policy shall be written with no coinsurance, and shall include vandalism and malicious mischief coverage and sprinkler leakage coverage. The proceeds from this policy shall be used by Tenant for the repair or restoration of the Improvements as more fully set forth in Section 15 below. Landlord and Landlord's lender shall be loss payees as their interests may appear on the policy. This policy shall include Business Interruption Insurance subject to the deductible, limits, terms and conditions of the policy. During construction of the Improvements, Tenant or Tenant's general contractor shall carry Builder's Risk Insurance covering Landlord and Landlord's lender.

(c) Workers' Compensation and Employer Liability Coverage. Tenant, at its sole cost and expense, shall procure and maintain workers' compensation insurance as required by law and employer's liability insurance and shall contain a waiver of subrogation in favor of Landlord.

(d) Failure to Maintain Insurance. If Tenant fails to maintain the insurance required under this Lease, Landlord, in addition to any other right or remedy available to it as a result thereof, shall have the right, but not the obligation, to obtain the required insurance. Tenant shall immediately reimburse Landlord for the costs incurred, including the premium and other expenses, upon receipt of a statement for same from Landlord.

(e) Form of Policies and Additional Requirements. The insurance requirements set forth above are independent of Tenant's waiver, indemnification, and other obligations under this Lease and shall not be construed or interpreted in any way to restrict, limit or modify Tenant's waiver, indemnification and other obligations or to in any way limit Tenant's liability under this Lease. In addition to the requirements above, the insurance required of Tenant must be issued by an insurance company with a rating of no less than A-:VII in the current Best's Insurance Guide, or A- in the current Standard & Poor Insurance Solvency Review, or that is otherwise acceptable to Landlord, and admitted to engage in the business of insurance in the state in which the Property is located. The General Liability and Excess coverage will be primary insurance for claims under it and provide that insurance carried by Landlord and Landlord's lenders is strictly excess, secondary and noncontributing with any insurance carried by Tenant. Tenant shall deliver to Landlord on or before the Rent Commencement Date and five (5) days before the expiration date of any policy a certificate of insurance on all policies procured by Tenant in compliance with Tenant's obligations under this Lease. Tenant, at its sole cost and expense, shall comply with all requirements for insurance applicable to any owner or user of the Property set forth in the Governing Documents.

(f) Waiver of Subrogation. Tenant releases Landlord from any claim for damage to the Property, the Improvements or any inventory, furniture, fixtures or equipment located therein that are caused by or result from risks insured against under any insurance policy carried by Tenant and in force at the time of the damage. Tenant shall cause each insurance policy obtained by it to provide that the insurance company waives all right of recovery by way of subrogation against Landlord in connection with any damage covered by the policy.

14. LANDLORD'S TITLE AND QUIET ENJOYMENT. Landlord represents and warrants that as of the Delivery Date, Landlord will have indefeasible fee simple title to the Property, free and clear of all encumbrances and restrictions other than the encumbrances and restrictions set

forth in the Governing Documents (as hereinafter defined) and those set forth on the Title Commitment (as defined in *Exhibit B*) that are, following the process set forth in *Exhibit B*, Section 1, deemed “**Permitted Encumbrances**”.

15. DAMAGE TO OR DESTRUCTION OF IMPROVEMENTS

(a) Tenant shall be responsible, at its sole cost and expense, for making all repairs, reconstructions or replacements necessitated by any casualty damage to the Improvements from and after the first day of the Construction Period. Tenant shall be entitled to all proceeds of insurance and rights of recovery against insurers on policies covering such damage or destruction, which proceeds shall be used to reconstruct or repair the Improvements; provided, Tenant’s responsibility shall not be limited to the proceeds actually received.

(b) Notwithstanding anything in Section 15(a) above to the contrary, if, during the last year of the Primary Term, the building that is part of the Improvements shall be damaged or destroyed by fire or other casualty to the extent that the cost to repair or rebuild shall exceed Two Hundred Thousand and No/100 Dollars (\$200,000.00), Tenant may, at Tenant’s option, to be evidenced by notice in writing given to Landlord within sixty (60) days after the occurrence of such damage or destruction, elect to terminate this Lease as of the date of the damage or destruction and the parties shall be released from further liability under this Lease. In the event Tenant elects to terminate the Lease, Landlord shall be entitled to, and Tenant and Tenant’s Leasehold Mortgagee, if any, shall assign and/or pay over to Landlord, all proceeds of insurance and rights of recovery against insurers on policies covering such damage or destruction, to in no event be equal to less than 100% of the full replacement cost of building that is part of the Improvements. Tenant shall, at the request of Landlord, demolish and remove all debris from the Property, and shall be entitled to insurance proceeds for same. Tenant shall remain responsible for the payment to Landlord of the remaining Annual Base Rent due through the end of the then current Term, which amount may be paid, at Tenant’s sole discretion, in a lump sum or in monthly payments as Annual Base Rent would have otherwise been due pursuant to this Lease. This obligation shall survive the termination of the Lease.

(c) Tenant has no right to any abatement, allowance, reduction, or suspension of Rent on account of damage or destruction of the Property or any portion thereof. Tenant is not entitled to any compensation or damages from Landlord for loss of use of the whole or any part of the Property, the Improvements, Tenant’s personal property, or for any inconvenience or annoyance occasioned by the damage or destruction or the restoration thereof, except to the extent caused by Landlord’s or its agents’ gross negligence or willful misconduct. Except as expressly set forth in this Section 15, Tenant expressly waives any statutory or other right now or hereafter in force to abate rent or terminate this Lease in the event of damage or destruction of the Property or all or any portion of the Improvements thereon.

16. LIENS. Landlord and Tenant each covenant with the other not to permit any judgment, attachment and/or lien to be filed against the Property as a result of the covenanting party’s acts or omissions except for any liens permitted pursuant to Sections 10, 17 and 18 of this Lease. Should any judgment, attachment and/or lien of any nature be filed against the Property, except pursuant to Sections 10, 17 or 18 of this Lease, the party causing or permitting the lien shall within thirty (30) days after filing cause such judgment, attachment and/or lien to be removed. Notwithstanding

anything contained herein to the contrary, a party shall have the right to contest the validity or amount of any lien by posting reasonable security with the other party until such dispute has been resolved.

17. TENANT'S EQUIPMENT AND SUBORDINATION OF LANDLORD'S LIEN

(a) Any personal property, equipment, furniture, inventory, trademarked items, signs, sign panels and other movable trade fixtures installed in or on the Property by Tenant (collectively, "**Tenant's Equipment**"), shall remain the property of Tenant. Landlord agrees that Tenant shall have the right, at any time or from time to time, to remove any and all of Tenant's Equipment. Tenant, at its expense, shall immediately repair any damage occasioned by the removal of Tenant's Equipment and upon expiration or earlier termination of this Lease, shall leave the Property in a neat and clean condition, normal wear and tear excepted. Tenant shall pay before delinquency all taxes, assessments, license fees and public charges levied, assessed or imposed upon its business operation in the Property as well as upon Tenant's Equipment.

(b) From time to time, some or all of Tenant's Equipment may be financed or owned by someone other than Tenant. To the extent that any of Tenant's Equipment is financed or owned by someone other than Tenant, Landlord agrees that such Tenant's Equipment is not Landlord's property no matter how the same is affixed to the Property or used by Tenant and agrees to recognize the rights of the lender, owner, secured creditor or lessor ("**Secured Party**") of Tenant's Equipment. Landlord, hereby agrees to subordinate its Landlord's lien to the rights of the Secured Party with respect to Tenant's Equipment and agrees, to sign and deliver to any such Secured Party a subordination in a commercially reasonable form approve by Landlord within fifteen (15) days after written request, and Landlord agrees that Tenant and any Secured Party may thereafter rely thereon and Landlord shall be estopped from raising a priority claim on Tenant's Equipment. Landlord also agrees that all of Tenant's Equipment that is not subject to an interest from Secured Party shall be the property and remain the property of Tenant or Tenant's assignee or transferee no matter how the same is affixed to the Property.

