

Original - Return TO

Arthur W. Bench
2101 E. Terra Linda Dr.
Salt Lake City, UT 84124

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This Lease is made this 1st day of April, 1987 by and between
ARTHUR W. BENCH FAMILY TRUST, an Entity,
existing under the laws of the State of Utah, (hereafter
called "Landlord") and KENNETH GUBLER an Individual (hereinafter
called "Tenant").

WITNESSETH:

Landlord, for and in consideration of the payment of the rent and the performance of the covenants and agreements by Tenant, herein contained, does hereby lease to Tenant, and Tenant does hereby lease from Landlord, the following described premises: situate in Salt Lake County, State of Utah, approximately 0.44 acre lot and buildings thereon located at 3120 Highland Drive, Salt Lake City, Utah, known as HIGHLAND BIG "O" Tire Store.

Article 1. Term

The term of this Lease shall be for ten (10) years, commencing on the Commencement Date as hereinafter set forth and expiring without further notice or act, ten (10) years after the Commencement Date, except as provided in Article 3.

Article 2. Commencement Date: April 1, 1987.

Article 3. Option to Extend Term

Landlord does hereby grant to Tenant the right, privilege and option to extend this Lease for a period of five (5) years from the date of the expiration of the term hereof, upon the same terms and conditions as herein contained, including rent escalation as provided in Article 5, upon written notice to exercise such option to the Landlord by Tenant, given at least ninety (90) days prior to the expiration of the term hereof. In the event that Tenant shall have exercised said option to extend the term of this Lease as above provided, Landlord does hereby grant to Tenant the right, privilege and option to extend this Lease for a second five (5) year period from the date of expiration of the first renewal term, upon the same terms and conditions herein contained, including rent escalation, as provided in Article 5, upon written notice to exercise such option, given to Landlord by Tenant at least ninety (90) days prior to the expiration of the preceding extension of the term hereof.

Article 4. Rent

Tenant, in consideration of the Lease, covenants and agrees to pay Landlord as rent for said Premises, the sum of THIRTY EIGHT THOUSAND FOUR HUNDRED NINETY SIX and NO/100 DOLLARS (\$38,496.00)

COURTESY RECORDING

This document is being recorded solely as a courtesy and an accommodation to the parties named therein. Associated Title Company hereby expressly disclaims any responsibility or liability for the accuracy of the content hereof.

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(hereafter referred to as "Base Rent") payable in advance in equal monthly installments of THIRTY TWO HUNDRED EIGHT and NO/100 DOLLARS (\$3,208.00) per month commencing April 5, 1987

on the fifth day of each and every calendar month during the term hereof. If the Commencement Date is other than the first day of the calendar month, rent for the portion of the calendar month at the beginning of the term and at the end of the term shall be apportioned. Said payment shall be made in such manner and at such place or places as Landlord may direct in writing, and until further notice said rental payments shall be made by mailing to Landlord at 2101 Terra Linda Drive, Salt Lake City, Utah 84124.

Article 5. Rental Adjustment

The monthly base rent set forth in Article 4 shall be adjusted on 4/1/97 and every five (5) years thereafter during the Option Period if renewed as provided in Article 3. The adjustment shall be an amount equal to the percentage change in the Consumer Price Index All Urban Consumers (CPI-U), U.S. City Average (1967 = 100) from the first month to the last month of each adjustment period. The beginning CPI-U for purposes of this computation is unavailable. The adjustment for each period cannot be greater than 20% of the prior period rental, nor can it result in a monthly rental less than the original rental set forth in Article 4. In the event the CPI-U index is unavailable at the beginning of a period, the parties agree to adjust rentals and payments when such numbers become available. In the event the CPI-U is no longer promulgated by the U.S. Department of Labor, the Consumer Price Index for the adjustment date shall be the one reported in the U.S. Department of Labor's most comprehensive official Consumer Price Index then in use and most nearly answering the foregoing description of the CPI-U to be used. If it is calculated from a different base than the base period used for the figure above, the base figure used for calculating the adjustment percentage shall first be converted under the formula specified by the Bureau. If the described CPI-U shall no longer be published, another index generally recognized as authoritative shall be substituted by agreement of the parties.

Article 6. Construction of Building, Delivery of Possession

Not Applicable.

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Article 7. Taxes and Assessments. Landlord shall pay and discharge all the ad valorem taxes, special assessments or any other taxes levied or assessed against the Premises or any party thereof by reason of the ownership of said property.

