

## GROUND LEASE AND OPTION TO PURCHASE PREMISES

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This Ground Lease and Option to Purchase Premises ("**Lease**") is made to be effective as of \_\_\_\_\_, 2025 ("**Commencement Date**"), by and between the City of Mesa, Arizona, an Arizona municipal corporation ("**Landlord**"), and Soltrust Main QOZB, LLC, an Arizona limited liability company ("**Tenant**"). Each of Landlord and Tenant may be referred to in this Lease individually as a "**Party**" or collectively as the "**Parties**."

### RECITALS

As background to this Lease, the Parties state, recite, acknowledge and agree as follows, each of which statement is incorporated into this Lease and is made a material provision of this Lease for all purposes:

A. Landlord is the owner of certain fee simple real property and real property interests located near the intersection of South Pomeroy and Main Street in Mesa, Arizona (collectively, the "**Premises**").

B. The Premises consists of (i) the parcel of land generally depicted on Exhibit A-1 to this Lease ("**Parcel 1**" or the "**Phase 1 Parcel**"); (ii) the parcel of land generally depicted on Exhibit A-2 to this Lease ("**Parcel 2**" or the "**Phase 2 Parcel**"); and (iii) the parcel of land generally depicted on Exhibit A-3 to this Lease ("**Parcel 3**" or the "**Phase 3 Parcel**"). Each of the Phase 1 Parcel, the Phase 2 Parcel and the Phase 3 Parcel may be referred to individually as a "**Parcel**," or collectively as the "**Parcels**."

C. In 2017, the Premises were leased (pursuant to a "**Prior Lease**") to a tenant ("**Prior Tenant**") that had agreed to develop the Premises as a downtown redevelopment project (the "**Project**") that included residential, commercial and office improvements, in accordance with a development agreement ("**Prior Development Agreement**") entered into between Landlord (as "City" named in the Prior Development Agreement) and Prior Tenant (as "Developer" named in the Prior Development Agreement). Following their initial, concurrent execution, both the Prior Lease and the Prior Development Agreement were amended many times in order to adjust Prior Tenant's performance and related obligations.

D. Although Prior Tenant commenced construction of improvements on portions of the Parcels in accordance with the Prior Lease and the Prior Development Agreement, progress halted and then stalled; and Prior Tenant ultimately defaulted on its obligations under both the Prior Lease and the Prior Development Agreement, soon filing a case for business reorganization under 11 U.S. Code Chapter 11 (the "**Bankruptcy Case**"). Tenant has been deemed to have acquired all right, title and interest (if any) of the Prior Tenant in the Existing Improvements (as defined in Subsection 2.2 of this Lease) through the Bankruptcy Case. The termination of the Prior Lease and the Prior Development Agreement has been confirmed in the Bankruptcy Case, and Prior Tenant has no surviving rights or interests in the Prior Lease, the Prior Development Agreement and the Premises.

E. Tenant has expressed its interest in reviving the Project, but as modified in various respects as described in this Lease. Landlord, bearing in mind its public responsibility for achieving its goals for the redevelopment of its core downtown area, bringing an end to a highly visible eyesore, and forestalling blight and potentially hazardous conditions in and around the construction site, has agreed to lease the Premises to Tenant. In return, Tenant has agreed to lease the Premises from Landlord and thereafter to undertake certain performance and construction on the Premises in accordance with this Lease.

F. Tenant has offered to purchase the Premises from Landlord immediately and prior to undertaking any redevelopment and construction activities on and at the Premises, but Landlord requires that the City maintain fee ownership of the Premises and cause Tenant to undertake its redevelopment and construction activities on and at the Premises as a tenant (rather than as an owner) in order to ensure and compel timely Completion of Construction of the Improvements for each Phase as more fully described in this Lease. For this reason, Landlord has elected to lease the Premises to Tenant for a nominal rental rate during the contemplated term of construction of the Improvements and to grant options to Tenant to allow Tenant (in its sole discretion) to purchase the Parcels only after all described Improvements for such Parcel have been Completed; and if Tenant fails to timely exercise any Option offered in this Lease, the rental rate for the Premises increases to a market rate rental, as more fully described in this Lease.

G. In consideration of all of these matters and of the promises of the Parties set forth in this Lease, the Parties now execute and deliver this Lease on the terms and conditions set forth in this Lease.

## **SECTION 1 – THE PROJECT (AS MODIFIED BY THIS LEASE)**

### **1.1 Development Plans.**

a. **Approved Plans.** Development of each Phase of the Project will be in accordance with one or more plans (each, an “**Approved Plan**,” or, collectively, “**Approved Plans**,” as the same may be amended from time-to-time) prepared and submitted by Tenant to City for approval, and which shall (i) comply with the General Plan and the Zoning, and (ii) set forth the basic land uses, phasing of the Improvements and required Public Improvements, and all other matters relevant to the development of the Project in accordance with this Lease. Review and approval of the Approved Plans, or any amendment to an Approved Plan, will be undertaken by City in accordance with its regular and customary procedures.

b. **Approval Process.** The process for the submittal, review and approval of (i) the Approved Plans, and (ii) the Project's design elements, including without limitation building materials, colors, architectural plans, landscaping, enhanced paving plans (if any), irrigation, lighting, exterior cooling, pedestrian linkages, signage and the character of the improvements, are subject to City's ordinary submittal, review and approval processes then in effect. The Parties will cooperate reasonably in processing the approval or issuance of any permits, plans, specifications, plats or other development approvals requested by Tenant in connection with development of the Project. With respect to the foregoing, City will designate one employee during the term of planning and construction to manage or supervise the zoning

and building review process, and will use commercially reasonable efforts to provide that the same inspectors are used during the construction process to provide consistency in inspection and comment.

c. Cooperation in the Implementation of the Approved Plans. Tenant and City will work together using commercially reasonable efforts throughout the pre-development and development stages to resolve any City comments regarding implementation of the Approved Plans.

## 1.2 Development Regulation.

a. “Applicable Laws” means the federal, state, county and local laws (statutory and common law) ordinances, rules, regulations, permit requirements, and other requirements and official policies of City, as they may be amended from time to time, which apply to the development of the Project as of the date of any application or submission.

b. Permit and Other Fees. Building permit, inspection, development and other similar fees for the development of the Project (“Fees”) will be those in effect at the time of any application or submission.

## 1.3 Definitions.

a. “City” means Landlord, acting in its municipal capacity as the City of Mesa, Arizona.

b. “City Manager” means the City Manager (or designee) of the City of Mesa, Arizona.

c. “Claims” means all claims, demands, fines, penalties, costs, expenses, damages, losses, obligations, judgments, liabilities, and suits (including attorneys’ fees, experts’ fees and court costs associated with such matters) which arise from or relate in any way, directly or indirectly, to (1) the Improvements, (2) the Existing Improvements, and (3) any act of or omission by Tenant, or its employees, contractors, subcontractors, assignees, successors, agents or representatives, undertaken wholly or partially in fulfillment of Tenant’s obligations under this Lease, (4) any use or nonuse of, or any condition created by Tenant on the Premises or any part of the Premises, (5) any accident, injury to or death of persons (including workmen) or loss of or damage to property occurring on or about the Premises or any part of the Premises, (6) performance of any labor or services or the furnishing of any materials or other property with respect to the Premises, (7) any failure on the part of Tenant to comply with any of the matters set forth in Section 11 of this Lease, including but not limited to any failure by Tenant to clean up any Hazardous Materials.

d. “Commencement of Construction,” “Commence Construction,” “Commence” or “Commencement” means both (1) the obtaining of permits by Tenant that are required to resume (as to Phase 1) or to commence (as to Phase 2 and Phase 3) the construction of vertical improvements with respect to the applicable Phase of the Project on the Premises, and (2) the resumption (as to Phase 1) or actual commencement (as to Phase 2 and

Phase 3) of physical construction of such vertical improvements on the Premises in a manner necessary to achieve Completion of Construction.

e. **“Completion of Construction,” “Complete Construction,” “Complete” or “Completion”** means the date (or dates) on which (1) the last of one or more final certificates of occupancy have been issued by City for all of the Improvements included within any applicable Phase of the Project in order to permit the lawful occupancy of such Improvements by subtenants, invitees and the general public; and (2) all applicable Public Improvements required in connection with such Phase have been accepted by City’s City Engineer for maintenance in accordance with the policies, standards and specifications contained in applicable City ordinances (which acceptance will not be unreasonably withheld, conditioned or delayed) and Subsection 1.13 of this Lease.

f. **“General Plan”** means *This is My Mesa: Mesa 2040 General Plan* as adopted by City.

g. **“Improvements”** means:

1. a minimum of eighteen thousand (18,000) rentable square feet of commercial, retail/restaurant or office premises on or along Main Street (the **“Commercial Project”**);

2. a minimum of seventy-six (76) “micro” or “studio” units of not less than three hundred and fifty (350) square feet per unit (collectively, **“Main Street Apartments”**);

3. residential (including hospitality) improvements as agreed by the Parties pursuant to the TBD Lease Amendment, as hereinafter defined (the **“Courtyard Building”**) containing a minimum of twenty-one thousand (21,000) square feet total under roof; and

4. a minimum of twelve (12) row homes containing a minimum of twenty-four thousand, two hundred (24,200) square feet total under roof (the **“Row Homes”**).

However, City Manager has the authority to approve the nature of the improvements for the Courtyard Building and to make administrative adjustments in the amounts and areas described in this Subsection 1.3(g) in order to accommodate reasonable changes necessitated by design and construction matters discovered or determined subsequent to the execution of this Lease by the Parties.

h. **“Public Improvements”** means all public improvements required by Applicable Laws to be constructed or are otherwise required to be constructed by Tenant in connection with the development and construction of each Phase (and thereafter to be dedicated to City), which shall be constructed at the sole cost and expense of Tenant; provided, however, Public Improvements do not include the completion of the public electrical improvements necessary for the development of the Phase 1 Parcel (which public electrical improvements will be constructed at the sole cost and expense of City).

i. **“Residential Project”** means the Main Street Apartments, the Courtyard Building and the Row Homes.

j. **“Zoning”** or **“Zoning Ordinance”** means the Zoning Ordinance of City, as the same may be amended from time-to-time during the Term.

1.4 **Phases.** The Parties agree and acknowledge that the Project is contemplated to consist of three (3) phases (each, a **“Phase”**), as follows:

a. **“Phase 1”** is the construction, development and Completion of the Commercial Project and the Main Street Apartments (collectively, the **“North Building”**) on the Phase 1 Parcel and all associated Public Improvements. Tenant must Complete Construction of Phase 1 within nine (9) months after the Commencement Date of this Lease (the **“Phase 1 Completion Date”**).

b. **“Phase 2”** is the construction, development and Completion of the Courtyard Building on the Phase 2 Parcel and all associated Public Improvements. Tenant must Commence Construction of Phase 2 on such date as agreed upon in the TBD Lease Amendment (the **“Phase 2 Commencement Date”**) and must Complete Construction of Phase 2 no later than eighteen (18) months after the Commencement of Construction of Phase 2 (the **“Phase 2 Completion Date”**).

(1) As of the Commencement Date, the Parties have not agreed with respect to the specific components and features of the Courtyard Building, as those matters depend, in large part, on the course of development of Phase 1. Following their execution and delivery of this Lease, the Parties will meet and confer in good faith to determine (i) what components, features and area under-roof the Courtyard Building is required to include, (ii) the allocation (if any) between residential and hospitality components and features within the Courtyard Building, (iii) the Phase 2 Commencement Date, and (iv) the Phase 3 Commencement Date (collectively, the **“TBD Matters”**). In addition, the TBD Matters may include, in City Manager’s commercially reasonable discretion, a re-allocation or reapportionment of the Parcel 2 Purchase Price and the Parcel 3 Purchase Price as long as the total Purchase Price for Parcel 2 and Parcel 3 is not less than \$1,970,000.00.

(2) By its execution and delivery of this Lease, Landlord confers authority on City Manager to negotiate and bind Landlord (including executing and delivering the TBD Lease Amendment, as defined below) with respect to the TBD Matters without the requirement of further City Council action or approval by City.

(3) Upon agreement by Landlord and Tenant of the TBD Matters, with agreement as to each of the TBD Matters to be in each Party’s sole and absolute discretion (subject to Landlord’s obligation to establish a commercially reasonable reapportionment between the Parcel 2 Purchase Price and the Parcel 3 Purchase Price as described in Subsection 1.4(b)(1), above), the Parties will promptly execute and deliver an amendment to this Lease with respect to the TBD Matters and including all conforming changes to this Lease consequently and reasonably required (the **“TBD Lease Amendment”**). The TBD Lease Amendment will be in form reasonably approved by Landlord and Tenant.

(4) If the TBD Lease Amendment has not been executed and delivered by the Parties by the earlier of (i) Tenant's closing of escrow and completion of its purchase of Parcel 1 or (ii) Tenant's failure to timely close escrow for the purchase of Parcel 1 in accordance with Subsection 30.1(a), then this Lease will (x) automatically (and without further act or Notice required) terminate as to Parcel 2 and Parcel 3 (including the Parcel 2 Purchase Option and the Parcel 3 Purchase Option), except for obligations of Indemnity that expressly survive the termination of this Lease, but (y) continue, subject to Tenant's compliance with all terms and conditions of this Lease, with respect to Parcel 1.

c. "**Phase 3**" is the construction, development and Completion of the Row Homes on the Phase 3 Parcel and all associated Public Improvements described. Tenant must Commence Construction of Phase 3 on such date as agreed upon in the TBD Lease Amendment (the "**Phase 3 Commencement Date**") and must Complete Construction of Phase 3 no later than eighteen (18) months after the Commencement of Construction of Phase 3 (the "**Phase 3 Completion Date**").

d. The dates included in this Subsection 1.4 for Commencement and Completion of Construction (including the Phase 1 Completion Date, the Phase 2 Commencement Date, the Phase 2 Completion Date, the Phase 3 Commencement Date and the Phase 3 Completion Date) are "**Compliance Dates**." City Manager or his designee in City Manager/designee's reasonable discretion may grant up to three (3) 45-day extensions to any or all of the Compliance Dates for any Phase upon (1) written request by Tenant, (2) Tenant's having timely Commenced Construction of all prior Phases, and (3) Tenant's having demonstrated that it has diligently and without interruption prosecuted the construction and development of all prior Phases.