18. **LEASEHOLD MORTGAGE.** Tenant may mortgage, collaterally assign or otherwise encumber any leasehold interest that Tenant has in this Lease or in the Improvements located on the Property ("**Mortgage**") as security for any indebtedness. Tenant shall not mortgage or encumber Landlord's fee title to the Property and in no event may Landlords' fee interest in the Property be subordinated to any such Mortgage. Landlord shall execute such instruments in form and substance reasonably acceptable to Landlord, as may be required by each mortgagee or collateral assignee ("**Leasehold Mortgagee**") in order to subordinate the rights and interest of Landlord in the property of Tenant to the lien of each Mortgage.

19. TENANT ASSIGNMENT AND SUBLETTING

(a) Tenant, with Landlord's prior written consent, not to be unreasonably withheld, conditioned, or delayed, shall have the right to assign, sublease or otherwise transfer its interest in this Lease to (i) a parent or operating subsidiary of Tenant, (ii) a subsidiary of Tenant's parent, (iii) a corporation or other entity with which Tenant may merge, (iv) any Leasehold Mortgagee, or (v) to any entity to whom Tenant sells a majority of its locations in the particular region in which the Property is located.

GROUND LEASE

(b) Intentionally omitted.

(c) Any such request for Landlord's consent must be in writing. If Landlord fails to respond to any request by Tenant for Landlord's consent or approval within thirty (30) days of such request, then Tenant shall send a second notice advising of such failure, which second notice shall contain the phrase **(In Bold Type): FAILURE TO RESPOND TO THE FOLLOWING APPROVAL REQUEST WITHIN FIFTEEN (15) DAYS FOLLOWING YOUR RECEIPT THEREOF SHALL BE DEEMED APPROVAL OF SUCH SUBMITTAL.** Should Landlord fail to respond within fifteen (15) days following its receipt of such notice, the consent or approval of Landlord shall be deemed given. Notwithstanding any assignment, transfer or subletting made pursuant to this Section 19, Tenant shall remain liable for all of Tenant's obligations under this Lease.

(d) In requesting Landlord's consent, Tenant must provide Landlord with at least 30 days' prior written notice of the proposed assignment or subletting, including the identity of the proposed transferee, current financial statements of Tenant and the proposed transferee, and the material terms of the assignment or subletting. Any assignment or subletting must be evidenced by a written instrument in form satisfactory to Landlord in which the transferee assumes and agrees to observe and perform all terms and conditions applicable to Tenant under this Lease, which instrument must be executed by Tenant and the transferee, and an original thereof delivered to Landlord. The consent by Landlord to any assignment or subletting does not release Tenant from the obligation, if applicable, to obtain the consent of Landlord to any further assignment or subletting.

20. LANDLORD ASSIGNMENT. Landlord shall have the right to transfer, assign and convey, in whole or in part, any or all of the right, title and interest in the Property, and be relieved and released from all liability under this Lease thereafter accruing, provided such transferee, assignee or grantee shall be bound by the terms, covenants and agreements herein contained, shall expressly assume and agree to perform the covenants and agreements of Landlord herein contained and shall provide advance written notice to Tenant of such assignment. This Lease is not affected by any sale, transfer, assignment or disposal of Landlord's interest, and Tenant agrees to attorn to Landlord's purchaser or assignee. This Lease may be assigned by Landlord to Landlord's Lender as security, without notice.

21. PARKING AND CROSS ACCESS.

(a) Tenant and its customers shall have the exclusive right to park on the parking area located on the Property. Tenant shall have the right to enforce its exclusive parking rights under this Section 21 by the ticketing and towing of cars, to the extent permitted by and in accordance with all applicable laws.

(b) In order to provide for shared vehicular and pedestrian ingress and egress over the between the Property and Landlord's adjacent property more particularly described on Exhibit A-1 attached hereto and incorporated herein by reference (the "**Adjacent Property**") (the Property and the Adjacent Property are hereinafter referred to collectively as the "**Development**"), Landlord shall enter into and record a form of Declaration of Easements, Covenants, and Restrictions (the

“Declaration”), which shall provide that all driveways and other areas of vehicular and pedestrian access on the Development may all be used by the employees and customers of both the Adjacent Property and of the Property. Tenant and Landlord shall not allow the driveways or other areas of access to be impeded in a way that will impair access between the Property, the Adjacent Property and the adjoining streets. Except for temporary closures for construction or repair purposes, in no event shall Landlord take any action that materially obstructs public access to the Property. There shall be no shared parking under the Declaration.

(c) The Property is subject to those items set forth on *Exhibit G* (collectively, the **“Governing Documents”**).

22. TENANT’S DEFAULT.

(a) If Tenant fails to (i) pay any Rent or other sum due hereunder within ten (10) days after Tenant’s receipt of written notice by Landlord that such payment is delinquent (with no more than two (2) such notices required in any one Lease Year), or (ii) perform any non-monetary covenant or agreement contained in this Lease within thirty (30) days after receipt of written notice of default by Landlord (or such additional period, if any, as may be reasonably required to cure the failure of performance if the non-monetary default cannot reasonably be cured within such 30-day period, provided that Tenant commences to cure the failure within such 30-day period and thereafter diligently pursues such cure to completion), Landlord may, in addition to any other right or remedy available at law or in equity, without further notice or demand, pursue any one or more of the following remedies:

(A) re-enter the Property, after obtaining a judgment entered against Tenant specifically providing Landlord with such authority if required by applicable law, retake and exclude Tenant from possession, and re-let the Property, using commercially reasonable efforts therefor, and receiving the rent therefrom, applying the same first to the payment of all costs and expenses, including attorney fees and real estate commissions, second to the payment of Rent accruing hereunder, with the balance, if any, to be held by Landlord and applied in payment of future Rent as the same may become due and payable; but Tenant shall remain liable for the equivalent of the amount of all Rent reserved herein less the receipts of re-letting, if any, and such amount shall be due and payable to Landlord as damages or Rent, as the case may be, on the successive days Rent is otherwise due under this Lease, and Landlord may recover such amount periodically on such successive days;

(B) terminate this Lease and resume possession of the Property thereby wholly discharging Tenant from all obligations under this Lease except for payment of delinquent Rent, all costs and expenses, including attorney fees incurred for such termination, and all damages Landlord may incur by reason of Tenant’s default, including, without limitation (1) any expenses incurred by Landlord in connection with obtaining possession of the Property, (2) actual costs of removing any of Tenant’s Equipment or property of persons claiming under Tenant (including, without limitation, warehouse charges), (3) actual and reasonable costs attributable to putting the Property into the condition in which Tenant is required to return the Property at the end of the Term, (4) costs and fees related to any reletting, including, without limitation, reasonable attorneys’ fees and brokers’ fees, and (5) the worth at the time of such termination of the excess, if any, of the amount of Rent

and charges equivalent to Rent reserved in this Lease for the remainder of the Term over the then reasonable rental value of the Property for the remainder of the Term, all of which amounts are immediately due and payable from Tenant to Landlord at Landlord's election;

(C) enter the Property and do or perform any act required to effect compliance with Tenant's obligations under this Lease, the costs of which constitute Additional Rent payable by Tenant to Landlord upon demand; and/or

(D) prosecute and maintain an action or actions, as often as Landlord deems advisable, for collection of Rent, other charges and damages (but in no event for consequential, special or punitive damages) as the same accrue, with or without entering into possession and without terminating this Lease. No judgment obtained constitutes a merger or otherwise bars prosecution of subsequent actions for Rent and other charges and damages as they accrue.