Tenant shall pay and discharge all personal property, business, franchise and sales taxes that may be levied or assessed upon the business, personal property, displays, signs, fixtures, inventories, equipment and sales within the Premises at 3120 South Highland Drive, Salt Lake City, Utah 84106.

Article 8. Use And Improvements of Premises. Tenant is hereby given the privilege of using the Premises for the purpose of maintaining an office, sales and servicing of tires, and related automotive products, and related activities, provided, however, that in the event Tenant is by law, regulation or ordinance, prohibited or forbidden to use the Premises for the purposes previously set forth, Tenant is then and is hereby given the privilege and option of using the Premises for any lawful purpose in accordance with the terms and conditions of the Lease or subleasing as set forth in Article 18, provided Tenant submits in writing to Landlord his plans for use of premises for consent of Landlord which consent shall not be unreasonably withheld.

Tenant shall, at its own cost and expense, promptly observe and comply with all laws, ordinances, requirements, orders, directives, rules and regulations of the Federal, State, County, Municipal or Town governments and of all governmental authorities affecting the Premises and Improvements, including land abutting the same and the street parking lot abutting it and any sidewalks which may be constructed adjacent to said street, whether the same are in force at the commencement of the term of this Lease or may be in the future passed, enacted, or directed, and Tenant shall pay all costs, expenses, liabilities, losses, damages, fines, penalties, claims and demands that may in any manner arise out of or be imposed because of the failure of Tenant to comply with its obligations under this Lease. Provided, however, that in observing and complying with all laws, ordinances, requirements, orders, directives, rules and regulations of all governmental authorities, Tenant shall not be required to make any structural repairs or changes in the improvements or any non-structural repairs made necessary by defects in construction.

Landlord hereby specifically represents that the Premises that are being leased fully comply with all laws, ordinances, requirements, orders, directives, rules and regulations of all federal, state, county, municipal or town governments and of all governmental authorities affecting the Premises and which also include streets and parking lots, sidewalks, and land immediately adjacent and abutting the Premises.

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Tenant shall not use or permit the Premises to be used for any purpose other than as specified herein and shall not use or permit the Premises to be used for any unlawful, immoral, or disreputable purposes, nor for any use or occupation which would be in conflict with the provisions of the code of the City of Salt Lake City, Utah applicable to the use and occupancy of the Premises, or which would jeopardize or invalidate any of the insurance coverage on said Premises. Landlord hereby acknowledges that the proposed use of the Premises as hereinabove set forth shall not invalidate or jeopardize any insurance coverage.

Commitment Filled
Article 8a. Improvements of Premises. Landlord agrees to replace the floor covering in the showroom of the Premises up to a cost of \$1,500.00. Tenant may, at his option, contract to have the floor covering replaced at Tenant's convenience and, if he does so, Tenant may deduct the cost up to \$1,500.00 from the lease payment in the month following installation of said floor covering.
Deducted from Lease Ref. 4/5/88

Article 9. Indemnification

Tenant shall indemnify and save Landlord harmless from and against any and all liability, claims, damages, penalties, or judgements arising from or in anyway connected with injury to person or property sustained by action in and about the Premises in custody and control of Tenant, during the term of this Lease, except for such claims, damages, penalties, judgements, or liabilities arising out of any structural defects or incomplete construction or any acts of the Landlord, Landlord's officers, agents, servants, employees, or contractors. If Landlord shall, without fault on its part, be made a part of any litigation commenced by or against Tenant, Tenant shall protect and hold Landlord harmless and pay all costs, expenses and attorney's fees that may be incurred or paid by Landlord in enforcing the covenants and agreements of this Lease.

Except for the negligence of the Landlord or the negligence of Landlord's officers, agents, servants, employees or contractors, and except for structural defects or incomplete construction, Landlord shall not be responsible or liable for any damage or injury to any property, fixtures, buildings or other Improvements, or to any person or persons at any time on the Premises, including any damage or injury to Tenant or to any of Tenant's officers, agents, servants, employees, contractors, customers or sublessees.

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Article 10. Fire Insurance

During the term of this Lease or any extensions thereof, Tenant, at its own expense, covenants that it will keep the Premises now standing upon or which may hereafter be erected upon the Premises, insured against loss or damage by fire and the hazards covered by a broad form extended coverage insurance in a responsible company or companies satisfactory to the Landlord, and to maintain such insurance at all times during the term of this Lease, or any extensions thereof, in an amount not less than \$125,000.00 and not less than the full insurable value of said Improvements, whichever is the greater, and shall, at all times, insure to the full replacement costs of the Improvements. The policy or policies thereof shall be taken out by Tenant and shall name the Tenant as insured and Landlord as co-insured or additional insured and if required by any mortgagee, shall have a loss payable clause to the mortgagee as its interest may appear. Tenant shall furnish to Landlord and its mortgagee the most up-to-date copies of said policies. The Mortgagee's name and address: Zions First National Bank, One South Main Street, Salt Lake City, Utah 84113.