1.5 Payment and Performance Bonds. In connection with its construction of the Improvements and the Public Improvements, Tenant will provide City with payment and performance bonds (which may be dual-obligee bonds with Tenant's lender or lenders, that name City as an additional obligee), or other forms of financial assurance, in a form (or forms) reasonably satisfactory to City, to ensure full and timely completion of the Project.

1.6 Program Compliance. Tenant, at Tenant's sole cost and expense, during the Term, and in compliance with all Applicable Laws, will comply in all material respects with those programs and policies set forth and described on Exhibit B. The Parties agree and acknowledge that the City Manager will have the right and ability, without need for City Council approval, to make minor adjustments to Exhibit B that are agreed by the Parties and are consistent with the intent of the Parties and this Lease, and thereupon to enter into such amendments to this Lease as deemed necessary or appropriate by the Parties.

1.7 On-Site Amenities. Tenant, at Tenant's sole cost and expense, during the Term, and in compliance with all Applicable Laws, will cause the Residential Project to include and offer to subtenants the on-site amenities set forth and described on Exhibit C. The Parties agree and acknowledge that the City Manager will have the right and ability, without need for City Council approval, to make minor adjustments to Exhibit C that are agreed by the Parties and are consistent with the intent of the Parties and this Lease, and thereupon to enter into such amendments to this Lease as deemed necessary or appropriate by the Parties.

1.8 Unit Amenities. Tenant, at Tenant's sole cost and expense, during the Term, and in compliance with all Applicable Laws, will cause individual units within the Residential Project to include and contain the unit amenities set forth and described on Exhibit D. The Parties agree and acknowledge that the City Manager will have the right and ability, without need for City Council approval, to make minor adjustments to Exhibit D that are agreed by the Parties and are consistent with the intent of the Parties and this Lease, and thereupon to enter into such amendments to this Lease as deemed necessary or appropriate by the Parties.

1.9 Exterior Quality Standards. Tenant, at Tenant's sole cost and expense, during the Term, and in compliance with all Applicable Laws, will comply in all material respects with those exterior quality standards described on Exhibit E. The Parties agree and acknowledge that the City Manager will have the right and ability, without need for City Council approval, to make minor adjustments to Exhibit E that are agreed by the Parties and are consistent with the intent of the Parties and this Lease, and thereupon to enter into such amendments to this Lease as deemed necessary or appropriate by the Parties

1.10 City Services. During the Term, Tenant will contract for and use all City of Mesa services, including (but not limited to) City's electric, water, sewer, gas, solid waste and recycling services ("City Services"). To the extent that Tenant does not directly supply or provide such services to any subtenant or subtenants, Tenant will require its subtenants to contract for and use all City Services.

1.11 Prohibited Uses. Despite anything in Applicable Laws (including but not limited to the Zoning) that may permit them, the uses described on Exhibit F (the "Prohibited Uses") will at all times be prohibited on the Project.

1.12 Encroachments into Right-of-Way. Subject to Tenant's compliance with all other terms and conditions of this Lease, all Applicable Laws, and the Declaration of Property Restrictions recorded on the Premises ("Declaration"), City will permit those certain encroachments into City's right-of-way subject to the terms, conditions, limitations, and requirements set forth in that certain Declaration of Property Restrictions in the from attached to this Lease as Exhibit G, which Landlord intends to be recorded in the Official Records of Maricopa County, Arizona ("Official Records"), promptly following the execution and delivery of this Lease by Tenant. The terms and conditions of the Declaration are in addition to and supplement this Lease, and Tenant must observe and comply with the Declaration during the Term.

1.13 Dedication of Public Improvements. When the Public Improvements (or a discrete portion of such Public Improvements as agreed by City in its sole discretion) are completed, then upon written request of City or Tenant, Tenant will dedicate and City will accept such Public Improvements in accordance with Applicable Laws and upon such reasonable and customary conditions as City may impose, including without limitation a two (2) year contractor's warranty of workmanship and materials. Upon acceptance by City, but in all events subject to the obligations of Tenant of maintenance, repair and replacements set forth in this Lease, the Public Improvements will become public facilities and property of City, and City will be solely responsible for all subsequent maintenance, replacement or repairs. With respect to

any claims arising prior to acceptance of the Public Improvements by City, Tenant will bear all risk of, and will indemnify, defend, pay and hold harmless the City Indemnitees for, from and against any and all Claims arising in connection with such matters.

1.14 Required Parking. Tenant acknowledges that it must provide parking for its subtenants and invitees, and that no parking has been provided in the Approved Plans for the Premises. Accordingly, before Tenant may receive any certificate of occupancy for all or part of any Parcel, Tenant must execute and deliver to Landlord (and provide all payments and prepayments required), a parking license agreement (“**License Agreement**”) in the form attached to this Lease as Exhibit H.

1.15 Force Majeure. With respect to its obligations to Commence or Complete the design and construction of any Phase of the Project by a Compliance Date, Tenant will not be considered to be in Default due to causes beyond its control and without its fault, negligence or failure to comply with Applicable Laws, including, but not restricted to, acts of God, acts of public enemy, fires, floods, mandated public health quarantines, strikes, embargoes, inability to obtain (or material delay in obtaining) materials resulting from supply chain disruptions that directly and materially impact the critical path of construction, including delays caused by construction, building or similar moratoriums, labor disputes, and unusually severe weather or the delays of subcontractors or materialmen due to such causes, act of a public enemy, war, terrorism or act of terror (including but not limited to bio-terrorism or eco-terrorism), nuclear radiation, declaration of national emergency or national alert, blockade, insurrection, riot, extortion, sabotage, or similar occurrence or declaration of moratorium or similar hiatus directly affecting the Project (whether permanent or temporary) by any public or quasi-public entity (“**Force Majeure**”). In no event will Force Majeure include any delay resulting from (a) general economic or market conditions, (b) unavailability for any reason of particular tenants or subtenants for portions of the Project, or (c) except as expressly provided in this Subsection 1.15, unavailability for any reason of particular materials, contractors, subcontractors, vendors, investors or lenders desired by Tenant in connection with the development of the Project, it being agreed that Tenant will bear all risks of delay which are not events of Force Majeure. In the event of the occurrence of any such event constituting Force Majeure, the time or times for performance of the obligations of Tenant will be extended for a period of the Force Majeure; provided that Tenant, within ten (10) days after such event, will notify Landlord in writing of the specific delay and claim for the right to an extension for the period of the act or event constituting Force Majeure, including a detailed explanation of how the act or event directly impacts the critical path of construction of the applicable improvements and certification by Tenant that its inability to act or otherwise perform as a result of the event was not caused by Tenant’s delay in acting or purchasing materials.

## **SECTION 2 -- LEASE OF PREMISES**

2.1. For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and subject to the promises, terms and conditions contained in this Lease, Landlord leases the Premises to Tenant, and Tenant leases the Premises from Landlord.

2.2. The Premises consist of Landlord’s fee interest (and appurtenant real property interests and rights) in the Parcels and expressly exclude the improvements constructed



or partially constructed by Prior Tenant (“**Existing Improvements**”) on the Premises in connection with its defaulted performance of the Prior Development Agreement and the Prior Lease, with Tenant now being deemed the owner of the Existing Improvements as a consequence of certain orders issued in the Bankruptcy Case. Tenant agrees, acknowledges and confirms that Landlord had no involvement in any aspect of the design or construction of the Existing Improvements and expressly and unconditionally disclaims all right to assert any Claims against Landlord (including Landlord acting in its municipal capacity as City) in connection with the Existing Improvements, including but not limited to any flaws, defects or deficiencies in either the design or construction of the Existing Improvements. Accordingly, Tenant acknowledges that, as of the Commencement Date, it has fully inspected the Premises and the Existing Improvements, is familiar with the condition of the Premises the Existing Improvements, is familiar with the condition of title to the Premises, and accepts the Premises “as is” in its present condition, with no representation by, of or from Landlord.

2.3 The Parties agree and acknowledge that no “government property improvement” as defined in A.R.S. § 42-6201 is included in this Lease.

2.4. As of the Commencement Date, legal descriptions of the Parcels have not been prepared. Promptly following its execution of this Lease, Tenant at its sole cost and expense will cause to be prepared legal descriptions of the Parcels for approval by the Parties; and once those legal descriptions have been approved by the Parties, the Parties will enter into one or more amendments to this Lease to replace the depictions of the Premises in Exhibit A-1, Exhibit A-2 and Exhibit A-3 with the approved legal descriptions for the corresponding Parcels.

### **SECTION 3 - TERM**

3.1. The term of this Lease (“**Term**”) commences on the Commencement Date and will continue thereafter for a period of fifty (50) years, unless the Term is terminated earlier.

3.2. “**Commencement Date**” of this Lease means the date set forth in the first grammatical paragraph of this Lease.

3.3. If Tenant is not then in default of any term or condition of this Lease, Tenant has the right, upon Notice to Landlord, (a) to terminate this Lease as to the Phase 2 Parcel at any time prior to the Phase 2 Commencement Date (and in which event the Lease will be terminated as to the Phase 3 Parcel as well); and (b) to terminate this Lease as to the Phase 3 Parcel at any time on or prior to the Phase 3 Commencement Date. Upon any such termination by Tenant, (i) the applicable Phase (or Phases) will be automatically removed from the operation and effect of this Lease except for obligations of indemnity that survive the termination of the Lease, (ii) Tenant will not be entitled to any prorated refund of any portion of Rent that has been paid or prepaid with respect to the Premises within any applicable Phase, and (iii) Tenant will have no right to use or occupy any portion of the Premises within any Phase removed from this Lease for construction staging or any other purpose.

### **SECTION 4 – RENT**

4.1. Beginning on the Lease Commencement Date and continuing throughout the term of the Lease, Tenant will pay “**Rent**” to Landlord, without notice or demand, for the use and occupancy of the Premises during the Term of this Lease.

a. For the period of time commencing on the Commencement Date, and continuing through the Phase 1 Initial Term, Rent for the Phase 1 Parcel is \$5,000.00 (Five Thousand Dollars and 00/00) (the “**Phase 1 Initial Rent**”). The Phase 1 Initial Rent must be paid in full by Tenant to Landlord no later than the Commencement Date. The “**Phase 1 Initial Term**” begins on the Commencement Date and ends on the earlier of (1) the closing of the purchase of the Phase 1 Parcel or (2) one hundred and eighty (180) days after the Phase 1 Completion Date.

b. For the period of time commencing on the Commencement Date, and continuing through the Phase 2 Initial Term, Rent for the Phase 2 Parcel is \$5,000.00 (Five Thousand Dollars and 00/00) (the “**Phase 2 Initial Rent**”). The Phase 2 Initial Rent must be paid in full by Tenant to Landlord no later than the Commencement Date. The “**Phase 2 Initial Term**” begins on the Commencement Date and ends on the earlier of (1) the closing of the purchase of the Phase 2 Parcel or (2) one hundred and eighty (180) days after the Phase 2 Completion Date.

c. For the period of time commencing on the Commencement Date, and continuing through the Phase 3 Initial Term, Rent for the Phase 3 Parcel is \$5,000.00 (Five Thousand Dollars and 00/00) (the “**Phase 3 Initial Rent**”). The Phase 3 Initial Rent must be paid in full by Tenant to Landlord no later than the Commencement Date. The “**Phase 3 Initial Term**” begins on the Commencement Date and ends on the earlier of (1) the closing of the purchase of the Phase 3 Parcel or (2) one hundred and eighty (180) days after the Phase 3 Completion Date.

d. If any Parcel has not been purchased by Tenant (or its assignee(s)) by the expiration of the Phase 1 Initial Term, Phase 2 Initial Term, or Phase 3 Initial Term (each, an “**Initial Term**”), as applicable, and Tenant has not terminated this Lease as to such Parcel in accordance with Subsection 3.3 of this Lease, then Rent for such Parcel (as of the next calendar day following the expiration of an Initial Term) will increase to a market-rate rental value of the applicable Parcel (“**Ground Lease Rent**”).

1. If the Parties fail to agree on Ground Lease Rent for a Parcel, then Ground Lease Rent will be determined as follows: Landlord and Tenant will promptly select a mutually acceptable appraiser to act as arbitrator (“**Arbitrator**”). No later than thirty (30) days following the selection of the Arbitrator, Landlord and Tenant each will submit to the Arbitrator its calculation of annual market-rate rental for the applicable Parcel for each of the next five (5) years of the Term, and the Arbitrator will, within thirty (30) days of his (or her) appointment, select one of those amounts as the annual Ground Lease Rent for the next five (5) years of the Term. The Arbitrator must be an MAI or AIA appraiser with at least fifteen (15) years’ experience with respect to commercial rental properties. If either Landlord or Tenant fails timely to deliver its calculation of market-rate rental to the Arbitrator, the Arbitrator shall use the calculation of market-rate rental for the applicable Parcel submitted by the other Party.

2. Ground Lease Rent for a Parcel as agreed by the Parties or as determined in accordance with Subsection 4.1(d)(1), (A) will be owing as of the first calendar day following the expiration of the applicable Initial Term for the Parcel, (B) must be paid within five (5) business days of the agreement of the Parties or the determination by the Arbitrator, (C) must be paid in full for the next calendar year, and (D) must be paid on the same day of each year thereafter until the next determination of Ground Lease Rent.