No act or conduct of Landlord, whether consisting of reentry, taking possession or reletting the Property, obtaining appointment of a receiver, accepting the keys to the Property, executing on any judgment, or otherwise, prior to the expiration of the Term, constitutes an acceptance by Landlord of the surrender of the Property or an election to terminate this Lease unless Landlord exercises its election under subsection (B) above in writing. Such acceptance or election by Landlord may only be effected, and must be evidenced, by written acknowledgment of acceptance of surrender or notice of election to terminate signed by Landlord. No notice from Landlord or notice given under a forcible entry and detainer statute or similar law constitutes an election by Landlord to terminate this Lease unless such notice specifically so states. If Landlord shall elect to terminate this Lease, all rights and obligations of Tenant relating to the unexpired portion of this Lease shall cease. Within ten (10) days after receipt by Tenant of notice of election by Landlord to terminate this Lease, the parties shall, by an instrument in writing, in recordable form, terminate this Lease and Tenant shall surrender and deliver to Landlord the Property, including the Improvements. Upon any default by Tenant in so doing, Landlord shall have the right to re-enter the Property by summary proceedings or similar proceedings, and Landlord agrees to use commercially reasonable efforts to mitigate damages and relet the Property.

(b) Subject to the provisions of applicable law, neither bankruptcy, insolvency, nor the appointment of a receiver or trustee shall be considered a default under this Lease so long as the obligations of Tenant are performed by Tenant, its successors or assigns.

(c) Independent to the remedies set forth in subsection (a) above, in the event Tenant does not pay any monetary amounts on the due date thereof, and if such amounts remain outstanding ten (10) days after written notice of such delinquency is provided to Tenant by Landlord (with no more than two (2) such notices required in any one Lease Year), Tenant shall pay interest to Landlord on such delinquent amounts, calculated from the original due date thereof, at the maximum lawful interest rate or 10% per annum, whichever is less, until the date full payment of the delinquent amounts and such interest are received by Landlord. In the event interest is owed pursuant to the preceding sentence, Tenant shall also pay to Landlord an administrative fee equal to 10% of the delinquent amount. Late charges and interest are in addition to all other rights and remedies for late payment set forth in this Lease, Landlord and Tenant

agreeing that late payment by Tenant will cause Landlord to incur other costs not contemplated in this Lease, the exact amount of which will be extremely difficult and impracticable ascertain.

(d) Except as expressly set forth in this Lease, no right or remedy available to Landlord or Tenant is exclusive of any other, but all such rights and remedies are cumulative and in addition to every other right or remedy provided under this Lease or now or hereafter existing at law or in equity. Except as expressly set forth in this Lease, all rights and remedies may be exercised singly, jointly, or in such combination as a party determines in its sole discretion. No delay or failure of a party in exercising any right or remedy arising from any default impairs such right or remedy, or constitutes a waiver of any such default or an acquiescence therein by such party. No failure of Landlord to timely submit any statement, if any, to Tenant required by this Lease constitutes a waiver of Tenant's obligation to pay the amount that would have been shown by such statement. The acceptance or endorsement by Landlord of any payment or check from Tenant does not constitute an accord and satisfaction or prejudice Landlord's right to recover the balance of any amounts due under the terms of this Lease. By performing obligations of Tenant, Landlord does not waive the performance of such obligations by Tenant. No waiver by Landlord or Tenant of the breach of this Lease by the other party constitutes a waiver of any preceding or succeeding breach, and the acceptance of Rent during any period in which Tenant is in default in any respect, other than the payment of Rent, does not constitute a waiver of such default by Landlord. No provision of this Lease may be waived by Landlord or Tenant unless the waiver is in writing, signed by the party to be charged with such waiver.

(e) Tenant is responsible for assuring that persons occupying the Property do not violate this Lease. Accordingly, a breach of any provision of this Lease by any invitee, sublessee or other person occupying any portion of the Property, whether by act or omission, continuing uncured after notice and expiration of applicable grace period constitutes, at Landlord's option, an event of default by Tenant under this Lease.

23. LANDLORD'S DEFAULT. If Landlord is in default in performing any of the terms or provisions of this Lease and Landlord fails to cure such default within (i) fifteen (15) days for a monetary default or (ii) thirty (30) days for any other default, after receipt of written notice from Tenant stating the nature and extent of the default, or has not begun to cure said default within such thirty (30) day period and then continue to diligently prosecute such cure to completion (provided that monetary defaults shall not be eligible for partial cure), Tenant shall not be entitled to terminate this Lease, but shall have the right to enforce the provisions of this Lease and may enforce and protect the rights of Tenant hereunder by a suit or suits in equity or at law for the specific performance of any covenant or agreement contained herein, including, but not limited to, the recovery of any damages (excluding consequential, punitive or special damages) incurred by Tenant in connection with such default.

24. CONDEMNATION. From and after the Effective Date, Tenant shall have the following rights in the event of a taking of the entire Property or any part thereof, by reason of any exercise of the power of eminent domain, including any transfer in lieu thereof:

(a) In the event of a taking of the entire Property or a material portion as would render the balance of the Property not suitable for Tenant's Use following the expiration of a reasonable period and opportunity to cure or replace such taken portion, this Lease shall terminate upon the

GROUND LEASE

date that possession is surrendered to the condemning authority, at which time all rights and obligations between the parties shall cease and Rent and other charges payable by Tenant under this Lease shall be apportioned. For purposes of this Section 24, "**material portion**" shall mean the taking of any part of the building, the taking of any part of the drive-through lane, the taking of a portion of the existing parking area on the Property such that the Property is no longer code-compliant as a self-parked lot, or the taking of all rights of access or ingress and egress, including, without limitation, the drive aisles within the Property, as then established without suitable and reasonably equivalent replacements for same.

(b) In the event of a taking of less than the entire Property, or of a non-material portion such that the balance of the Property remains suitable for Tenant's Use, then the Lease Term will not be reduced or affected in any way and Tenant will have no obligation to restore the improvements, but if the building, drive-thru, and/or parking spaces are reduced, then the Annual Base Rent payable by Tenant hereunder shall be reduced by the ratio of the total square feet of such areas taken to the total square footage of the Property.

(c) The proceeds of any condemnation award shall be divided between Landlord and Tenant in accordance with the applicable laws of the state in which the Property is situated and as their respective interests may appear, except that in the event of a termination of this Lease, Landlord shall be entitled to that portion of any award or payment to Tenant for its leasehold estate otherwise payable to Tenant as is necessary for Landlord to be fully reimbursed for the unamortized balance of the Improvement Cost. The awards or payment on account of a partial taking or condemnation of the Property shall be Landlord's, except that Tenant shall be entitled to that portion of the award or payment for the Improvements or otherwise payable to Landlord as is necessary for Tenant to satisfy its obligation to restore the Property to reasonably suitable condition as set forth above.

(d) Should Landlord and Tenant be unable to agree as to the division of any singular award or the amount of any reduction of Rents or other charges payable by Tenant under this Lease, such dispute shall be submitted for resolve to the court exercising jurisdiction of the condemnation proceedings, each party bearing its respective costs for such determination.

(e) Landlord represents and warrants that at the Effective Date, to Landlord's knowledge, with no independent investigation or inquiry, Landlord has not received written notice of any proposed condemnation or road or access changes or impairment to the visibility of the Property, including, but not limited to, turn restrictions, barriers or medians, overpasses, underpasses or bypasses, that would affect the Property or Tenant's Use of any part of the Property.