Article 11. Waiver of Subrogation Clause

Landlord and Tenant hereby release the other from any and all liability or responsibility to the other or anyone claiming through or under them by way of subrogation or otherwise for any loss or damage to property caused by fire or any of the extended coverage or supplementary contract casualties, even if such fire or other casualty shall have been caused by the fault or negligence of the other party, or anyone for whom such party may be responsible, provided, however, that this release shall be applicable in force and effect only with respect to loss or damage occurring at such a time that the releasor's policies shall contain a clause or endorsement to the effect that any such release shall not adversely affect or impair said policies or prejudice the right of the releasor to recover thereunder.

Article 12. Liability Insurance

At all times during the term hereof or any extensions thereof, Tenant, at its own expense, shall maintain and keep in force for the mutual benefit of Landlord and Tenant, naming the Landlord as an additional named insured, general public liability insurance against claims for personal injury, death or property damage occurring in or about the Premises or sidewalks or areas adjacent to the Premises to afford protection to the limit of not less than Five Hundred Thousand Dollars (\$500,000.00) in respect to injury or death of a single person and to the limit of not less than One Million Dollars (\$1,000,000.00) in respect to any one accident and to the limit of not less than One Hundred Thousand Dollars (\$100,000.00) in respect to property damage. In order to evidence the coverage in effect, the Tenant shall provide the Landlord with a copy of said policy. Tenant agrees to obtain a written obligation from the insurers to notify Landlord in writing at least ten (10) days prior to cancellation or refusal to renew any such policies. Should Tenant fail to carry such public liability insurance, Landlord may, at its option, cause public liability insurance as aforesaid to be issued, and in such event, Tenant agrees to pay the premiums for such insurance promptly, upon Landlord's demand, as additional rent.

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Article 13. Maintenance

Landlord represents and warrants that the Premises, including hot water, heating, plumbing and electrical systems, and all other items, will be in good working order and repair and fully suitable to Tenant's requirements at the time of commencement of the term. Tenant shall have the benefit of all warranties and maintenance agreements by the contractor, sub-contractors and/or materialmen relative to the Improvements to be erected by Landlord on the Premises. Landlord will make any repairs of a structural nature to said Improvements and any non-structural repairs made necessary by defects in construction. Tenant will make, subject to the above stated warranties of Landlord, at Tenant's own expense, all non-structural repairs of every kind and description which may be needed to maintain the Improvements, water and heating systems, plumbing system, electrical wiring system, sprinkler system and air-conditioning in good condition. Notwithstanding any of the above, Tenant shall repair any damage to the Premises or appurtenances thereunto belonging caused by the misuse or negligence of Tenant, its employees or invitees. Tenant agrees to replace all broken glass in connection with the Improvements with glass of the same size and quality of that broken. EXCEPTION: The cost of any major repair to the roof of the leased Premises shall be borne equally between Landlord and Tenant. Landlord shall have the right to inspect proposed repairs prior to any repair work being commenced.

If the repairs required to be made by Landlord or Tenant are not completed within a reasonable time after request for such repair by the other party, Landlord or Tenant, as the case may be, shall have the option to make such repairs after first giving the other party fifteen (15) days notice of its intention to do so, and any amounts expended by virtue thereof shall be added to or subtracted from the next month's rent in the full amount of the expenditures.

Article 14. Alterations and Additions

Tenant, at its expense, shall have the right to make such changes in the interior of the Premises, other than major structural changes, as it shall deem necessary or advisable in adapting the Premises for its use. No structural changes shall be made without the prior written consent of Landlord, which consent shall not be unreasonably withheld.

All fixtures shall become a part of the Premises and the property of the Landlord at the termination of the Lease, except that trade fixtures, machinery and equipment and power wiring, conduits and other fixtures installed by Tenant or purchased by Tenant from Landlord shall be considered as its own and Tenant may recover same at anytime during the term of this Lease or any extension thereof, provided that Tenant shall repair any damage caused to said Premises by such removal.

Article 15. Payment of Utility Charges

Tenant shall pay for its own gas, water, telephone, electricity, sewage, refuse, disposal and other utility services used or wasted by it on said Premises. Landlord shall pay for all said services through March 29, 1987.