3. Following the determination of Ground Lease Rent for the Parcels after the expirations of the Initial Terms, Ground Lease Rent (A) will be determined each five (5) years of the Term thereafter, (B) will be determined in accordance with the process described in Subsection 4.1(d)(1) and (C) must be paid in accordance with Subsection 4.1(d)(2).

4.2. Rent and any Additional Charges (as defined and provided for in Section 5), will be paid in lawful money of the United States of America to the "City of Mesa, Arizona" payable at 20 East Main Street, Mesa, Arizona 85211, Attn: Real Estate Administrator, or to such other place or person as Landlord may designate in writing to Tenant from time to time.

4.3. If Tenant fails or neglects to pay any amount due and payable to Landlord by this Lease, and the delinquency continues for ten (10) days after such amount is due (or in the case of payments other than Rent, within fifteen (15) days after Tenant receives written notice of such amount), then beginning on the sixteenth (16th) day, Tenant will pay to Landlord a late payment charge in the amount of ten percent (10%) of the delinquent amount; and said late payment charge will be in addition to, and not in lieu of, any other rights Landlord may have, including (but not limited to) Landlord's rights granted in Section 20 of this Lease.

## **SECTION 5 - ADDITIONAL CHARGES**

All amounts, including any applicable transaction privilege tax, excise tax, real or personal property tax assessments, insurance premiums, charges, costs and expenses which Tenant assumes, agrees or is obligated by law to pay, together with all interest and penalties that may accrue thereon in the event of Tenant's failure to pay such amounts, and all other damages, costs and expenses which Landlord may suffer or incur for which Tenant is liable under this Lease, and any and all other sums which may become due, by reason of any default of Tenant or failure on Tenant's part to comply with the agreements, terms, covenants and conditions of this Lease on Tenant's part to be performed, will be referred to in this Lease as "**Additional Charges**" and, in the event of their nonpayment, Landlord will have all rights and remedies provided in this Lease and available in law or equity in the event of nonpayment of Rent. If not paid when due, all Rent and any Additional Charges payable to Landlord will accrue interest at ten percent (10%) per annum from their due date until paid.

## **SECTION 6 – NO COUNTERCLAIM OR ABATEMENT OF RENT**

Rent, Additional Charges and all other sums payable by Tenant to Landlord will be paid without notice, demand, counterclaim, setoff, recoupment, deduction or defense of any kind or nature and without abatement, suspension, deferment, diminution or reduction.

## **SECTION 7 - TAXES, ASSESSMENTS AND UTILITIES**

7.1. It is the intention of the Parties that, insofar as the same may be lawfully done, Landlord will be free from all costs, expenses, obligations and all such taxes, assessments and all such other governmental impositions and charges, and that this Lease will yield net to Landlord not less than the amount of Rent as stated in this Lease, throughout the Term. Tenant will pay and discharge, as and when the same become due and payable without penalty, all real estate, personal property, business, transaction privilege, use, occupation and occupational license taxes and assessments (including, but not limited to, amounts that would customarily be assessed by SID 228 with respect to calendar year 2025 and all years thereafter during the Term and paid by a private property owner whether as a required or voluntary payment) and all other governmental taxes, impositions and charges of every kind and nature, general or special, foreseen or unforeseen, whether similar or dissimilar to any of the foregoing, which at any time during the Term of this Lease be or become due and payable by Landlord or Tenant and which are levied, assessed or imposed:

a. Upon or with respect to, or will be or become liens upon, the Premises, or any portion thereof or any interest of Landlord or Tenant in the Premises or under this Lease (other than liens created or granted by Landlord in its capacity as the fee owner of the real property constituting the Premises, as opposed to liens created by Landlord in its capacity as a municipality, which are subject to this Section 7);

b. Upon or with respect to the possession, operation, management, maintenance, alteration, repair, rebuilding, use or occupancy of the Premises, or any portion thereof; and

c. Upon this transaction or any document to which Tenant is a party or is bound, creating or transferring an interest or an estate in the Premises, under or by virtue of any present or future law, statute, charter, ordinance, regulation, or other requirement of any governmental authority.

7.2. Tenant has the right to contest any claim, tax or assessment levied against the Premises or any of its interests in the Premises (or personal property located on or at the Premises) during the term of the Lease or from Tenant's activities by posting bonds to prevent enforcement of any lien resulting therefrom. Tenant agrees to protect and hold Landlord harmless (and all interest of Landlord in the Premises) for, from and against any and all claims, taxes, assessments and like charges and from any lien therefor or sale or other proceedings to enforce payment thereof, and all costs in connection therewith, but only as to those that arise or occur during the Term of this Lease. Landlord agrees to cooperate with Tenant and will promptly execute and deliver for filing any appropriate documents with reference to any such contest when so requested by Tenant.

7.3. Tenant, upon Landlord's written request, will furnish to Landlord, within twenty (20) days thereafter, proof of the payment of any taxes, impositions or charges which Tenant and not Landlord has the obligation to pay under the provisions of this Section 7.

7.4. Tenant and its subtenants, each as an accountholder, will be solely responsible for the accountholder's fees, deposits, penalties and costs of all utility services consumed by accountholder, according to the City of Mesa Utility Rate Book, City of Mesa

Terms and Conditions for the Sales of Utilities, Terms and Conditions for Electric Service, Electric Utility Rules and Regulations and any applicable utility rate schedules.

## **SECTION 8 – USE OF PREMISES**

8.1. Permitted Uses. The Project and Premises must be developed in accordance with this Lease and used in accordance with Applicable Laws, including the Zoning (collectively, the “**Permitted Uses**”). Subject to Subsection 8.2, Tenant may use the Premises solely for the Permitted Uses and not for any other purpose.

8.2. Prohibited Uses. Tenant will not use, or permit the use of, the Premises for Prohibited Uses listed in Exhibit F to this Lease. The Parties agree and acknowledge that the City Manager, in his sole discretion, by a signed amendment to this Lease that modifies Exhibit F, may remove or delete Prohibited Uses from Exhibit F, provided such deleted uses are not otherwise prohibited by Zoning or Applicable Laws.

## **SECTION 9 – ELECTRICAL INFRASTRUCTURE**

9.1. Phase 1. The Parties acknowledge that Landlord previously set the transformer for the development of Phase 1. Landlord, at its sole cost and expense, will complete the construction and installation of public electrical utility infrastructure necessary for the development of Phase 1. Tenant, as its sole cost and expense, will complete the construction and installation of all private electrical utility infrastructure necessary for the development of Phase 1.

9.2. Phase 2 and Phase 3. The Parties acknowledge that Landlord previously set the transformer for the development of Phase 2 and Phase 3, and Landlord is not entitled to and will not seek reimbursement for this cost and expense. Tenant will be solely responsible for all costs and expenses relating to the construction and installation of any remaining public and all private electrical utility infrastructure for the development of Phase 2 and Phase 3 (which includes without limitation reimbursing Landlord for its costs and expenses incurred relating to the construction and installation of electrical utility infrastructure of Phase 2 and Phase 3, except the transformer discussed herein) in accordance with Applicable Laws and the normal and customary terms and processes of City’s Energy Resources Department.

9.3. As to all Phases and all Parcels, Tenant will be solely responsible for the installation, ownership, operation, maintenance, and security of all private electrical facilities, including improvements on the building side of City’s electric utility meter such as the electrical switchgear that houses the City-owned electric utility meter(s) and conduit or other equipment between service entrance section(s) and meters.

## **SECTION 10 – MAINTENANCE AND REPAIRS**

Tenant at all times during the Term of this Lease, and at Tenant’s sole cost and expense, will keep and maintain the Premises in good order and repair and in a clean and sanitary condition, including but not limited to all buildings, facilities, structures, driveways, landscaped areas, and other improvements included within the Premises (including all exterior painted surfaces of all buildings, structures and improvements included within the Premises), and all

equipment and appurtenances, both interior and exterior, structural and non-structural, ordinary or extraordinary, howsoever the necessity or desirability of repairs may occur. All repairs, replacements and renewals will be made promptly and be equal in quality and class to the original work. Tenant waives any right created by any legal requirement (now or hereafter in force) to make repairs to the Premises at Landlord's expense, it being understood that Landlord will in no event be required to make any alterations, improvements or repairs during the Term.

## **SECTION 11 – REGULATORY REQUIREMENTS**

11.1. Tenant will promptly observe and comply with all present and future laws, ordinances, requirements, rules and regulations of all governmental authorities having or claiming jurisdiction over the Premises or any part thereof and of all requirements in written insurance policies covering the Premises or any part thereof required in Section 15 below (the **“Regulatory Requirements”**). Without limiting the generality of the foregoing, Tenant will also procure each and every permit, license, certificate or other authorization required in connection with the lawful and proper use of the Premises or required in connection with any building, structure or improvement hereafter erected thereon.

11.2. Tenant covenants and agrees not to use, generate, release, manage, treat, manufacture, store, or dispose of, on, under or about, or transport to or from (any of the foregoing, **“Use”**) the Premises any Hazardous Materials (other than De Minimis Amounts). Tenant further covenants and agrees to pay all costs and expenses associated with enforcement, removal, remedial or other governmental or regulatory actions, agreements or orders threatened, instituted or completed pursuant to Use of any Hazardous Materials in any amount by Tenant, its employees, agents, invitees, subtenants, licensees, assignees or contractors. For purposes of this Lease, (a) the term **“Hazardous Materials”** includes but not be limited to asbestos, urea formaldehyde, polychlorinated biphenyls, oil, petroleum products, pesticides, radioactive materials, hazardous wastes, biomedical wastes, toxic substances and any other related or dangerous, toxic or hazardous chemical, material or substance defined as hazardous or regulated or as a pollutant or contaminant in, or the Use of or exposure to which is prohibited, limited, governed or regulated by, any Hazardous Materials Laws; (b) the term **“De Minimis Amounts”** means, with respect to any given level of Hazardous Materials, that such level or quantity of Hazardous Materials in any form or combination of form (1) does not constitute a violation of any Hazardous Materials Laws and (2) is customarily employed in, or associated with, similar facilities; and (c) the term **“Hazardous Materials Laws”** means any federal, state, county, municipal, local or other statute, law, ordinance or regulation now or hereafter enacted which may relate to or deal with the protection of human health or the environment, including but not be limited to the Comprehensive Environment Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901; the Federal Water Pollution Control Act, 33 U.S.C. Section 1251, et seq.; the Toxic Substances Control Act of 1976, 15 U.S.C. Section 2601, et seq.; Ariz. Rev. Stat. Ann., Title 49 (the “Arizona Environmental Quality Act of 1986”); and any rules or regulations legally adopted or promulgated pursuant to any of the foregoing as they may be amended or replaced from time to time.

11.3. Either party has the right, at its sole cost and expense, to contest the validity of any Regulatory Requirements applicable to the Premises by appropriate proceedings diligently conducted in good faith provided, however, that no such contest will subject the other party to any liability, cost or expense.

11.4. Landlord agrees to join in the execution of any instruments which may reasonably be required in order for Tenant to procure the issuance of any licenses, occupational permits, building permits or other government approvals required by Tenant in its use, occupancy or construction of the Premises in accordance with this Lease. Tenant will indemnify, defend, pay and hold harmless Landlord for, from and against any expense or loss whatsoever occasioned by Landlord's presence as a party to any such instrument, application or permit, except to the extent caused solely by the grossly negligent or intentional bad acts of Landlord, its agents, representatives, officers, directors, elected and appointed officials and employees.

## **SECTION 12 – LIENS**

12.1. Subject to Section 17 of this Lease, Tenant has no authority to do any act or make any contract that may create or be the basis for any lien, mortgage or other encumbrance upon any interest of Landlord in the real property included within the Premises, provided however that Tenant is not prohibited from entering into any contracts in Tenant's capacity as a tenant, rather than as the title holder of said real property. Should Tenant cause any construction, alterations, reconstruction, restorations, replacements, changes, additions, improvements or repairs to be made on the Premises, or cause any labor to be performed or material to be furnished to the Premises, neither Landlord nor the real property included within the Premises will under any circumstances be liable for the payment of any expense incurred or for the value of any work done or material furnished, and Tenant will be solely and wholly responsible to contractors, laborers and materialmen performing such labor and furnishing such material.

12.2. If, because of any error, act or omission (or alleged error, act or omission) of either Tenant or Landlord, any mechanics', materialmen's or other lien, charge or order for the payment of money will be filed or recorded against the real property included within the Premises or against Landlord (whether or not such lien, charge or order is valid or enforceable as such), Tenant or Landlord, as the case may be, will, at its own expense, either cause the same to be discharged of record or bonded over pursuant to A.R.S. § 33-1004 within sixty (60) days after either has received from the other a written notice requesting such discharge.

12.3. Landlord will keep the fee title free and clear of all liens and encumbrances that may adversely affect Tenant's leasehold interest in this Lease.

## **SECTION 13 – PROPERTY AND PUBLIC LIABILITY INSURANCE**

Tenant will at all times, throughout the Term of this Lease, keep the Premises insured pursuant to the requirements set forth in Exhibit I.

## **SECTION 14 – DAMAGE OR DESTRUCTION**

In the event of damage to or destruction of any of the buildings, structures or improvements included within the Premises by fire or other casualty, Tenant will give Landlord

and any mortgagee immediate notice thereof and will at its own expense and whether or not the insurance proceeds are sufficient for the purpose, promptly commence and thereafter diligently pursue completion of the repair, restoration or rebuilding of the same so that upon completion of such repairs, restoration or rebuilding, the value and rental value of the buildings, structures or improvements will be substantially equal to the value and rental value thereof immediately prior to the occurrence of such fire or other casualty.