(f) In the event that subsequent to the Effective Date, but prior to the expiration of the Permit Period, a total or partial condemnation, or road or access changes or impairment to the visibility of the Property that would materially, adversely affect the Property or Tenant's Use, is proposed by any competent authority, Tenant shall be under no obligation to commence or continue construction of the Improvements, and Rent and other charges, if any, payable by Tenant under this Lease shall abate until such time as it can be reasonably ascertained that the Property shall not be affected in Tenant's sole discretion. In the event the Property is so affected, Tenant shall have the option to recover all rights, damages and awards pursuant to the appropriate provisions of this Section 24.

GROUND LEASE

25. COSTS AND ATTORNEYS' FEES If Landlord or Tenant shall bring any action against the other, arising out of this Lease, the prevailing party shall be reimbursed by the other party for reasonable attorneys' fees and costs incurred in such suit, at trial and on appeal, and such attorneys' fees and costs shall be deemed to have accrued on the commencement of such action.

26. NOTICES. All notices, demands, or other communications of any type given by Landlord to Tenant or by Tenant to Landlord, whether required by this Lease or in any way related to the transaction contracted for herein, shall be void and of no effect unless given in accordance with the provisions of this Lease. In addition, all notices given by Landlord to Tenant shall include copies to Leasehold Mortgagee, if any and all notices of default given by Tenant to Landlord shall also be given to Landlord's Lender, if any. All notices shall be legible and in writing and shall, except as specifically provided otherwise herein, (a) be delivered personally to the addressee, (b) be sent by a recognized overnight courier service for next day delivery, or (c) sent by electronic mail so long as sent by (a) or (b) within twenty-four (24) hours. Notices sent in compliance with this Section shall be effective (i) upon receipt or refusal if delivered personally; (ii) one (1) business day after depositing with such an overnight courier service; or (iii) on confirmation of delivery of the electronic mail if delivered by electronic mail. Regardless of the method of delivery, an email shall be sent to Tenant at the time any notice is sent to Tenant by Landlord by other method of delivery. Either party hereto may change the address for notice and the person to whom notices are sent specified above by giving the other party ten (10) days advance written notice of such change of address.

27. HAZARDOUS SUBSTANCES

(a) LANDLORD'S RESPONSIBILITY. Landlord shall be responsible for and shall indemnify, defend (with counsel selected by Landlord and reasonably approved by Tenant) and hold harmless Tenant and its respective members, owners, nominees, officers, directors, agents, employees, successors, assigns, affiliates, subsidiaries and parent companies (if any) from and against any and all liability, including without limitation the cost of any remediation, fines or penalties arising from any and all claims, demands, litigation, or governmental action (but not including consequential damages) involving any Hazardous Substances in violation of applicable laws located on the Property prior to the first day of the Construction Period that were not introduced by Tenant or its agents, employees, contractors or licensees.

(b) TENANT'S RESPONSIBILITY. Tenant shall comply at all times during the Term of this Lease (including during the Construction Period) with all laws, rules and regulations relating to Hazardous Substances on the Property. Tenant shall not bring any Hazardous Substances onto the Property other than those used customarily in Tenant's operations and in all events in the quantities and in the manner prescribed by law. Tenant shall be responsible for and shall indemnify, defend (with counsel selected by Tenant and reasonably approved by Landlord) and hold harmless Landlord and its respective members, owners, nominees, officers, directors, agents, employees, successors, assigns, affiliates, subsidiaries and parent companies (if any) from and against any and all liability, including without limitation the cost of any remediation, fines or penalties arising from any and all claims, demands, litigation, or governmental action (but not including consequential damages) involving any Hazardous Substances originating on the Property from and after the first day of the Construction Period, through the expiration or earlier

GROUND LEASE

termination of this Lease, resulting from the operations of Tenant on the Property. Tenant's obligation set forth in this subsection (b) shall survive any termination or expiration of this Lease.

28. ESTOPPEL CERTIFICATE. Tenant and Landlord agree at any time and from time to time, upon not less than ten (10) business days' prior written request from the other party, to execute, acknowledge and deliver to the requesting party a statement in writing, in form and content reasonably acceptable to both parties, an estoppel certificate certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), the dates to which Rent has been paid and certifying that it is not in default (or if a default is alleged, stating the nature of the alleged default), and further certifying such other reasonable matters as the requesting party shall require. It is intended that any such statement delivered pursuant to this Section 28 may be relied upon by any prospective purchaser, lender, subtenant, assignee or any entity which is a party to a potential merger, consolidation with or to the acquisition of substantially all of the assets or stock of Landlord or Tenant. In the event either party shall fail to execute and deliver any such instrument within the foregoing time period as requested, the requesting party shall send a completed estoppel certificate, along with a second request, which request shall state in bold, capitalized letters that the completed estoppel shall be deemed accurate if the party to whom it is sent does not respond to address any inaccuracies within five (5) business days after receipt of the second request.

29. INDEMNIFICATION. Each party hereby indemnifies and holds the other party and its respective nominees, officers, directors, agents, employees, successors and assigns harmless from and against any and all claims, demands, liabilities, and expenses, including attorneys' fees and litigation expenses, arising from the negligence or willful acts or omissions of the indemnifying party or its agents, employees, or contractors occurring on the Property, except to the extent caused by the indemnified party's negligent or willful acts or omissions. In the event any action or proceeding shall be brought against either party by reason of any such claim, the other party shall defend the same at the indemnifying party's expense by counsel selected by the indemnifying party and reasonably approved by the other party.

30. REPRESENTATIONS AND WARRANTIES. As of the date of execution and delivery of this Lease:

(a) Each of Landlord and Tenant hereby represents and warrants to the other that the warranting party has full capacity, right, power and authority to execute, deliver and perform this Lease and all documents to be executed by it pursuant hereto, and all required action and approvals therefor have been duly taken and obtained. The individuals signing this Lease and all other documents executed or to be executed pursuant hereto on behalf of the warranting party are and shall be duly authorized to sign the same on such party's behalf and to bind such party thereto. This Lease and all documents to be executed pursuant hereto by the warranting party are and shall be binding upon and enforceable against such party in accordance with their respective terms.

(b) Landlord represents and warrants that the transaction contemplated hereby will not result in a breach of, or constitute a default or permit acceleration of maturity under, any indenture, mortgage, deed of trust, loan agreement or other agreement to which Landlord or the Property is subject or by which Landlord or the Property is bound.

31. Intentionally deleted.

32. MISCELLANEOUS

(a) Any and all discussions and negotiations between Landlord and Tenant have been merged into this Lease. No rights are conferred upon either party until this Lease has been executed by both Landlord and Tenant. Any and all representations and agreements by either of the parties or their agents made during negotiations prior to execution of this Lease and which representations are not contained in this Lease shall not be binding upon either of the parties.

(b) Intentionally deleted.

(c) All terms and words used in this Lease, regardless of the number and gender in which they are used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context or sense of this Lease or any portion of this Lease may require, the same as if such words had been fully and properly written in the number and gender.

(d) This Lease may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed original, but such counterparts together shall constitute but one and the same instrument. Execution of a faxed or other electronic copy of this Lease shall be deemed an original.

(e) Landlord and Tenant are not and shall not be considered joint venturers or partners and neither shall have power to bind or obligate the other except as set forth in this Lease.

(f) Upon the termination or expiration of this Lease, Tenant agrees to quit and surrender the Property and Improvements, "broom clean," in good condition and repair (reasonable wear and tear excepted) together with all alterations, additions and improvements that may have been made. For purposes hereof, "reasonable wear and tear" does not include damage or deterioration resulting from the failure of Tenant to observe good maintenance practice or to otherwise perform all of its obligations under this Lease. In the event Tenant continues to occupy the Property after the expiration or termination hereof, Annual Base Rent for any such holdover period shall equal 150% of the Annual Base Rent due immediately prior to such holdover period.

(g) To the extent permitted by applicable law, any legal proceedings initiated by reason of an alleged default of this Lease by either party must be commenced within one (1) year from the later of (i) the date that such alleged default occurred or (ii) the date of discovery of the default.

(h) **TENANT ACKNOWLEDGES THAT EXCEPT AS EXPRESSLY PROVIDED IN THIS LEASE, NEITHER LANDLORD NOR ANY AGENT OF LANDLORD HAS MADE ANY REPRESENTATION OR WARRANTY WITH RESPECT TO THE PROPERTY, OR WITH RESPECT TO THE SUITABILITY OR FITNESS OF THE PROPERTY FOR THE CONDUCT OF TENANT'S BUSINESS, THE CONSTRUCTION OF THE IMPROVEMENTS, OR FOR ANY OTHER PURPOSE AND TENANT HAS NOT RELIED UPON ANY SUCH REPRESENTATIONS OR WARRANTIES. THE PROPERTY IS LEASED TO TENANT, "AS IS, WHERE IS,"**

GROUND LEASE

WITHOUT WARRANTY OR REPRESENTATION OF LANDLORD (EXPRESS OR IMPLIED) EXCEPT AS EXPRESSLY SET FORTH IN THIS LEASE. The completion of the Permit Period without Tenant exercising its right to terminate the Lease conclusively establishes that Tenant accepts the Property in its then "as is, where is" condition and that the Property is at such time in satisfactory condition and in conformity with the provisions of this Lease in all respects.

(i) If any provision of this Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons whose circumstances are other than those as to which it is held invalid or unenforceable, shall not be affected thereby.

(j) No modification, alteration or amendment of this Lease shall be binding unless in writing and executed by both parties hereto.

(k) The headings to the Sections of this Lease are inserted only as a matter of convenience and for reference, and in no way confine, limit or proscribe the scope or intent of any Section of this Lease, nor in any way affect this Lease.

(l) This Lease shall be binding upon and inure to the benefit of the parties, any subtenants and their heirs, administrators, executors, successors and assigns.

(m) Time is of the essence of this Lease and each provision; provided, however, if, pursuant to this Lease, any date or deadline indicated herein or calculated hereby, including, without limitation, the commencement date of any period, falls on a holiday or a Saturday or Sunday, the date so indicated shall mean the next business day following such date. The term "holiday" shall mean any day on which state banks, national banks, or the U.S. Post Office are not open for business in the state in which the Property is located.

(n) If Tenant or Landlord is delayed or prevented from performing any of its obligations under this Lease by reason of strike, lockouts, labor troubles, failure of power, riots, insurrection, war, acts of God or any other cause beyond Tenant's or Landlord's control, the period of such delay or such prevention shall be deemed added to the time period herein provided for the performance of any such obligation by Tenant or Landlord. In the event any such force majeure event occurs during the Permit Period or Construction Period, then such affected period shall be extended by the number of days that such delay occurred. Lack of funds or inability to pay shall in no event excuse Tenant from the prompt payment of Rent during the Term of this Lease.

(o) This Lease shall be governed by and construed and interpreted in accordance with the laws of the state in which the Property is located, excluding its conflict of law principles.

(p) Each party hereto has reviewed and revised (or requested revisions of) this Lease, and therefore any usual rules of construction requiring that ambiguities are to be resolved against a particular party shall not be applicable in the construction and interpretation of this Agreement or any Exhibits hereto.

(q) Landlord acknowledges that any plans or specifications of Tenant and Tenant's trademarks and service marks, are the sole property of Tenant, as the case may be, and Landlord shall not have any rights to same.

(r) Except as required by applicable law, neither Tenant nor Landlord and their agents, representatives, employees, partners, officers and directors will disclose the subject matter or terms of the transaction contemplated by this Lease except to their respective employees, attorneys, accountants, brokers, financial advisors, lending institutions or prospective transferees, unless prior written consent to such disclosure is obtained from the other party, which consent may be withheld at that party's sole discretion.

(s) Tenant shall have the right at any time after the beginning of the Construction Period to post Tenant's advertising signs on the Property, subject to compliance with applicable laws and the Governing Documents.

(t) Intentionally omitted.

(u) All representations, warranties and indemnities contained in this Lease shall survive the termination or expiration of this Lease.

(v) It is intended that this Lease is a net lease to Landlord, and that, except as otherwise expressly provided in this Lease, Landlord is not responsible during the Term for any costs, charges, expenses or outlays arising from or relating to the Property, the contents, use or occupancy thereof, or the business carried on therein.

(w) Tenant agrees to look solely to the estate and property of Landlord in the land and Improvements constituting the Property, and subject to the prior rights of any Landlord's Lender, for the collection of any judgment (or other judicial process) requiring the payment of money by Landlord in the event of any default or breach by Landlord under this Lease or otherwise, and no other property or assets of Landlord are subject to levy, execution, or other procedures for the satisfaction of Tenant's remedies. In no event shall any personal liability be asserted against Landlord, its members, partners, officers, directors, agents or employees in connection with this Lease. In no event shall Landlord be liable for consequential or special damages as a result of a breach of this Lease. **TENANT HEREBY WAIVES ANY STATUTORY LIEN UNDER APPLICABLE LAWS.**

(x) Tenant agrees to pay before delinquency all charges for water, gas, heat, electricity, power, telephone, trash, garbage and rubbish removal, sewer, and all other services or utilities used in the Property by Tenant from and after the Effective Date. Any security deposit, account setup deposit, transfer fees or similar charges required by any utility company to transfer utilities to Tenant at or prior to the commencement of the Term must be paid by Tenant. Landlord is not liable in damages or otherwise for any failure or interruption of any utility supplied to the Property and no such failure constitutes a constructive or actual eviction or a breach of any covenant for quiet enjoyment or of any other covenant of Landlord contained in this Lease, or entitles Tenant to an abatement of Rent or to terminate this Lease.

(y) Tenant agrees, at its sole expense, to promptly comply with and observe all requirements of law at any time in force during the Term that are applicable to Tenant, the Property, the contents thereof or the activities therein, including, without limitation, statutes, ordinances, codes, rules, regulations, zoning stipulations, use permits, discretionary approvals, conditional use permits, business licenses and other legal directives, as well as the requirements set forth in the Governing Document and all obligations of Landlord under the Governing Documents. Tenant also agrees to comply at its expense with all requirements of any board of fire underwriters (or of any body having similar functions) or of any liability or fire insurance company insuring Landlord or Tenant at any time during the Term. If any alterations, additions, improvements or changes to the Property are necessitated by reason of any of the foregoing, whether arising out of Tenant's specific use or occupancy, the general use, occupancy or condition of the Property, and whether the useful life thereof will exceed the remaining Term, including, without limitation, the installation of fire extinguishing systems and equipment, or compliance with the Americans With Disabilities Act, Tenant must perform such alterations, additions, improvements and changes at its own expense, but subject to Section 9 and the approval of Landlord thereunder.

(z) Landlord may at reasonable times during the business hours of Tenant, and after providing no less than twenty-four (24) hours prior notice to Tenant, enter the Property for any lawful purpose, but not so as to unreasonably interfere with the business of Tenant in the Property; provided Landlord may enter the Property at any time in cases of emergency without any prior notice but shall notify Tenant of such entry afterwards. At any time that Landlord is in the kitchen or non-public areas of the building, Landlord shall be accompanied by Tenant's manager on duty.

(aa) Tenant agrees within ten (10) business days following Landlord's request, but in no event more than once per year, to deliver to Landlord (or to any Landlord's Lender or prospective purchaser, designated by Landlord), Tenant's most recent unaudited financial statements and the most recently issued audited financial statements, to be used for the purpose of evaluating Tenant's financial condition in connection with any proposed sale, lease, financing or refinancing of the Property. All such financial statements must be true and correct to the best of Tenant's knowledge.