## **SECTION 15 – INDEMNIFICATION**

15.1. Except due to the extent arising solely from the gross negligence or intentional misconduct of City Indemnitees, Tenant will indemnify, defend, pay and hold harmless the Landlord, its agents, representatives, officers, directors, elected or appointed officials, and employees (collectively, “**City Indemnitee(s)**”) for, from and against any and all Claims, demands, fines, penalties, costs, expenses, damages, losses, obligations, judgments, liabilities, and suits (including attorneys’ fees, experts’ fees and court costs associated with such matters; all of the foregoing, collectively, “**Claims**”) imposed upon or asserted against any City Indemnitee, by reason of, or arising from, in whole or in part, any of the following: (a) any act or omission by Tenant, or its employees, contractors, subcontractors, agents or representatives, undertaken in fulfillment of Tenant's obligations under this Lease; (b) any use or nonuse of, or any condition created by Tenant on the Premises or any part thereof; (c) any accident, injury to or death of persons (including workmen) or loss of or damage to property occurring on or about the Premises or any part thereof; (d) performance of any labor or services or the furnishing of any materials or other property with respect to the Premises or any part thereof; and (e) any failure on the part of Tenant to comply with any of the matters set forth in Section 11 of this Lease, including but not limited to any failure by Tenant to clean up any Hazardous Materials (collectively, “**Indemnity**”).

15.2. If any of the occurrences described in Subsection 15.1 arise for which Tenant has an obligation of Indemnity, Tenant will, at its own expense, resist and defend such action, suit or proceeding or cause the same to be resisted and defended by counsel designated by Tenant and reasonably approved by Landlord. If any such action, suit or proceeding should result in a final judgment against Landlord, Tenant will promptly satisfy and discharge such judgment or will cause such judgment to be promptly satisfied and discharged.

15.3. Tenant’s obligations of Indemnity will survive the expiration or earlier termination of this Lease.

## **SECTION 16 – ASSIGNMENT AND SUBLETTING**

### **16.1. Assignment.**

a. Prior to Completion of Construction of all of the Improvements and Public Improvements for a Phase, no assignment or similar transfer of Tenant’s interest in this Lease respecting such Phase, or in the current management, ownership or control of Tenant (each, a “**Transfer**”) may occur without the prior written consent of Landlord, which consent may be given or withheld in Landlord’s sole and unfettered discretion; provided, however, that the foregoing restriction will not apply to a one-time Transfer to an Affiliate of Tenant upon



Landlord's reasonable determination that the management and control of the Affiliate transferee is materially the same as the management and control of Tenant as of the Commencement Date. The restrictions on Transfer set forth in this Subsection 16.1(a) will terminate automatically, and without further notice or action, as to each Phase upon Completion of Construction of such Phase; provided, however, that no Transfer of a Phase will release or discharge Tenant from any of its obligations arising in or under this Lease prior to the Transfer of such Phase, including but not limited to the obligations of Indemnity set forth in Section 15; and further provided that, upon a Transfer, the transferee (without further act or writing required) is deemed fully, automatically and unconditionally to have assumed all obligations of Tenant arising in or under this Lease, including but not limited to all obligations of Indemnity set forth in Section 15, and Landlord shall look solely to the transferee for the satisfaction of all obligations of Tenant (including without limitation obligations of Indemnity) arising in or under this Lease subsequent to the date of such Transfer. No voluntary or involuntary successor in interest to Tenant will acquire any rights or powers under this Lease, except as expressly set forth in this Lease, and any Transfer in violation of this Lease will be void, and not voidable.

b. Notwithstanding Subsection 16.1(a) and Section 17, this Lease (and Tenant's interest in the Premises) may not be transferred, assigned or hypothecated separately or apart from Tenant's (as Licensee) interest in, and rights and obligations under, the License Agreement; and any transfer, assignment or hypothecation in violation of this Subsection 16.1(b) will be void, and not voidable.

c. Tenant has the right at any time and from time to time during the Term of this Lease to assign or otherwise encumber by way of mortgages, deeds of trust or other documents or instruments, all or any part of its right, title and interest in and to this Lease to any person or entity for the purpose of obtaining financing in accordance with the terms and conditions of Section 17.

d. "**Affiliate**," as applied to any person, means any person directly or indirectly controlling, controlled by, or under common control with, that person or a blood relative or spouse of such person, if such person is a natural person. For the purposes of this definition, (1) "**control**" (including with correlative meaning, the terms "controlling," "controlled by" and "under common control"), as applied to any person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of that person, whether through the ownership of voting securities, by contract or otherwise, and (2) "**person**" means and includes natural persons, corporations, limited partnerships, general partnerships, joint stock companies, joint ventures associations, limited liability companies, limited liability partnerships, trusts, land trusts, business trusts or other organizations, whether or not legal entities.

## 16.2. Subleases.

a. Tenant may sublet all or any portion of the Premises and all, any portion of or any space within any buildings or structures located on the Premises, for any Permitted Use without first obtaining the written consent of Landlord, but Landlord is hereby given the right to inspect all subleases upon thirty (30) days' prior written notice to Tenant. A sublease will (1) not relieve Tenant of its liability for the full performance of all of the terms,

agreements, covenants and conditions of this Lease unless otherwise agreed to by Landlord; (2) not grant any rights to the subtenant which are inconsistent with the rights of Tenant under this Lease; (3) be expressly subject and subordinate to each and every provision of this Lease; (4) have a term that expires on or before the expiration of the applicable Term; and (5) provide that if Landlord succeeds to Tenant's position, Landlord will not be liable to subtenant for any prepayment of more than one (1) month's Base Rent, or for deposits or other payments which have not been actually delivered to Landlord by the subtenant, provided however, that the rent and common area maintenance (or similarly called) charges may be allocated in differing amounts between each sublease.

b. Any and all sublease agreements will also provide that in the event of termination, re-entry, or dispossession by Landlord under this Lease, Landlord may, at its option, take over all of the right, title and interest of Tenant as sublessor under such sublease, and such subtenant will, at Landlord's option, attorn to Landlord pursuant to the then executory provisions of the sublease, except that Landlord will not (1) be liable for any previous act or omission of Tenant under the sublease; (2) be subject to any offset not expressly provided in the sublease; or (3) be bound by any previous modification of such sublease or by any previous prepayment of more than one (1) month's Base Rent.

#### **SECTION 17 – HYPOTHECATION OF LEASEHOLD ESTATE**

17.1. Subject to Subsection 16.1(b), Tenant has the right to mortgage its leasehold interest in the Premises (but in no event the fee interest of the real property included within the Premises) to a bank, insurance company or other bona fide institutional lender without first obtaining the written consent of Landlord, provided that any leasehold mortgage will be subject and subordinate to the rights of Landlord. As used in this Section 17 and throughout this Lease, the noun “**mortgage**” includes a deed of trust, the verb “**mortgage**” includes the creation of a deed of trust, and the word “**mortgagee**” includes the beneficiary under a deed of trust. Within ten (10) days of entering into a leasehold mortgage, Tenant will provide written notice to Landlord of such leasehold mortgage.

17.2. If Tenant mortgages its leasehold interest in accordance with Subsection 17.1 and has furnished Landlord the name and mailing address of the mortgagee, then Landlord will not be empowered to terminate this Lease by reason of the occurrence of any default of Tenant (except as expressly provided in Subsection 3.3), unless Landlord has given the mortgagee under such leasehold mortgage a copy of its notice to Tenant of such default and the default has continued for ninety (90) days after the mortgagee has been given such notice.

17.3. The leasehold mortgagee will have the right to remedy any Default under this Lease and Landlord will accept such performance by or at the instance of such leasehold mortgagee as if the same had been made by Tenant.

17.4. In case of Default, Landlord may not terminate this Lease by reason of the occurrence of such Default if leasehold mortgagee, within ninety (90) days after the giving of notice of such Default as provided in Subsection 17.2, has commenced foreclosure or similar proceedings under the mortgage for the purpose of acquiring Tenant's interest in this Lease and thereafter diligently prosecutes the same; provided that during the pendency of such foreclosure

proceedings and the period of redemption, the leasehold mortgagee remedies any existing Defaults under this Lease that are capable of being remedied by the leasehold mortgagee, pays to Landlord, when due, all Rent, Additional Charges and other sums due from Tenant under this Lease and performs or causes to be performed all other agreements, terms, covenants and conditions of this Lease.

17.5. The leasehold mortgagee, or a third-party purchaser, may become the legal owner or successor and holder of the leasehold estate under this Lease without first obtaining the written consent of Landlord, by foreclosure of its leasehold mortgage or as a result of the assignment of this Lease in lieu of foreclosure. Upon becoming the owner or successor and holder of the leasehold estate, leasehold mortgagee or third-party purchaser may have all rights, privileges, obligations and liabilities of the original Tenant, except that leasehold mortgagee or third-party purchaser may have the right to assign its interest under this Lease (but only if there is no existing default) and, provided the assignee assumes and agrees to perform and be bound by all of the terms of this Lease, to be relieved of further liability.

17.6. Landlord agrees that the name of the leasehold mortgagee may be added to the "Loss Payable Endorsement" of any and all insurance policies required to be carried by Tenant under this Lease, and provided the leasehold mortgagee remains a mortgagee or becomes the legal owner and holder of the leasehold estate under this Lease, it may receive and hold insurance proceeds on the express condition that the insurance proceeds be applied promptly and equitably for repairs, restorations or replacements in the manner specified in this Lease.

17.7. Landlord agrees that in the event of termination of this Lease by reason of the bankruptcy of Tenant or any Default by Tenant, that Landlord will enter into a new lease for the Premises with the leasehold mortgagee or its nominee for the remainder of the Term effective as of the date of such termination, at the Rent, and upon the terms, provisions, covenants and agreement contained in this Lease, subject to the rights, if any, of the parties then in possession of any part of the Premises, provided:

a. The mortgagee or its nominee must make written request upon Landlord for the new lease agreement within thirty (30) days after the date the mortgagee receives written notice from Landlord of such termination and the Rent due and unpaid. The written request must be accompanied by any then due payments of Rent under this Lease and the satisfaction of all uncured defaults of Tenant (expressly including all matters required in Subsection 17.7(c) below); and the mortgagee or nominee must execute and deliver the new lease agreement within thirty (30) days after Landlord has delivered it.

b. The mortgagee or its nominee must pay to Landlord, at the time of execution and delivery of the new lease agreement, any and all sums which would then be due pursuant to this Lease but for such termination and, in addition, any reasonable expenses, including reasonable attorney's fees, which Landlord has incurred by reason of such default, including the costs of negotiation, approval and recording the new lease agreement.

c. In order to succeed to Tenant's interest under this Lease, and to receive a new lease agreement pursuant to Subsection 17.7(c), the mortgagee or its nominee must perform and observe all covenants in this Lease to be performed by Tenant and must further

remedy any other defaults under covenants which Tenant was obligated to perform under the terms of this Lease. If there are any continuing or past defaults that the mortgagee cannot cure due solely to the circumstances of the default, then the performance requirement will be waived.

d. The new lease agreement will be expressly made subject to the rights that survive, if any, of Tenant under this Lease and the rights of any subtenants.

e. The tenant under the new lease agreement will have the same right, title and interest in and to the Premises as Tenant has under this Lease.

f. If, after receiving a notice of default under this Lease, the leasehold mortgagee decides to foreclose or otherwise exercise remedies against Tenant, Landlord agrees to forebear from the exercise of any remedies available to Landlord under this Lease for so long as the leasehold mortgagee pays all Rent, and otherwise performs or causes to be performed the obligations of Tenant in this Lease, as and when due, and diligently pursues the exercise of such remedies, including without limitation, any period during which the leasehold mortgagee seeks possession of the Premises pursuant to judicial proceedings (including any period during which the leasehold mortgagee is subject to a stay imposed by any court). Landlord agrees to recognize as "Tenant" under this Lease, the leasehold mortgagee, its nominee or any purchaser at a foreclosure sale or by assignment in lieu of foreclosure.

17.8. Except in connection with a leasehold mortgagee's exercise of any right it may have to obtain a new lease under Subsection 17.6 above, or any purchase, assumption or other acquisition in Subsection 17.6 above, a leasehold mortgagee will not, as a condition to the exercise of its rights recognized in this Lease, be required to assume any personal liability for the payment and performance of the obligations of Tenant, and any such payment or performance or other act by the leasehold mortgagee will not be construed as an undertaking by such leasehold mortgagee to assume such personal liability.

## **SECTION 18 – DEFAULTS BY TENANT**

18.1. Each of the following occurrences will be a default ("**Default**") of this Lease:

a. If Tenant fails to pay any Rent, Additional Charges or any other sum due in this Lease promptly when due (a "**Payment Breach**") and such Payment Breach continues for twenty (20) days after notice thereof in writing to Tenant.

b. If Tenant fails to perform or comply with any of the other covenants, agreements, conditions or undertakings set forth in this Lease that are to be kept, observed and performed by Tenant other than a Payment Breach (but expressly excluding any event referred to in subparagraphs (c) and (d) of this Subsection 18.1, for which no cure period is granted) and such failure continues for thirty (30) days after notice thereof in writing to Tenant.

c. If Tenant voluntarily files any petition, or has an involuntary petition filed on its behalf, under any chapter or section of the Federal Bankruptcy Code or any similar law, state or federal, whether now or hereafter existing, or files an answer admitting insolvency or inability to pay its debts; provided however, that Tenant shall not remain in

Default if Tenant continues timely to pay all Rent and Additional Charges and otherwise fully comply with all other terms and conditions of this Lease.

d. If Tenant makes an assignment for the benefit of its creditors.

e. If Tenant breaches any term or provision of the License Agreement, beyond any applicable cure period granted in the License Agreement.

18.2. Upon the occurrence of any Default, Landlord will have the right, at its election, to reenter the Premises and the buildings, structures and improvements then situated thereon, or any part thereof, and to expel, remove and put out Tenant and all persons occupying or upon the same under Tenant, using such force as may be necessary in so doing, and again to possess the Premises and enjoy the same as in their former estate and to take full possession of and control over the Premises and the buildings, structures and improvements thereon and to have, hold and enjoy the same and to receive all rental income of and from the same. No reentry by Landlord will be deemed an acceptance of a surrender of this Lease, nor will it absolve or discharge Tenant from any liability under this Lease. Upon such reentry, all rights of Tenant to occupy or possess the Premises will cease and terminate.