(bb) The submission of this Lease for Tenant's consideration shall have no binding force or effect, and shall not confer any rights upon Tenant or impose any obligations upon Landlord irrespective of any reliance thereon, change of position or partial performance. This Lease is effective and binding on Landlord only upon the execution and delivery of this Lease by Landlord and Tenant.

(cc) Landlord and Tenant hereto represent and warrant to each other that, except for NAI Maestas & Ward, they have not had any dealings with real estate brokers, finders or agents, and agree to indemnify, defend and hold each other harmless from any claims, costs, commissions, fees or damages by any other person or firm claiming to have negotiated, instituted or brought about this Lease.

(dd) Right of First Refusal. If at any time while this Lease is in effect, Landlord receives a bona fide offer (an "**Offer**"), from any third party to purchase the Property and Landlord desires

to accept the Offer, Landlord shall notify Tenant in writing of the Offer, with such notice containing material terms and conditions of the Offer. Tenant shall then have the right to purchase the Property at the purchase price and on the other terms and conditions set forth in Landlord's Notice, on or before the date which is the earlier of the closing date agreed to with the third party or sixty (60) days following Tenant's receipt of Landlord's Notice. Tenant's right under this Lease is referred to as the "**Right of First Refusal**." Tenant shall exercise the Right of First Refusal, if at all, by providing Landlord written notice ("**Notice of Exercise**"), within ten (10) business days after receipt by Tenant of the complete Landlord's Notice, and Tenant shall purchase the Property pursuant to the same terms and conditions as set forth in Landlord's Notice. If Tenant does not timely provide Landlord with the Notice of Exercise, Tenant shall be deemed to have waived its Right of First Refusal with respect to the particular offer contained in Landlord's Notice, and Landlord may offer the Property to the third party on the terms set forth in Landlord's Notice, and the Right of First Refusal shall again apply to (i) any subsequent sale of the Property and (ii) any sale for which Landlord has given Tenant Landlord's Notice but such sale has not been consummated within one hundred eighty (180) days following Landlord's Notice.

[SIGNATURES CONTAINED ON SEPARATE PAGES.]

EXECUTED by Landlord on this 29th day of November, 2021.

LANDLORD:

RS BLUEWATER, LLC
a Texas limited liability company

DocuSigned by:

A handwritten signature in black ink that reads "Kevin Mattson".

804922886C9348E
Kevin Mattson, Manager

EXECUTED by Tenant on this 12th day of NOVEMBER, 2021.

TENANT:

B&B MERRITT REAL ESTATE, LLC,
a Colorado limited liability company

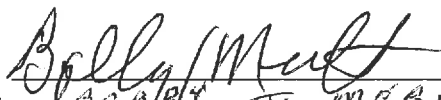
By: 
Name: BOBBY J. MERRITT
Title: MANAGER

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

Being the approximately 1.44 acre tract labeled Parcel A on Exhibit B-2 attached hereto. Landlord and Tenant shall amend this Lease following the recording of a subdivision plat to replace this Exhibit A with the platted legal description of the Property.

EXHIBIT A-1

LEGAL DESCRIPTION OF THE ADJACENT PROPERTY

Tract numbered Twelve (12), Plat of Tracts 1 through 12, of **AVALON SUBDIVISION UNIT 5**, Albuquerque, Bernalillo County, New Mexico, as the same is shown and designated on the plat of said Subdivision, filed in the office of the County Clerk of Bernalillo County, New Mexico, on May 22, 2014, in Plat Book 2014C, folio 46 as Document No. 2014040949.

SAVE AND EXCEPT FOR THE PROPERTY.

GROUND LEASE

EXHIBIT B

DEVELOPMENT AND CONSTRUCTION

1. TITLE INSURANCE.

(a) Within ten (10) days after the Effective Date, Tenant may, at its sole cost and expense, order a title insurance commitment on the Property (the "**Title Commitment**") prepared by the title company of Tenant's choice ("**Title Company**"). Tenant shall deliver a copy of the Title Commitment to Landlord promptly following Tenant's receipt. Tenant shall pay for any cost incurred in searching title, obtaining the Title Commitment, contemporaneously with the issue thereof, and the cost of any Leasehold Title Insurance Policy approved by Tenant, with any title endorsements required by Tenant in its sole discretion. The Title Commitment shall reflect that Tenant has legal access to the Property in accordance with Tenant's needs and that Tenant will be insured against loss or damage from and after the Effective Date. The Property and any property to be used by Tenant under this Lease shall be leased to Tenant free, clear and unencumbered of all tenancies and parties in possession on the Effective Date.

(b) In the event the Title Commitment shall reflect encumbrances or other conditions not acceptable to Tenant, including but not limited to access to the Property, in accordance with Tenant's needs ("**Defects**"), then Tenant shall notify Landlord of the Defects within the later of thirty (30) days following the later of (i) Tenant's receipt of the Title Commitment or (ii) the Effective Date of this Lease. Landlord shall have ten (10) business days from the date of notice of Defects to notify Tenant whether or not Landlord elects to cure such Defects. Landlord shall then have thirty (30) days from the date of its response to the notice of Defects (but in no event later than the day before the last day of the Permit Period) within which to cure the Defects to Tenant's satisfaction, if Landlord so elects to cure. If, after the exercise of all reasonable diligence, Landlord is unable to remove or obtain a title endorsement over the Defects or Landlord elects not to cure such Defects, then Tenant may accept the Defects ("**Permitted Encumbrances**") or Tenant may terminate this Lease within fifteen (15) days after Tenant's receipt of notice from Landlord, regardless of the prior expiration of the Permit Period and the parties shall be released from further liability hereunder.

2. INSPECTION PERIOD AND PERMIT PERIOD.

(a) Inspection Period. Landlord hereby grants to Tenant, its agents and contractors, the right to enter upon the Property following the full execution and delivery of the Lease, to make any inspections. Tenant shall hold Landlord harmless from and indemnify and defend Landlord against any loss, damage or personal injury occurring as a result of Tenant, its contractors, agents or employees entering upon the Property for these purposes. Tenant, at Tenant's sole cost and expense, will restore any damage to the Property caused by Tenant's entry on the Property. Within one (1) business day after the Effective Date, Tenant shall deposit the sum of \$1,000.00 with the Title Company (the "**Deposit**"). Tenant may elect to terminate this Lease at any time during the Inspection Period, whereupon the Deposit shall be returned to Tenant and neither party shall have any further rights or obligations hereunder except for those that expressly survive the termination

of this Lease. If Tenant does not elect to terminate this Lease in accordance with this Section 2(a) or Section 2(b) below, then the Deposit shall be applied to Tenant's first month of Rent.

(b) Permit Period. During the Permit Period, Tenant will draw plans and acquire all construction permits, apply for all approvals, permits, easements and licenses ("**Permits**") for Tenant's Use in accordance with Tenant's plans and specifications therefor. In the event that the Property is restricted by any state, local, municipal or other governmental law, ordinance, rule or regulation which prohibit, limit or restrict the use of the Property for Tenant's Use, Tenant, at its sole cost and expense, shall have the right to seek variances and authorizations ("**Authorizations**") so that the Property may be used for Tenant's Use or, solely at Tenant's option, Tenant may cancel this Lease in accordance with subsection (d) below. Landlord agrees to cooperate fully with Tenant in securing the Authorizations and Permits and grants permission to Tenant to make application for the Authorizations and Permits in the name of Landlord; provided, such application is at no cost to Landlord. Landlord shall execute any necessary documents in connection with Tenant's application for the Authorizations and Permits. The determination of the necessity for obtaining the Authorizations and Permits and the adequacy of the Authorizations and Permits granted shall be within the sole discretion of Tenant.

(c) Landlord represents and warrants to Tenant that, if platting is required for permitting purposes, Landlord will separately plat the Property so that it will be a legal lot.