18.3. Upon the occurrence of any Default, Landlord may give written notice to Tenant stating that this Lease will terminate on the date specified by such notice, and upon the date specified in such notice this Lease and the real property hereby demised and all rights of Tenant in this Lease will terminate. Upon such termination, Tenant will quit and peacefully surrender to Landlord the Premises and the buildings, structures and improvements then situated thereon.

18.4. At any time and from time to time after such reentry, Landlord may re-let the Premises and the buildings, structures and improvements thereon, or any part thereof, in the name of Landlord or otherwise, for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the Term of this Lease), and on such conditions (which may include concessions or free rental) as Landlord, in its reasonable discretion, may determine and may collect and receive the rental therefore. Even though it may re-let the Premises, Landlord will have the right thereafter to terminate this Lease and all of the rights of Tenant in or to the Premises.

18.5. Unless Landlord has notified Tenant in writing that it has elected to terminate this Lease, no such reentry or action in lawful detainer or otherwise to obtain possession of the Premises will relieve Tenant of its liability and obligations under this Lease; and all such liability and obligations will survive any such reentry. In the event of any such reentry, whether or not the Premises and the buildings, structures and improvements thereon, or any part thereof, have been relet, Tenant will pay to Landlord the entire Rent and all other Additional Charges required to be paid by Tenant up to the time of such reentry under this Lease, and thereafter Tenant, until the end of what would have been the Term of this Lease in the absence of such reentry, will be liable to Landlord and will pay to Landlord, as and for liquidated and agreed damages for Tenant's Default:

a. The amount of Rent and Additional Charges which would be payable under this Lease by Tenant if this Lease were still in effect, less

b. The net proceeds of any reletting, after deducting all of Landlord's reasonable expenses in connection with such reletting, including without limitation all reasonable repossession costs, brokerage commissions, legal expenses, attorneys' fees, alteration costs and expenses of preparation for such reletting.

18.6. In the event of any Default by Tenant, Landlord will have, in addition to any specific remedies provided in this Lease, the right to invoke any right or remedy allowed by law or in equity or by statute or otherwise, including the right to enjoin such breach.

18.7. Each right and remedy of Landlord provided for in this Lease will be cumulative and in addition to every other right or remedy provided for in this Lease now or hereafter existing at law or in equity or by statute or otherwise; and the exercise or beginning of the exercise by Landlord of any one or more of such rights or remedies will not preclude the simultaneous or later exercise by Landlord of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

18.8. Any violation of any covenant or provision of this Lease, whether by act or omission, by any subtenant or any other persons occupying any portion of the Premises or any buildings, structures or improvements thereon under the rights of Tenant will be deemed a violation of such provision by Tenant and a Default under this Lease; provided, however, that any such violation will not be deemed to be a Default under this Lease if and so long as Tenant in good faith and at its own expense takes and diligently pursues any and all steps it is entitled to take and which steps if completed will cure said Default and otherwise fully and timely performs all of Tenant's obligations under this Lease.

18.9. Landlord agrees that if the Default complained of (other than for (a) a Payment Breach; (b) the occurrence of any event referred to in subparagraphs (c) and (d) of Subsection 18.1; or (c) a breach of Section 19 of this Lease), is of such a nature that the same cannot reasonably be cured within the thirty (30) day period for curing as specified in the written notice given to Tenant in connection with the Default, then the Default will be deemed to be cured if Tenant, within such period of thirty (30) days, will have commenced the curing of the Default and will continue with all due diligence to effect such curing and completes such cure; but no extension of time permitted by this Subsection 18.9 may exceed ninety (90) days.

## **SECTION 19 – OPERATING COVENANT**

Tenant covenants and agrees that following Completion of Construction of the Improvements required by this Lease for each Phase and for the remainder of the Term as to such Phase, it will continuously and without interruption offer for sublease, at "market" rent, any vacant space within the Improvements and will have available to the Premises competent personnel (who may be employees or independent contractors) to sublease and maintain the Improvements in a manner which conforms to commercially reasonable management practices for comparable facilities, ("**Operating Covenant**"). The Parties acknowledge that the occurrence

of vacancies within the Premises from time to time will not constitute a breach of the Operating Covenant.

## **SECTION 20 – ASSIGNMENT OF RENTS, INCOME AND PROFITS**

Subject to the rights of its leasehold mortgagee, Tenant hereby absolutely and irrevocably assigns to Landlord all rents, income and profits accruing to Tenant from permitted subtenants of all or a portion of the Premises and the buildings, structures or improvements thereon, together with the right to collect and receive the same; provided that so long as Tenant is not in default of this Lease, Tenant will have the right to collect and retain such rents, income and profits. Landlord will apply to rent and other monies due from Tenant the net amount (after deducting all costs and expenses incident to the collection thereof and the operation and maintenance, including repairs, of the Premises) of any rents, income and profits so collected and received by it. However, if Tenant mortgages its leasehold interest pursuant to Subsection 17.1 and the mortgagee requires an assignment of rents, income and profits as part of its security, then during the Term of this Lease, the assignment to Landlord will be junior to the assignment in favor of the mortgagee.

## **SECTION 21 – WAIVER OF PERFORMANCE**

No failure by Landlord or Tenant to insist upon the strict performance of any term or condition hereof or to exercise any right, power or remedy consequent upon a breach thereof and no submission by Tenant or acceptance by Landlord of full or partial Rent or Additional Charges during the continuance of any such breach will constitute a waiver of any such breach or of any such term. No waiver of any breach will affect or alter this Lease, which will continue in full force and effect, nor the respective rights of Landlord or Tenant with respect to any other then existing or subsequent breach.

## **SECTION 22 – REMEDIES CUMULATIVE**

Each right, power and remedy provided for in this Lease or now or hereafter existing at law, in equity or otherwise is cumulative and concurrent and will be in addition to every other right, power or remedy provided for in this Lease or now or hereafter existing at law, in equity or otherwise; and the exercise or beginning of the exercise of any one or more of the rights, powers or remedies provided in this Lease will not preclude the simultaneous or later exercise of any or all such other rights, powers or remedies.

## **SECTION 23 – TITLE TO BUILDINGS AND IMPROVEMENTS**

23.1. During the Term, title to the Existing Improvements and all other Improvements constructed on the Premises by Tenant (except the Public Improvements constructed by Tenant that have been dedicated to, and accepted for maintenance by, Landlord) will be in the Tenant.

23.2. Subject to the exercise by Tenant of one or more of the Purchase Options granted in Section 30, on the expiration or sooner termination of this Lease term, title to all Improvements (including the Existing Improvements) which constitute or are a part of the

Premises then subject to this Lease, but exclusive of trade fixtures and personal property of Tenant and subtenants, will (without the payment of compensation to Tenant or others) vest in Landlord free and clear of all claims and encumbrances on such Improvements by Tenant, and anyone claiming under or through Tenant. The Improvements will be surrendered to Landlord in "as is" condition. Upon request, Tenant will then quitclaim to Landlord its possessory interest in the Improvements. Tenant agrees to and will indemnify, defend, pay and hold Landlord harmless for, from and against any and all liability and loss which may arise, in whole or in part, from the assertion of any claims and any encumbrances on such Improvements that arose during the Term; provided, however, such duty to indemnify and hold harmless will not apply to any claims or encumbrances which are attributable solely to the acts or conduct of the Landlord. Additionally, Tenant will assign to Landlord without representation or warranty of any kind, and Landlord will be entitled to the benefit of, any licenses, warranties or guarantees applicable to equipment, systems, fixtures or personal property conveyed or otherwise transferred to, or for the benefit of, Landlord under this Lease. Tenant may not quitclaim its possessory interest in the aforementioned Improvements to Landlord until such Improvements have been inspected by Landlord and have been determined not to present a potential environmental hazard. This Section 23 will survive the expiration or earlier termination of this Lease. While this Lease remains in effect, Tenant alone will be entitled to claim depreciation on the buildings, structures, improvements, additions and alterations included within the Premises, and all renewals and replacements, for all taxation purposes.

#### **SECTION 24 – ATTORNEYS FEES**

In the event Landlord should bring suit for possession of the Premises, for the recovery of any sum due from Tenant, or for any other relief against Tenant, declaratory or otherwise, arising out of a breach of any term or condition of this Lease, or in the event Tenant should bring any action for any relief against Landlord, declaratory or otherwise, arising out of this Lease, the prevailing Party will be entitled to receive from the other Party reasonable attorneys' fees and reasonable costs and expenses, which have accrued on the commencement of such action and will be enforceable whether or not such action is prosecuted to judgment.

#### **SECTION 25 – PROVISIONS SUBJECT TO APPLICABLE LAW**

All rights, powers and remedies provided in this Lease may be exercised only to the extent that the exercise thereof does not violate any applicable law and are intended to be limited to the extent necessary so that they will not render this Lease invalid or unenforceable under any applicable law. If any term or condition of this Lease is held to be invalid, illegal or unenforceable or against public policy, such provision will be deemed stricken from this Lease and the validity of the other terms of this Lease will in no way be affected thereby and this Lease, absent the stricken provision, will otherwise remain in full force and effect.

#### **SECTION 26 – RIGHT TO CURE TENANT'S DEFAULTS**

Except with respect to Tenant's failure to operate its business, in the event Tenant is in default of this Lease, which default remains uncured after the expiration of any applicable cure period provided in this Lease, and if such default continues for thirty (30) days after written notice from Landlord of the default and of Landlord's intent to cure such default, Landlord may



at any time, without further notice, cure such breach for the account and at the expense of Tenant. If Landlord at any time, by reason of such breach, is compelled to pay or elects to pay any sum of money or to do any act that will require the payment of any sum of money, or is compelled to incur any expense, including reasonable attorneys' fees, in instituting, prosecuting or defending any actions or proceedings to enforce Landlord's rights under this Lease or otherwise, the sum or sums so paid by Landlord, with all interest, costs and damages, will be deemed to be Additional Charges and will be due from Tenant to Landlord on the first day of the month following the incurring of such expenses or the payment of such sums.

## **SECTION 27 – NOTICES**

All notices, demands, requests, consents, approvals and other communications required or permitted in this Lease will be in writing and will be deemed to have been given upon personal delivery to the respective Party, after delivery by personal service or by a nationally recognized overnight courier service (e.g., UPS, Federal Express) for next Business Day delivery, at the address shown below:

To Tenant: Soltrust Main QOZB, LLC  
Attn: Daniel Duffus  
6912 East Second Street  
Scottsdale, Arizona 85251

To Landlord: City of Mesa  
Attn: City Manager  
20 East Main Street  
Mesa, Arizona 85211

and

City of Mesa  
Attn: Manager of Urban Transformation  
20 East Main Street  
Mesa, Arizona 85211

With a copy to: City of Mesa  
Attn: City Attorney  
20 East Main Street, Suite 850  
Mesa, Arizona 85201

or at such other address as either Party may from time to time designate in writing to the other.

## **SECTION 28 – WARRANTIES OF THE PARTIES**

28.1. Landlord makes the following representations and warranties, each of which (i) is material and is being relied upon by Tenant in entering into this Lease, and (ii) is true in all respects as of the Commencement Date:

- a. Landlord owns the real property constituting the Premises.
- b. Landlord has the full right, power and authority to enter into and perform Landlord's obligations pursuant to this Lease and to lease the Premises to Tenant in the manner contemplated in this Lease, subject only to the consent and approval of the Mesa City Council.
- c. Except as otherwise disclosed in this Lease, no other person or entity other than Tenant has a right to possession of all or any part of the real property included within the Premises.
- d. To the extent of Landlord's actual knowledge, this Lease does not violate any contract, agreement or instrument to which Landlord is a party, or is otherwise subject.
- e. No third party has any option or preferential right to purchase all or any part of the Premises.
- f. Landlord has not received or given any written notice that the Premises or the operations on or at the Premises are in violation of any governmental law or regulation, including, without limitation, any Hazardous Materials Laws or the Americans with Disabilities Act, nor is Landlord aware of any such violation.
- g. Upon Tenant's performing all covenants of this Lease to be performed by Tenant, Tenant will have quiet, exclusive and undisturbed use, possession and enjoyment of the Premises.

For the purposes of this Subsection 28.1, the actual knowledge of Landlord will be and mean the actual knowledge, without further duty of inquiry, of the Manager of Urban Transformation of the City of Mesa.

28.2. Tenant makes the following representations and warranties to Landlord, each of which (i) is material and is being relied upon by Landlord in entering into this Lease, and (ii) is true in all respects as of the Commencement Date:

- a. Tenant is a duly formed and validly existing limited liability company, formed under the laws of the State of Arizona.
- b. Tenant has the full right, power and authority to enter into and perform Tenant's obligations pursuant to this Lease and to lease the real property included within the Premises from Landlord in the manner contemplated in this Lease.
- c. To the extent of Tenant's actual knowledge, neither this Lease nor Tenant's contemplated use of the Premises, as contemplated by this Lease, violates any contract, agreement or instrument to which Tenant is a party, or is otherwise subject.

For the purposes of this Subsection 28.2, the actual knowledge of Tenant will be and mean the actual knowledge, without further duty of inquiry, of Daniel Duffus, the Manager of Tenant.

## **SECTION 29 – UNSUBORDINATED LEASE**

This is an unsubordinated lease. Landlord is not, and will not be, obligated to subordinate its rights and ownership interest in the real property included within the Premises to any loan, encumbrance or other lien that Tenant or any other person may place against Tenant's leasehold interest.

## **SECTION 30 – PURCHASE OPTION**

30.1. Option to Purchase. Landlord hereby grants to Tenant the exclusive option to purchase each of the Parcels (each, a "**Purchase Option**") according to the terms and conditions described in this Section 30. The total purchase price for the three Parcels is \$2,985,000.00 ("**Total Purchase Price**"), with the Parcel 1 Purchase Price as set forth in Subsection 30.1(a)(1), and the balance of the Total Purchase Price (or \$1,970,000.00) to be allocated by the Parties between Parcel 2 and Parcel 3 in accordance with Subsection 1.4(b) of this Lease.

a. The Purchase Option to purchase Parcel 1 (the "**Parcel 1 Purchase Option**") commences on the Completion of Construction of Phase 1, and automatically expires (without further act or notice required), on the last Business Day prior to the first anniversary of the Completion of Construction of Phase 1 (the "**Parcel 1 Option Termination Date**").

1. The purchase price for Parcel 1 (the "**Parcel 1 Purchase Price**") is \$1,015,000.00. The price to be paid by Tenant for the Purchase Option for Parcel 1 is \$285,000.00 (the "**Parcel 1 Option Price**"). Tenant must pay the Parcel 1 Option Price concurrently with Tenant's execution and delivery of this Lease on or before the Commencement Date of this Lease; and Tenant's failure to timely pay the Parcel 1 Option Price will automatically and without further act or notice required, extinguish all Purchase Options granted in this Section 30. The Parcel 1 Option Price will be deposited by Tenant in an interest-bearing account with the escrow agent named in the Purchase and Sale Agreement ("**Escrow Agent**"). The Parcel 1 Option Price (together with any interest earned on that amount while deposited with Escrow Agent) will be credited against the Parcel 1 Purchase Price at the time Tenant closes escrow on Parcel 1. The Parcel 1 Option Price is nonrefundable to Tenant for any reason other than Landlord's default in failing to convey Parcel 1 to Tenant.

2. Tenant may only exercise its Purchase Option for Parcel 1 if (A) Tenant is not, at the time of its exercise, in default of any term or condition of this Lease and (B) Tenant has Completed Construction of Phase 1. Tenant must exercise its Parcel 1 Purchase Option by delivering notice to Landlord in the manner required by Section 27 of this Lease ("**Parcel 1 Option Election Notice**").

3. Within fifteen (15) business days of Tenant's exercise of its Parcel 1 Purchase Option in accordance with Subsection 30.1(a)(2), the Parties will complete, execute and deliver a purchase and sale agreement for the sale by Landlord, and the purchase by Tenant, of Parcel 1, in the form attached to this Lease as Exhibit J (the "**Purchase and Sale Agreement**"), and then promptly open an escrow for the transaction in accordance with the terms of the Purchase and Sale Agreement. Any "blank" spaces in the form of Purchase and Sale

Agreement will be completed in accordance with the specific information included in this Subsection 30.1(a).

4. If Tenant exercises its Purchase Option for Parcel 1, Tenant must close escrow and complete its purchase of Parcel 1 on or before one hundred and eighty (180) days from the date of Landlord's receipt of the Parcel 1 Option Election Notice.

5. If Tenant fails to timely exercise its Parcel 1 Purchase Option, or if Tenant timely exercises its Parcel 1 Purchase Option but then fails to timely close escrow and complete the purchase of Parcel 1 in accordance with the requirements of this Subsection 30.1(a), then (A) the Parcel 1 Option Price (together with all interest on that amount while deposited with Escrow Agent) will be paid immediately by Escrow Agent to Landlord, (B) the Purchase Option for Parcel 1 and all remaining Purchase Options will automatically, and without further act or notice required, be terminated, and (C) Tenant's occupancy of Parcel 1 will continue for the Term in strict compliance and conformity with the terms of this Lease.

6. Upon Tenant's timely closing of escrow and completion of its purchase of Parcel 1, Parcel 1 will automatically be removed from the operation and effect of this Lease, which will continue in full force and effect with respect to Parcel 2 and Parcel 3.

b. The Purchase Option to purchase Parcel 2 (the "**Parcel 2 Purchase Option**") commences on the Completion of Construction of Phase 2, and automatically expires (without further act or notice required), on the last Business Day prior to the first anniversary of the Completion of Construction of Phase 2 (the "**Parcel 2 Option Termination Date**").

1. The purchase price for Parcel 2 (the "**Parcel 2 Purchase Price**") is One Million Five Hundred Twenty Thousand (\$1,520,000.00). The price to be paid by Tenant for the Purchase Option for Parcel 2 is \$152,000.00 (the "**Parcel 2 Option Price**"). Tenant must pay the Parcel 2 Option Price concurrently with Tenant's closing of escrow and completion of its purchase of Parcel 1; and Tenant's failure to timely pay the Parcel 2 Option Price will automatically and without further act or notice required, extinguish all Purchase Options granted in this Section 30. The Parcel 2 Option Price will be deposited by Tenant in an interest-bearing account with Escrow Agent. The Parcel 2 Option Price (together with any interest earned on that amount while deposited with Escrow Agent) will be credited against the Parcel 2 Purchase Price at the time Tenant closes escrow on Parcel 2. The Parcel 2 Option Price is nonrefundable to Tenant for any reason other than Landlord's default in failing to convey Parcel 2 to Tenant.

2. Tenant may only exercise its Purchase Option for Parcel 2 if (A) Tenant is not, at the time of its exercise, in default of any term or condition of this Lease, and (B) Tenant has completed its purchase of Parcel 1, and (C) Tenant has Completed Construction of Phase 2. Tenant must exercise its Parcel 2 Purchase Option by delivering notice to Landlord in the manner required by Section 27 of this Lease ("**Parcel 2 Option Election Notice**").

3. Within fifteen (15) business days of Tenant's exercise of its Parcel 2 Purchase Option in accordance with Subsection 30.1(b)(2), the Parties will complete,

execute and deliver a Purchase and Sale Agreement for the sale by Landlord, and the purchase by Tenant, of Parcel 2, and then promptly open an escrow for the transaction in accordance with the terms of the Purchase and Sale Agreement. Any “blank” spaces in the form of Purchase and Sale Agreement will be completed in accordance with the specific information included in this Subsection 30.1(b) or, as applicable, the TBD Lease Amendment.

4. If Tenant exercises its Purchase Option for Parcel 2, Tenant must close escrow and complete its purchase of Parcel 2 on or before one hundred and eighty (180) days from the date of Landlord’s receipt of the Parcel 2 Option Election Notice.

5. If Tenant fails to timely exercise its Parcel 2 Purchase Option, or if Tenant timely exercises its Parcel 2 Purchase Option but then fails to timely close escrow and complete the purchase of Parcel 2 in accordance with the requirements of this Subsection 30.1(b), then (A) the Parcel 2 Option Price (together with all interest on that amount while deposited with Escrow Agent) will be paid immediately by Escrow Agent to Landlord, (B) the Purchase Option for Parcel 2 and all remaining Purchase Options will automatically, and without further act or notice required, be terminated, and (C) Tenant’s occupancy of Parcel 2 will continue for the Term in strict compliance and conformity with the terms of this Lease.

6. Upon Tenant’s timely closing of escrow and completion of its purchase of Parcel 2, Parcel 2 will automatically be removed from the operation and effect of this Lease, which will continue in full force and effect with respect to Parcel 3.

c. The Purchase Option to purchase Parcel 3 (the “**Parcel 3 Purchase Option**”) commences on the Completion of Construction of Phase 3, and automatically expires (without further act or notice required), on the last Business Day prior to the first anniversary of the Completion of Construction of Phase 3 (the “**Parcel 3 Option Termination Date**”).

1. The purchase price for Parcel 3 (the “**Parcel 3 Purchase Price**”) is Four Hundred Fifty Thousand (\$450,000.00). The price to be paid by Tenant for the Purchase Option for Parcel 3 is \$45,000.00 (the “**Parcel 3 Option Price**”). Tenant must pay the Parcel 3 Option Price concurrently with Tenant’s closing of escrow and completion of its purchase of Parcel 2; and Tenant’s failure to timely pay the Parcel 3 Option Price will automatically and without further act or notice required, extinguish the Parcel 3 Purchase Option; provided that Tenant may elect to pay the Parcel 3 Option Price concurrently with its timely payment of the Parcel 2 Option Price. The Parcel 3 Option Price will be deposited by Tenant in an interest-bearing account with Escrow Agent. The Parcel 3 Option Price (together with any interest earned on that amount while deposited with Escrow Agent) will be credited against the Parcel 3 Purchase Price at the time Tenant closes escrow on Parcel 3. The Parcel 3 Option Price is nonrefundable to Tenant for any reason other than Landlord’s default in failing to convey Parcel 3 to Tenant.

2. Tenant may only exercise its Purchase Option for Parcel 3 if (A) Tenant is not, at the time of its exercise, in default of any term or condition of this Lease, and (B) Tenant has completed its purchase of Parcel 1 and Parcel 2, and (C) Tenant has Completed Construction of Phase 3. Tenant must exercise its Parcel 3 Purchase Option by

delivering notice to Landlord in the manner required by Section 27 of this Lease (“**Parcel 3 Option Election Notice**”).

3. Within fifteen (15) business days of Tenant’s exercise of its Parcel 3 Purchase Option in accordance with Subsection 30.1(c)(2), the Parties will complete, execute and deliver a Purchase and Sale Agreement for the sale by Landlord, and the purchase by Tenant, of Parcel 3, and then promptly open an escrow for the transaction in accordance with the terms of the Purchase and Sale Agreement. Any “blank” spaces in the form of Purchase and Sale Agreement will be completed in accordance with the specific information included in this Subsection 30.1(c) or, as applicable, the TBD Lease Amendment.

4. If Tenant exercises its Parcel 3 Purchase Option, Tenant must close escrow and complete its purchase of Parcel 3 on or before one hundred and eighty (180) days from the date of Landlord’s receipt of the Parcel 3 Option Election Notice.

5. If Tenant fails to timely exercise its Parcel 3 Purchase Option, or if Tenant timely exercises its Parcel 3 Purchase Option but then fails to timely close escrow and complete the purchase of Parcel 3 in accordance with the requirements of this Subsection 30.1(c), then (A) the Parcel 3 Option Price (together with all interest on that amount while deposited with Escrow Agent) will be paid immediately by Escrow Agent to Landlord, (B) the Purchase Option for Parcel 3 will automatically, and without further act or notice required, be terminated, and (C) Tenant’s occupancy of Parcel 3 will continue for the Term in strict compliance and conformity with the terms of this Lease.

6. Upon Tenant’s timely closing of escrow and completion of its purchase of Parcel 3, this Lease will terminate except for Tenant’s obligations of indemnity which survive the expiration or earlier termination of this Lease.

30.2. Landlord’s Breach. In the event of a breach of Landlord of its obligations arising under this Section 30, Tenant’s sole remedy will be to seek specific enforcement (or comparable equitable remedy) of this Lease. Any such action must be commenced by Tenant within one hundred twenty (120) days of the alleged breach, and any action commenced later than such date will be deemed barred. Tenant waives all right to seek damages (whether actual, consequential, special, exemplary, speculative, or punitive) from or against Landlord in the event of a breach by Landlord of this Section 30.

### **SECTION 31 - ESTOPPEL CERTIFICATE**

Landlord or Tenant, as the case may be, will execute, acknowledge and deliver to the other, within twenty (20) days following request therefor, a written certificate in a recordable form certifying (a) that this Lease is in full force and effect without modification except as to those specified in said certificate, and (b) the dates, if any, to which Rent, Additional Charges and other sums payable in this Lease have been paid, (c) that no notice has been received by Landlord or Tenant of any default which has not been cured, except as to defaults specified in said certificate, and (d) any other matters as may be reasonably so requested. Any such certificate may be relied upon by any prospective purchaser, assignee, subtenant or encumbrancer of the Premises or any part thereof. Either Party’s failure to deliver such

certificate within the time permitted hereby will be conclusive upon such Party that this Lease is in full force and effect (except to the extent any modification has been represented by the requesting Party), that there are no uncured defaults in such Party's performance, and that not more than one year's rent has been paid in advance.

### **SECTION 32 – COOPERATION**

To further the cooperation of the Parties in implementing the provisions of this Lease, Landlord and Tenant each will designate and appoint a representative to act as a liaison between the Landlord and its various departments and Tenant. The initial representative for Landlord (the "Landlord Representative") will be the Urban Transformation Manager for the City of Mesa (or equivalent employee); and the initial representative for the Tenant (the "Tenant Representative") will be Daniel Duffus, the Tenant's managing member. The representatives will be available at all reasonable times to discuss and review the performance of the Parties to this Lease and the development and maintenance of the Premises.

### **SECTION 33 – MEMORANDUM FOR RECORDING**

Within ten (10) days after the Commencement Date of this Lease, Landlord and Tenant will execute and cause to be recorded in the Official Records, a Memorandum of Ground Lease in substantially the form set forth in Exhibit K evidencing the existence of this Lease.

### **SECTION 34 – PARTIES BOUND**

This Lease will be binding upon and inure to the benefit of and be enforceable by the Parties hereto, their personal representatives, their respective successors in office and permitted assigns of the Parties hereto for the entire Term of this Lease.

### **SECTION 35 – TIME OF ESSENCE**

Time is declared to be of the essence of this Lease.

### **SECTION 36 -- SECTION HEADINGS; REFERENCES; INTERPRETATION**

The section headings contained in this Lease are for purposes of convenience and reference only and will not limit, describe or define the meaning, scope or intent of any of the terms or provisions hereof. All grammatical usage will be deemed to refer to the masculine, feminine, neuter, singular or plural as the context may require. If the last day of any time period stated in this Lease falls on a Friday, Saturday, Sunday or legal holiday in the City of Mesa or the State of Arizona, then the duration of such time period will be extended to the next succeeding day which is not a Saturday, Sunday or legal holiday in the State of Arizona. A "Calendar Day" is any day; a "Business Day" is any day from Monday through Friday which is not a legally recognized holiday in the City of Mesa and on which the City of Mesa is open for business to the public.