(c) Notwithstanding anything in this Lease to the contrary, if Tenant, in its sole discretion, determines during the Permit Period that the Authorizations and Permits will not be granted for Tenant's Use on the Property, despite Tenant's good faith, commercially reasonable attempts to obtain same, then Tenant may terminate this Lease prior to 5:00 p.m. Central time on the last day of the Permit Period, by providing written notice to Landlord. If Tenant provides such notice, then Landlord shall have the right, but not the obligation, to pursue such Authorizations and/or Permits with Tenant's full cooperation for a period of up to sixty (60) days, provided Landlord gives notice to Tenant of its intent to pursue same within seven (7) days after Tenant's notice of termination. If Landlord does not provide notice to Tenant of its intent to pursue the Permits and Authorization, the Lease will be terminated as of the last day of the Permit Period (as it may have been previously extended as set forth above). If Landlord elects to further pursue the Permits and Authorizations but is unable to obtain same within the 60-day period, then either Tenant or Landlord may terminate this Lease by providing notice to the other, in which event, the parties shall have no further obligation to each other hereunder.

(d) Unless the Lease is terminated pursuant to subsection (c) above, Landlord shall deliver the Property to Tenant, free and clear of all other tenancies and parties in possession, with Landlord's Work (as defined herein) complete, no later than 150 days after the expiration of the Permit Period (the "**Delivery Date**"). In the event Landlord fails to deliver the Property in a timely manner in accordance with this subsection, Tenant's Construction Period shall be extended day to day until delivery of the Property occurs.

3. IMPROVEMENTS.

(a) Tenant shall contract with a general contractor approved by Landlord (not to be unreasonably withheld, delayed or conditioned) to construct new improvements on the Property during the Construction Period consisting of a building for Tenant's Permitted Use, with a paved parking lot, landscaping, and drainage in accordance with the plans and specifications prepared by Tenant's architect.

(b) Tenant hereby conditionally assigns the construction contract to Landlord. If this Lease terminates for any reason before the completion of construction of the Improvements, Landlord, at its option, may elect to accept the assignment of the construction contract by notifying the general contractor that the construction contract has been assigned to Landlord. The construction contract with the general contractor shall expressly provide that it is assignable to Landlord. The terms of this paragraph shall survive the termination of this Lease.

(c) During the Construction Period, Tenant may construct the Improvements and remove all existing improvements, including building and pavement, as required for new construction, all in accordance with Tenant's Plans (as defined below). Landlord shall be responsible for causing the applicable account holder to arrange for the removal, at Tenant's expense, of all electrical and other utility meter boxes and discontinuance of utility services to any existing improvements that require demolition by Tenant. Except as set forth in Section 15(b) of this Lease, Tenant shall not be required to demolish or remove the Improvements from the Property upon the expiration of earlier termination of this Lease.

(d) The Improvements shall conform to and comply with all applicable codes, laws, ordinances, and regulations, including, without limitation, all applicable building, fire, and life safety codes, all applicable codes, laws, ordinances, and regulations relating to handicapped accessibility, and all environmental laws, as well as the Governing Documents.

(e) Tenant has provided Landlord with a preliminary site sketch as set forth on *Exhibit B-1* (the "Site Sketch") and elevation plans as set forth on *Exhibit B-2* (the "Elevations"), which Site Sketch and Elevations are hereby approved by Landlord. Tenant shall provide Landlord with a more detailed site plan (the "Site Plan") within ninety (90) days after the Effective Date. Landlord shall provide comments to the Site Plan within fifteen (15) days after delivery by Tenant to Landlord. In the event Landlord does not provide its comments to Tenant within such fifteen (15) day period, then the Site Plan will be deemed approved by Landlord subject to Tenant's compliance with all governmental regulations and the Governing Documents. Landlord's approval of the Site Plan shall not be unreasonably withheld, conditioned or delayed, provided, that Landlord shall have no right to comment upon or disapprove any portion of the Site Plan that conform to the Site Sketch. However, in the event that Landlord objects to Tenant's Site Plan and Tenant is willing to make changes thereto, Tenant shall revise the Site Plan accordingly and resubmit to Landlord for approval within fifteen (15) days thereafter. In the event Landlord disapproves the Site Plan then the Permit Period shall be extended by the time it takes to gain Landlord's approval of the Site Plan. Landlord hereby confirms and represents that no third party approvals (other than governmental) of Tenant's Site Plan, Elevations or other plans are required, except the approvals that must be obtained per the Governing Documents.

(g) Landlord's Work. (i) Landlord shall install, at Landlord's sole cost and expense, the Utility Extensions to within five (5) feet the boundary line of the Property and construct the Development Improvements prior to the Delivery Date. "**Utility Extensions**" means each of the utilities, including without limitation, water, sanitary sewer, storm sewer, natural gas, telephone, electricity and cable/fiber optic data, in the size and capacities shown on construction plans delivered to Tenant prior to the expiration of the Permit Period ("**Landlord's Plans**"). "**Development Improvements**" the off-site improvements required by governmental requirements, including, without limitation, all required off-site street improvements, paving, landscaping, curbing, gutters, sidewalks, median improvements, deceleration and acceleration lanes, driveway extensions, curb cuts and related access drives to the Property, any other common driveways contemplated by the proposed Declaration or otherwise, street lighting, all other lighting on Landlord's remaining and adjacent property, any monument sign, and offsite retention and detention areas to serve the Property. It is acknowledged and agreed that Development Improvements shall not include grading and compacting of the surface of the Property to its natural grade and to Tenant's required compaction levels, and Tenant shall be solely responsible for such grading and compaction work on the surface of the Property.