### **SECTION 37 – IMPASSE**

The Parties agree that if at any time Tenant reasonably believes an impasse has been reached with Landlord on any issue affecting the Premises, Tenant will have the right to immediately appeal the issue to the City Manager for an expedited decision pursuant to this Section 37. If the issue on which an impasse is reached is an issue where a final decision can be reached by City staff, the City Manager will give Tenant a final decision within 30 days after Tenant's request for an expedited decision. If the issue is one where a final decision requires action by the City Council, the City Manager will schedule a City Council hearing on the issue within 30 days after Tenant's request for an expedited decision; provided, however, that if the issue is appropriate for review by City's Planning and Zoning Commission, the matter will be first submitted to the Planning and Zoning Commission within 30 days, and then to the City Council.

#### **SECTION 38 – SEVERABILITY**

If any provision of this Lease is declared void, unenforceable or against public policy, such provision will be deemed stricken and severed from this Lease, with the remainder of the Lease to remain in full force and effect.

#### **SECTION 39 – GOVERNING LAW AND CHOICE OF FORUM**

This Lease will be governed by and construed in accordance with the substantive laws of the State of Arizona without giving effect to the principles of conflict of laws. Any action brought to interpret, enforce or construe any provision of this Lease will be commenced and maintained solely and exclusively in the Superior Court of Maricopa County, Arizona (or, as may be appropriate, in the Justice Courts of Maricopa County or in the United States District Court for the District of Arizona if, and only if, the Maricopa County Superior Court lacks or declines jurisdiction over such action). The Parties themselves expressly agree to waive all right to seek removal of any judicial action to the United States District Court for the District of Arizona by reason of diversity or any other reason.

#### **SECTION 40 – PAYMENT OF COSTS AND EXPENSES**

Whenever, in this Lease, anything is to be done or performed by Tenant or Landlord, unless otherwise expressly provided to the contrary, it will be done or performed at the sole cost and expense of Tenant or Landlord as the case may be.

#### **SECTION 41 – NO WARRANTIES**

Tenant acknowledges and covenants to Landlord that it has made a complete, thorough and independent investigation of the real property included within the Premises, the surface and sub-surface conditions of the Premises, all environmental and archaeological factors respecting the Premises, and the present and proposed uses of the Premises, and agrees to accept all the same "as is" as expressly provided in Section 2. Tenant further agrees that, except as expressly provided in this Lease, no representation or warranty, expressed or implied, in fact or by law, has been made by Landlord or anyone else, as to any matter, fact, condition, prospect or anything else of any kind or nature.



#### **SECTION 42 – BROKERS OR AGENTS**

Each party represents and warrants to the other that such party has had no dealings or discussions with any broker or agent (licensed or otherwise) in connection with this Lease and each party covenants to pay, hold harmless and indemnify the other party from and against any and all losses, liabilities, damages, costs and expenses (including reasonable legal fees) arising out of or in connection with any breach of this representation and warranty. The foregoing indemnities shall survive the expiration of the Term and purchase of the Parcels, if any, by Tenant.

#### **SECTION 43 – CONSENT OR APPROVAL**

Except as otherwise expressly provided in this Lease, any consent or approval required in this Lease will not be unreasonably withheld, conditioned or delayed, and if neither approval nor rejection is given within a time period specified in this Lease as to any particular approval which may be requested by one party of the other (or, if no such time is specified, then within thirty (30) days after request for approval is given by a Notice), then the approval thus requested will be conclusively and irrevocably deemed to have been given. The requesting Party will be entitled to seek specific performance at law and will have such other remedies as are reserved to it under this Lease, but in no event will Landlord or Tenant be responsible for damages to anyone for such failure to give consent or approval.

#### **SECTION 44 – RELATIONSHIP**

This is a ground lease. This Lease will not be construed as creating a joint venture, partnership or any other cooperative or joint arrangement between Landlord and Tenant, and it will be construed strictly in accordance with its terms and conditions. Nothing contained in this Lease is intended to confer a benefit upon any third parties; nor may any third parties rely on any term or provision of this Lease without the express prior agreement and consent of the Parties.

#### **SECTION 45 – LEASE AMENDMENT**

This Lease may be amended only upon written agreement by the Parties. In the event a Party wishes to amend one or more provisions of this Lease, it will make a written request to the other Party setting forth the nature of the request. In the event the Parties agree upon the terms of the proposed Lease modifications, Landlord's approval of any proposed amendments will be subject to its City Council's review and approval, although administrative and non-material amendments to this Lease may be made by the City Manager on behalf of Landlord without the requirement of public hearing and City Council approval.

#### **SECTION 46 – FURTHER INSTRUMENTS AND DOCUMENTS**

Landlord and Tenant will, upon request from the other, promptly acknowledge and deliver to the other any and all further documents, instruments or assurances reasonably requested or appropriate to evidence or give effect to the provisions of this Lease.

#### **SECTION 47 – INTEGRATION CLAUSE; NO ORAL MODIFICATION**

This Lease is the result of arms-length negotiations between parties of roughly equivalent bargaining power and represents the entire agreement of the Parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Lease are hereby revoked and superseded by this Lease. This Lease will not be construed for or against either Party as a result of its participation, or the participation of its counsel, in the preparation and drafting of this Lease or of any exhibits or documents prepared to carry out the intent of this Lease. No representations, warranties, inducements or oral agreements have been made by any of the Parties except as expressly set forth in this Lease, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Lease. This Lease may not be changed, modified or rescinded, absent a written agreement signed by Landlord and Tenant. Any attempt at oral modification of this Lease will be void and of no effect.

#### **SECTION 48 – COUNTERPARTS**

This Lease may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which together will be a single instrument.

#### **SECTION 49 – CONFLICT OF INTEREST**

This Lease is subject to cancellation pursuant to the provisions of A.R.S. § 38-511 relating to conflicts of interest.

#### **SECTION 50 – NO BOYCOTT OF ISRAEL**

Tenant certifies pursuant to A.R.S. § 35-393.01 that it is not currently engaged in, and for the Term of this Lease will not engage in, a boycott of Israel.

#### **SECTION 51 – A.R.S. § 35-394 CERTIFICATION**

If and to the extent required by A.R.S. § 35-394, Tenant certifies to City and agrees for the duration of this Lease that: (a) Tenant will not use (1) the forced labor of ethnic Uyghurs in the People's Republic of China; (2) any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; or (3) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; and (b) if Tenant is not in compliance with the above written certification, Tenant shall notify City within five (5) business days after becoming aware of the noncompliance. If Tenant does not provide City with a written certification that Tenant has remedied the noncompliance within one hundred eighty (180) days after notifying City of the noncompliance, this Lease will terminate, except that if the termination date of the Lease occurs before the end of the remedy period, the Lease terminates on the termination date of the Lease.

#### **SECTION 52 – STATE SHARED REVENUE**

Notwithstanding any other provision of, or limitation in, this Lease to the contrary, if pursuant to A.R.S. § 41-194.01 the Attorney General determines that this Lease violates any provision of state law or the Constitution of Arizona (including but not limited to A.R.S. § 42-

6201 *et seq.*), City and Tenant shall use all and best faith efforts to modify the Lease so as to fulfill each Party's rights and obligations in the Lease while resolving the violation with the Attorney General. If within thirty (30) days of notice from the Attorney General pursuant to and under the provisions of A.R.S. § 41-194.01(B)(1), City and Tenant cannot agree to modify this Lease so as to resolve the violation with the Attorney General, this Lease shall automatically terminate at midnight on the thirtieth (30<sup>th</sup>) day after receiving such notice from the Attorney General, and upon such termination the Parties shall have no further obligations under this Lease. Additionally, if the Attorney General determines that this Lease may violate a provision of state law or the Constitution of Arizona under A.R.S. § 41-194.01(B)(2), and the Arizona Supreme Court requires the posting of a bond under A.R.S. § 41-194.01(B)(2), City shall be entitled to terminate this Lease, except if Tenant posts such bond, if required; and provided further, that if the Arizona Supreme Court, determines that this Lease violates any provision of state law or the Constitution of Arizona, City or Tenant may terminate this Lease and the Parties shall have no further rights, interests, or obligations in this Lease or claim against the other Party for a breach or default under this Lease.

*The balance of this page is blank; signatures are on the following page.*

IN WITNESS WHEREOF, the Parties have executed this Lease to be effective as of the Commencement Date.

<p>Landlord:</p> <p>City of Mesa, Arizona, an Arizona municipal corporation</p> <p>By: _____ Christopher J. Brady, City Manager</p> <p>ATTEST:</p> <p>By: _____ City Clerk</p>	<p>Tenant:</p> <p>Soltrust Main QOZB, LLC, an Arizona limited liability company</p> <p>By: _____ Daniel Duffus, Manager</p>
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STATE OF ARIZONA        )  
                                          ) ss.  
COUNTY OF MARICOPA    )

The foregoing Ground Lease and Option to Purchase Premises was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2025, by Daniel Duffus, the Manager of Soltrust Main QOZB, LLC, an Arizona limited liability company, on behalf of the company.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

**Exhibit A-1 to Lease**

**GENERAL DEPICTION OF PHASE 1 PARCEL (PARCEL 1)**



**Exhibit A-2 to Lease**

**GENERAL DEPICTION OF PHASE 2 PARCEL (PARCEL 2)**





**Exhibit A-3 to Lease**

**GENERAL DEPICTION OF PHASE 3 PARCEL (PARCEL 3)**



## **Exhibit B to Lease**

### **PROGRAM COMPLIANCE**

1. All new construction by Tenant for the residential project and the commercial project will be designed and constructed to LEED Silver Standard or equivalent other green/sustainable building rating method, such as WELL Building (<https://www.wellcertified.com/>) agreed upon with City. Tenant may, at its election and sole cost, have the buildings certified by the chosen rating agency. In the event Tenant chooses to self-certify compliance with the chosen rating method, Tenant will promptly provide City, through the building permitting and inspection process, certification of compliance with the rating standards, but in no event later than Completion of Construction.
2. Tenant will implement a waste recycling program during construction, with a goal of recycling 75% of construction waste and a requirement of recycling no less than 50% of construction waste, which program will include, without limitation, diverting construction and land-clearing debris, except soils, from disposal in landfills and incinerators, redirecting recyclable recovered resources back to the manufacturing process, and redirecting reusable materials to appropriate sites.
3. Tenant is to obtain from City and provide to residential units (in common) trash disposal and recyclable bins/dumpster/compactor for their use for solid refuse. Tenant and the residential property management company will participate in the City of Mesa Multi-Unit Recycling Program. Tenant and its residential property management company will work in good faith with the Mesa Environmental Management and Sustainability Department to promote and educate residents on residential recycling upon occupancy of units. Tenant also agrees to contract for and use the City of Mesa solid waste and recycling services.
4. Tenant will design to Crime Prevention Through Environmental Design (CPTED) principles and will participate in the Tri-Star Program of the Mesa Police Department as a Level Three Property.



## **Exhibit C to Lease**

### **ON-SITE AMENITIES**

All on-site amenities are owned and maintained by Tenant at Tenant's sole cost and expense:

1. Covered/structured parking for each residential unit
2. Outdoor pool
3. Wi-Fi offered within all resident common areas, excluding hallways
4. For the Main Street Apartments, secure residential building entries and controlled access to on-site amenities
5. Secure off-street bicycle storage (1.5 bicycle storage spaces per 5 apartments)
6. Community room which may be used for any of the following: party room, fitness, lounge, bar, maker space, study, game room, event space
7. Centralized resident package delivery and receiving, which may be unmanned
8. Trash compactor as depicted on the concept plan and approved plans for the Project
9. Common laundry facility for the Main Street Apartments

## **Exhibit D to Lease**

### UNIT AMENITIES

1. High speed internet access offered within each residential unit.
2. For the Courtyard Building and Row Homes, a walk-in closet within each unit.
3. For the Courtyard Building and Row Homes, a washer and dryer hook-up.
4. High quality appliances (refrigerator, stove/oven, dishwasher, microwave) when provided by Tenant.
5. Energy star rating for all major appliances (washer, dryer, refrigerator, stove/oven, dishwasher, microwave) when provided by Tenant.
6. High quality plumbing fixtures.
7. Water wise rating for plumbing fixtures (faucets, toilets, shower heads).
8. Central heating and air-conditioning to each residential unit, individually controlled.
9. Programmable thermostat within each residential unit. If the programmable thermostat is communications-enabled ("Smart Thermostat"), Tenant must install either Honeywell, Amazon or Google Nest branded Smart Thermostats that are compatible with the City of Mesa's Smart Peaks Program.
10. Hard solid or natural kitchen and bathroom countertop materials for each residential unit (e.g., stone, engineered stone, polished concrete); no veneer or laminate.
11. Tile, hardwood, or similar flooring in at least living areas, bathroom, and kitchen (no linoleum). Carpet okay for bedrooms.
12. Minimum 9-foot ceilings.
13. Ceiling fans with integrated lighting in living room and bedrooms.
14. At least one USB charging outlet in each of kitchen, living room, and bedroom(s).
15. LED or equivalent lighting throughout each residential unit.
16. Mid-grade or higher cabinetry, to include Rigid Thermofoil Cabinets equivalent to Encore or Hilton Cabinets 500 Series.

17. A Sound Transmission Class (STC) of 55, or greater, on exterior and party walls, floors, and ceilings, as defined by the Uniform Building Code.
18. An Impact Isolation Class (IIC) of 55, or greater, on party walls, floors, and ceilings, as defined by the Uniform Building Code.