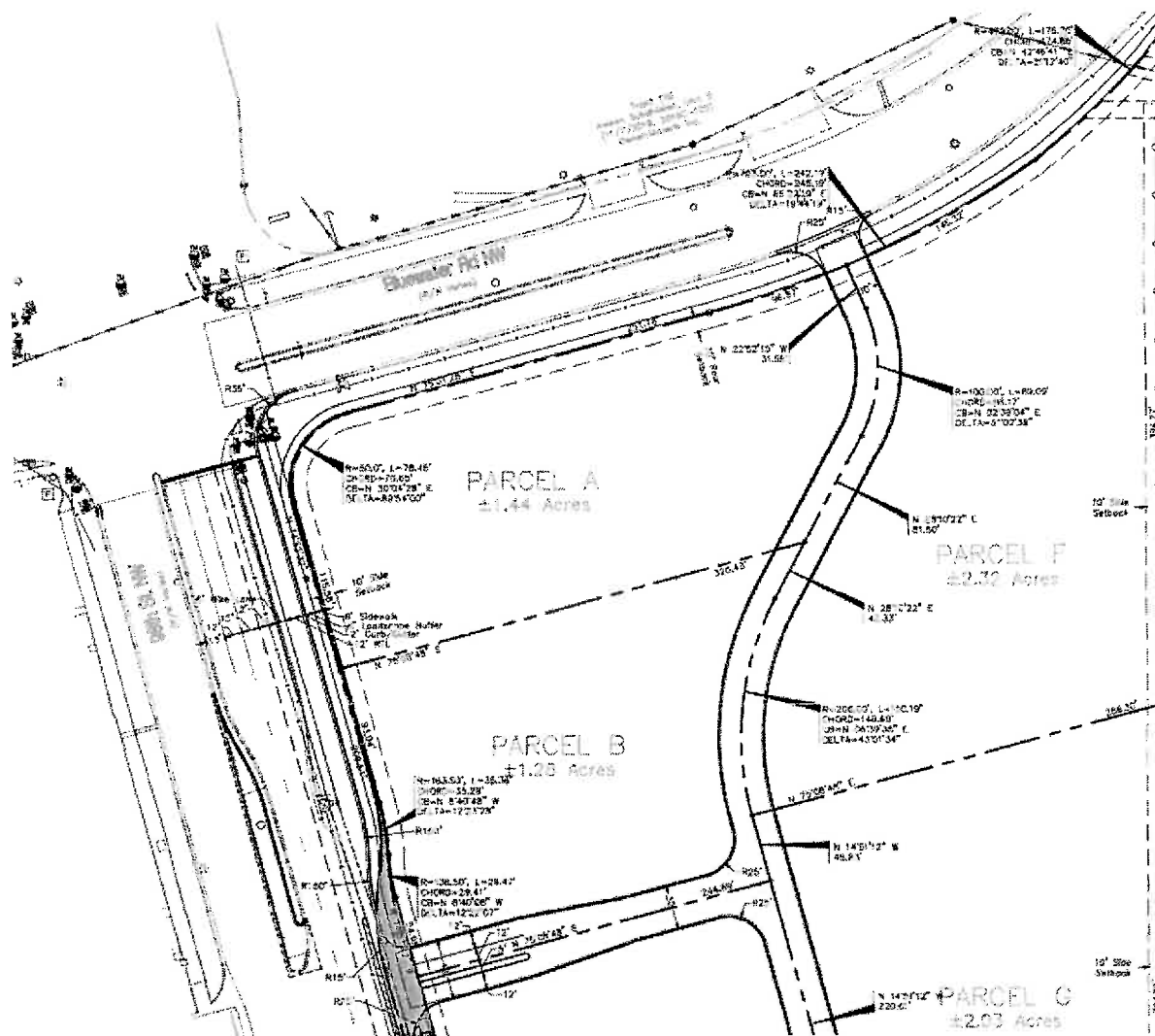
(ii) At Landlord's sole cost and expense and prior to the expiration of the Approvals Period, Landlord shall cause the Property to be platted into a parcel separate from the Adjacent Property and that subdivides the Property in accordance with all Governmental Requirements as a single lot and separate tax parcel ("**Plat**") that is approved by all applicable governmental authorities, including without limitation, the City of Albuquerque and the County of Bernalillo (collectively, "**Plat Approvals**") and that are acceptable to Tenant prior to Delivery Date. Landlord shall make application for and diligently pursue all Plat Approvals promptly after receipt of the Approvals Notice or such earlier date on which Tenant requests that Landlord apply for and pursue the Plat Approvals.

(h) Tenant shall have the right, as permitted by applicable law and ordinances and the Governing Documents, to erect independent signage on the Property, in conformance with the Sign Elevations, which sign elevations are attached hereto as *Exhibit B-3*, and are hereby approved by Landlord (which approval shall not be construed as any representation or warranty as to compliance with the foregoing requirements).

EXHIBIT B-1

PRELIMINARY SITE SKETCH OF THE PROPERTY

Depicted as Parcel A below.



GROUND LEASE

EXHIBIT B-2
ELEVATIONS FOR IMPROVEMENTS

Front

TBD.

West

TBD.

GROUND LEASE

EXHIBIT B-2 Continued
ELEVATIONS FOR IMPROVEMENTS

Rear

TBD.

East

TBD.

GROUND LEASE

EXHIBIT B-3
SIGN ELEVATIONS

Building Sign Elevations

TBD.

Pylon or Monument Sign Elevations

TBD.

EXHIBIT C

MEMORANDUM OF LEASE

This Memorandum of Lease is by and between RS BLUEWATER, LLC, a Texas limited liability company ("Landlord") whose address is _____, and B&B Merritt Real Estate, LLC, a _____ limited liability company ("Tenant") whose address is _____, who hereby declare that Landlord has leased to Tenant, and Tenant has accepted such lease from Landlord, the Property (later defined) upon the following terms:

Effective Date of Lease: _____.

Description of Property: See Exhibit A attached hereto.

Term: Twenty (20) years from Rent Commencement Date.

Renewal Option(s): None.

Tenant has the right to mortgage, hypothecate, grant a deed of trust on, assign or otherwise encumber its interests in the Lease (each a "Leasehold Mortgage") without obtaining the consent of Landlord upon the condition that all rights acquired under each such Leasehold Mortgage shall be subject to each and all of the terms, covenants, conditions and restrictions set forth in the Lease.

[SIGNATURES ON FOLLOWING PAGE]

Executed by Landlord to be effective on the ____ day of _____, 2021.

LANDLORD:

RS BLUEWATER, LLC,
a Texas limited liability company

By: _____
Kevin Mattson, Manager

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, on this ____ day of _____,
20 ___, did personally appear Kevin Mattson, Manager of RS BLUEWATER, LLC, a Texas
limited liability company, on behalf of such limited liability company.

Notary Public, State of Texas

GROUND LEASE

Executed by Tenant to be effective on the ____ day of _____, 2021.

TENANT:

B&B MERRITT REAL ESTATE, LLC,
a _____ limited liability company

By: _____
Name: _____
Title: _____

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, on this ____ day of _____, 201____, did personally appear _____, _____ of Village Green Alzheimer's Care Home, LLC, a Texas limited liability company, who acknowledged this instrument and stated that he executed same on behalf of said limited liability company.

Notary Public, State of Texas

GROUND LEASE

Exhibit A to Memorandum of Lease

LEGAL DESCRIPTION OF THE PROPERTY

GROUND LEASE

EXHIBIT D

LEASE TERM AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 20____, by and between RS BLUEWATER, LLC, a Texas limited liability company (herein "Landlord"), and B&B Merritt Real Estate, LLC, a _____ limited liability company (herein "Tenant").

WITNESSETH:

WHEREAS, Landlord and Tenant have entered into that certain ("Lease") for the property located in Albuquerque, New Mexico, and legally described on Exhibit A attached hereto and made a part hereof; and

WHEREAS, Landlord and Tenant wish to set forth their agreement as to the commencement date and expiration date of the Twenty (20) year Primary Term of the Lease and the schedule of Tenant's Rent obligation.

NOW, THEREFORE, in consideration of the Property as described in the Lease and the covenants set forth therein, Landlord and Tenant agree as follows:

1. Effective Date of Lease: _____.
2. The Primary Term of the Lease is Twenty (20) Lease Years from the Rent Commencement Date of _____ to the expiration date of _____.
3. Tenant has no options to renew the term of the Lease for periods of five (5) years each.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the day and year first above written.

LANDLORD:

RS BLUEWATER, LLC,
a Texas limited liability company

By: _____
Kevin Mattson, Manager

GROUND LEASE

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the day and year first above written.

TENANT:

B&B MERRITT REAL ESTATE, LLC,
a _____ limited liability company

By: _____
Name: _____
Title: _____

GROUND LEASE

Exhibit A to Primary Term Commencement Agreement

LEGAL DESCRIPTION OF THE PROPERTY

GROUND LEASE

EXHIBIT E

Intentionally omitted.

EXHIBIT F

Intentionally omitted.

EXHIBIT G
GOVERNING DOCUMENTS

1. Declaration of Easements, Covenants, and Restrictions dated _____, recorded under Document No. _____, records of Bernalillo County, New Mexico.
2. Patent from United States of America, Recorded in Book 35, Page 91, Records of Bernalillo County, New Mexico.
3. Plat recorded under Plat Book 2014C, Page 46, records of Bernalillo County, New Mexico.
4. Agreement for Dedication of Bulk Land Plat and Sale, Purchase and Exchange of Real Estate as disclosed by Memorandum thereof, recorded on December 23, 2013 as Document No. 2013135236, records of Bernalillo County, New Mexico.
5. Notice of Subdivision Plat Conditions, recorded May 22, 2013 as Document No. 2014040956.
6. Easement in favor of Public Service Company of New Mexico recorded September 8, 2019 as Document No. 2019076475, records of Bernalillo County, New Mexico.