## **Exhibit E to Lease**

### **EXTERIOR QUALITY STANDARDS**

1. All exterior elevations will incorporate high quality design, i.e., four-sided architecture
2. Minimum three high quality and durable exterior building materials (such as but not limited to glass, steel panels, exposed concrete, brick veneer and/or sand finish stucco) on new construction
3. All building mounted equipment screened from public view
4. All exterior building vents, such as furnace and dryer, are integrated into the building architecture
5. Energy star rated exterior residential windows
6. Pedestrian shade elements integrated into building façade and/or streetscape
7. Minimum seventy-five percent (75%) ground floor transparency along Main Street frontage
8. Incorporation of one (1) attached neon, or equivalent, project identification sign into Main Street facade
9. Incorporation of pedestrian scale signage, e.g., blade or projecting, for ground floor commercial tenant space(s), as appropriate for individual tenants
10. Incorporation of a consistent sign area, incorporated into the building's architecture for one attached sign per ground floor commercial tenant space
11. Pedestrian areas incorporate pavers, stamped or colored concrete, or similar paving materials; scored concrete may be used along Main Street matching the existing design concept
12. Minimum thirty-six inch (36") box size trees planted approximately thirty-five feet (35') on center along Main Street in the approximate location of the existing Desert Museum trees if existing trees are not preserved in place. Minimum thirty-six inch (36") box size trees planted approximately thirty-five feet (35') on center along Project side of Pomeroy. All trees (other than permitted palms) will have integrated grates, or equivalent, and be planted within a minimum 500 cubic feet of structured soil.

13. All on-site landscape will either be native or desert adapted species as included in *Landscape Plants for the Arizona Desert* <http://www.amwua.org/plants/>; or Phoenix date palm

## **Exhibit F to Lease**

### **PROHIBITED USES**

The Project will develop with land uses consistent with Chapter 64 of the Mesa Zoning Ordinance. In addition, the uses listed below are expressly prohibited from the Project:

1. Group Residential, as defined by Chapter 64 of the Zoning Ordinance
2. Non-chartered Financial Institution, as defined by Chapter 64 of the Zoning Ordinance
3. Pawn Shops, as defined by Chapter 64 of the Zoning Ordinance
4. Social Service Facilities, as defined by Chapter 64 of the Zoning Ordinance
5. Tattoo and Body Piercing Parlors, as defined by Chapter 64 of the Zoning Ordinance
6. Group Residential, as defined by Chapter 86 of the Zoning Ordinance
7. Off-Track Betting Establishment, as defined by Chapter 86 of the Zoning Ordinance
8. All sales of marijuana, including Medical Marijuana Dispensary, as defined by Chapter 86 of the Zoning Ordinance
9. Package liquor stores, except as part of a restaurant or bar concept
10. Kennels, as defined by Chapter 64 of the Zoning Ordinance

**Exhibit G to Lease**

DECLARATION OF PROPERTY RESTRICTIONS

**Exhibit H to Lease**

**PARKING LICENSE AGREEMENT**



## **Exhibit I to Lease**

### **INSURANCE REQUIREMENTS**

Tenant shall procure and maintain insurance during the applicable “Coverage Period,” as shown on the below chart, against claims for injury to persons or damage to property which may arise from or in connection with the Premises and/or in the performance of work or construction of the Premises by Tenant, its agents, representatives, employees, contractors, or subcontractors.

The insurance requirements in this Lease are minimum requirements for the Lease, of which this Exhibit is a part (the “**Lease**”), and in no way limits the indemnity covenants contained in the Lease. Landlord in no way warrants that the minimum limits contained in this Lease are sufficient to protect Tenant from liabilities that might arise from or in connection with the Premises, and Tenant is free to purchase additional insurance as Tenant may determine.

A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Tenant shall provide coverage during the Coverage Period and with limits of liability not less than those stated below.

<u>Type</u>	<u>Amount</u>	<u>Coverage Period</u>
General Liability (which shall include operations, products, completed operations, and contractual liability coverage)	With limits not less than \$25,000,000 combined single limit per occurrence and not less than \$25,000,000 general aggregate.	Coverage shall be in effect upon or prior to and remain in effect for the Term of the Lease.
Property (all risks of loss including risks covered by fire and extended coverage, terrorism, vandalism and malicious mischief)	In an amount not less than full replacement cost of structure and all fixtures.	Coverage shall be in effect upon or prior to the earlier of when the Builder’s Risk policy is no longer in effect or when substantial completion of construction and a temporary or final certificate of occupancy is obtained, and coverage shall thereafter remain in effect for the remainder of the Term of the Lease.
Commercial Automobile Liability	With limits not less than \$1,000,000 each occurrence, Combined Single Limit for bodily injury and property damage covering owned, non-owned and hired auto coverage as applicable.	Coverage shall be in effect upon or prior to and remain in effect for the Term of the Lease.
Business Interruption Coverage (can be endorsed to the Property policy)	Minimum 12 months’ rent and ongoing operating expenses	Coverage shall be in effect upon or prior to the earlier of when the Builder’s Risk

		policy is no longer in effect or when substantial completion of construction and a temporary or final certificate of occupancy is obtained, and coverage shall thereafter remain in effect for the remainder of the Term of the Lease.
Workers' Compensation Employers' Liability	Statutory Limits \$500,000 each accident, each employee	Coverage shall be in effect upon or prior to and remain in effect for the Term of the Lease.
Liquor Liability	\$5,000,000	Coverage shall be in effect upon or prior to and remain in effect for the Term of the Lease, provided Tenant sells and/or serves alcohol
Builder's Risk	In an amount not less than the estimated total cost of construction.	Coverage shall be in effect upon or prior to any construction activities and maintained until the substantial completion of construction and a temporary or final certificate of occupancy is obtained.
Owner's and Contractor's Protective Liability	\$25,000,000	Coverage shall be in effect upon or prior to any construction activities and maintained until the substantial completion of construction and a temporary or final certificate of occupancy is obtained.
Professional Liability	\$2,000,000	Coverage shall be in effect upon or prior to any construction activities and maintained until the substantial completion of construction and a temporary or final certificate of occupancy is obtained.
Blanket Crime Policy	\$5,000,000	Coverage shall be in effect upon or prior to and remain in effect for the Term of the Lease.

Boiler and Machinery Coverage	\$25,000,000	Coverage shall be in effect upon or prior to the earlier of when the Builder's Risk policy is no longer in effect or when substantial completion of construction and a temporary or final certificate of occupancy is obtained, and coverage shall thereafter remain in effect for the remainder of the Term of the Lease.
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B. **ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include, provisions with the following effect:

1. Landlord, and its agents, officials, volunteers, officers, elected officials, and employees, shall be named as additional insureds and added by endorsements on all general liability insurance policies and commercial automotive liability policies.

2. On insurance policies where the Landlord is to be named as an additional insured, the Landlord shall be named as additional insured to the full limits and to the same extent of coverage as the insurance purchased by Tenant, even if those limits of coverage are in excess of those required by the Lease.

3. The Tenant's insurance coverage shall be primary and non-contributory with respect to all other Landlord insurance sources.

4. All policies shall include a waiver of subrogation rights in favor of the Landlord, its agents, officials, volunteers, officers, elected officials, and employees. Tenant shall obtain a workers' compensation policy that is endorsed with a waiver of subrogation in favor of Landlord for all work performed by Tenant, its employees, agents, contractors and subcontractors. Tenant agrees to obtain any endorsement that may be necessary to comply with this waiver of subrogation requirement.

5. All general liability policies shall include coverage for explosion, collapse, underground work, and contractual liability coverage, which shall include (but is not limited to) coverage for Tenant's indemnification obligations under the Lease.

6. Landlord shall be named as Loss Payee on all property insurance policies. Proceeds of any property damage insurance shall be applied as required by Section 14 of this Lease.

C. **EXCESS OR UMBRELLA POLICY:** In addition to a primary policy, an excess or umbrella policy may be used to meet the minimum requirements if the excess or umbrella coverage is written on a "following form" basis.

D. NOTICE OF CANCELLATION: Each insurance policy shall include provisions to the effect that it shall not be suspended, voided, cancelled, or reduced in coverage except after thirty (30) days' prior written notice has been given to Landlord. Such notice shall be sent directly to Risk Management, City Attorney's Office, City of Mesa, 20 E. Main Street, P.O. Box 1466, MS-1077, Mesa, Arizona 85211.1466.

E. ACCEPTABILITY OF INSURERS: Insurance is to be placed with insurers duly licensed or authorized to do business in the State of Arizona and with an "A.M. Best" rating of not less than A- VII. Landlord in no way warrants that the above-required minimum insurer rating is sufficient to protect the Tenant from potential insurer insolvency.

F. ENDORSEMENTS AND VERIFICATION OF COVERAGE: Tenant shall provide Landlord with Certificates of Insurance signed by the Issuer with applicable endorsements for all policies as required in this Lease. All Certificates of Insurance and any required endorsements are to be received and approved by the Landlord before the applicable Coverage Period. Each applicable insurance policy required by the Lease must be in effect at or prior to and remain in effect for the Coverage Period. All Certificates of Insurance and endorsements shall be sent directly to the City Attorney, City Attorney's Office, City of Mesa, 20 E. Main Street, P.O. Box 1466, MS-1077, Mesa, Arizona 85211-1466. Landlord reserves the right to require complete copies of all insurance policies required by the Lease at any time, but not more than once each twelve consecutive months during the Term of the Lease.

G. TENANT'S DEDUCTIBLES AND SELF-INSURED RETENTIONS: Any deductibles or self-insured retention in excess of \$250,000 shall be declared to and be subject to approval by Landlord. Tenant shall be solely responsible for the payment of any deductible or self-insured amounts and waives any rights it may have to seek recovery of such amounts from Landlord and its agents, officials, volunteers, officers, elected officials, and employees.

H. TENANT'S CONTRACTORS AND DESIGN PROFESSIONALS: Tenant shall require and verify that the general contractor and all subcontractors maintain reasonable and adequate insurance with respect to any work on or at the Premises, all such policies shall include: (i) a waiver of subrogation rights in favor of the Landlord, its agents, officials, volunteers, officers, elected officials, and employees, (ii) a waiver of liability in favor of the Landlord, its agents, officials, volunteers, officers, elected officials, and employees releasing and holding harmless the same from any and all liability for any and all bodily injury, including death, and loss of or damage to property, and (iii) Landlord, and its agents, officials, volunteers, officers, elected officials, and employees, shall be named as additional insureds and added by endorsements on all general liability insurance policies and commercial automotive liability policies. Tenant shall require all design professionals (e.g., architects, engineers) to obtain Professional Liability Insurance with limits of liability not less than those stated in the above chart.

I. LANDLORD'S RIGHT TO ADJUST. With written notice to Tenant of not less than 60 days, Landlord may reasonably adjust the amount and type of insurance Tenant is required to obtain and maintain under this Lease as reasonably required by Landlord from time-to-time.

J.       FAILURE TO PROCURE. If Tenant fails to procure or maintain any insurance required by this Lease, Landlord may, but is not required to, procure and maintain any or all of the insurance required of Tenant under this Lease. In such event, all costs of such insurance procured and maintained by Landlord shall be the responsibility of Tenant and shall be fully reimbursed to Landlord within ten (10) business days after Landlord's request payment thereof.

**Exhibit J to Lease**

**PURCHASE AND SALE AGREEMENT**

**Exhibit K to Lease**

**MEMORANDUM OF LEASE**

WHEN RECORDED RETURN TO:

\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**MEMORANDUM OF LEASE (AND OPTION)**

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THIS MEMORANDUM OF LEASE (AND OPTION) shall evidence that there is in existence a Lease as described. This Memorandum is executed by the Landlord and Tenant for recording purposes only as to the Lease, and it is not intended to (and shall not) modify, amend, supersede or otherwise effect the terms and provisions of the Lease.

1. Name of Document: Ground Lease and Option to Purchase Premises (the "Lease")
2. Name of Landlord: City of Mesa, Arizona ("Landlord")
3. Name of Tenant: Soltrust Main QOZB, LLC ("Tenant")
4. Address of Landlord: City of Mesa  
Attn: City Clerk  
20 East Main Street  
Mesa, Arizona 85201
5. Address of Tenant: Soltrust Main QOZB, LLC  
Attn: Daniel Duffus  
6912 East Second Street  
Scottsdale, Arizona 85251
6. Date of Lease: \_\_\_\_\_, 2025  
("Commencement Date")
7. Lease Term: Commencing on the Commencement Date and expiring fifty (50) years thereafter, subject to termination provisions more fully described in the Lease.

8. No Option to Extend: Tenant has no option to extend the Lease Term.
9. Option to Purchase: The Lease grants to Tenant certain options to purchase the Premises on stated terms and conditions, which options expire (if not having been timely exercised) as more fully described in the Lease.
10. Demised Premises: The real property more particularly described in **Exhibit "A"** attached to this Memorandum of Lease.

A copy of the Lease is maintained at the offices of Landlord and Tenant at their respective addresses set forth above.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Memorandum of Lease to be effective as of \_\_\_\_\_, 2025.

Landlord:

City of Mesa, Arizona, an Arizona municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF ARIZONA                     )  
                                                      )  
County of Maricopa                     )

On this the \_\_\_\_ day of \_\_\_\_\_, 2025, before me, the undersigned Notary Public, personally appeared \_\_\_\_\_, who acknowledged \_\_\_\_self to be the \_\_\_\_\_ of the City of Mesa, Arizona, an Arizona municipal corporation; and that, being authorized so to do, \_\_he executed the foregoing instrument.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_



Tenant:

Soltrust Main QOZB, LLC, an Arizona  
limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF ARIZONA )

)

County of Maricopa )

On this the \_\_\_\_ day of \_\_\_\_\_, 2025 before me, the undersigned Notary Public,  
personally appeared \_\_\_\_\_, who acknowledged \_\_\_\_self to be the  
\_\_\_\_\_ of Soltrust Main QOZB, LLC, an Arizona limited liability  
company; and that, being authorized so to do, \_\_he executed the foregoing instrument.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_