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Article 16. Landlord's Right to Access

Tenant shall permit Landlord and his agents to enter upon said Premises at all reasonable times during business hours to examine the condition of the same, provided that Landlord gives Tenant a twenty-four (24) hour notice of his coming, except for in time of emergency and shall permit Landlord to make such repairs as may be required. Subject to the renewal provisions of Article 3, Tenant shall permit Landlord, for a period of one hundred eighty (180) days prior to the expiration of the term of this Lease, to place upon the Premises the usual "For Rent" or "For Sale" signs, and shall permit Landlord and his agents, at reasonable times to conduct prospective Tenants or Purchasers through said Premises after giving notice as aforesaid. Unless Tenant has exercised the option to renew as granted in Paragraph 3.

Article 17. Signs

Tenant shall have the privilege and right of placing on the Premises such signs as it deems necessary and proper in the conduct of its business, subject to Landlord's prior written approval, which approval may not be unreasonably withheld. Tenant shall comply with all laws, ordinances, plat and deed restrictions, and lawful regulation applicable to the erection, maintenance and the removal of said signs, and damage and injury from the maintenance of said signs shall be expressly included in the abovementioned liability insurance. Any damage to any Improvements caused by said signs shall be restored by Tenant forthwith. Any and all signs placed on the Premises by Tenant shall be and remain the sole and separate property of Tenant.

Article 18. Assignment and Subletting

Tenant may not assign this Lease or sublet the Premises or any part thereof without obtaining the prior written consent of Landlord which consent shall not be unreasonably withheld. Any dispute which arises under this Article regarding the reasonableness of Landlord's consent shall be settled by arbitration pursuant to the provisions of Article 28 herein. No assignment or subletting consented to by Landlord shall relieve Tenant from its liability hereunder, and each and every assignee or sublessee shall be charged with all of the provisions hereof, including the rental herein reserved to Landlord. Landlord may sell the Premises and assign this Lease without the consent of the Tenant, subject to all provisions hereof.

Article 19. Surrender of Premises

Tenant shall surrender and deliver up said Premises and appurtenances at the end of the said term broom-clean and in as good condition and order as they were at commencement of the term hereof, reasonable use and natural wear and tear thereof and damage by fire or other casualty and changes made with Landlord's consent excepted. Tenant may remove all the trade fixtures, signs, equipment, stock and trade, and other items of a similar nature used in connection with its business, including such as may have been temporarily attached to the realty, provided all rents stipulated to be paid hereunder have been paid and all damage to said Premises is properly repaired. If said removal results in injury or defacement of said Premises, Tenant shall immediately repair the Premises at its expense.

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Article 20. Eminent Domain

If the entire Premises, or such part thereof, as in the parties' judgement, renders the remainder of the Premises unsuitable for Tenant's continued use, consistent with the purpose for which this Lease was entered into, shall be taken in appropriation proceedings or by any rights of eminent domain, then this Lease shall terminate and be utterly void from the time when possession thereof is required for public use and such taking shall not operate or be deemed an eviction of the Tenant or a breach of Landlord's covenant for quiet enjoyment; but Tenant shall pay all rent due, and perform and observe all other covenants hereof, up to the time when possession is required for public use. Provided, however, that if only a part of said Premises be so taken, and in the Tenant's judgement, which judgement shall not be unreasonable, the Premises remain usable for Tenant's continued use, after modifications or repairs, so that the Tenant has the same use of the Premises as when it initially took possession of said Premises, and if the remaining portion of the Premises can be modified or repaired within sixty (60) days after the said taking, then this Lease shall not terminate, but Landlord will, as its sole expense, modify, repair, or restore the Premises, the rent payable by Tenant during the period of restoration being abated, unless Tenant is able to continue its business operations, then in that event the rent will be reduced by an amount to be agreed upon by the parties, and in the absence of such agreement, by a percentage equal to the percentage of the Premises unusable by Tenant during such repair and restoration, but after such restoration, the rent herein reserved shall be paid by Tenant as herein provided during the remainder of the terms hereof, abated by a percentage equal to the percentage reduction of the Premises available for Tenant's use. The Tenant shall have the right, at its sole cost and expense, to assert a separate claim or join in Landlord's claim in any condemnation proceeding for its personal property, its Improvements, loss of value in its leasehold estate for the then current term and no other, its moving expenses, or any other claims it may have. Tenant shall be entitled to and shall receive that portion of any award or payment made which is attributable solely to its claims, and Landlord shall be entitled to and shall receive that portion of any award or payment made which is attributable solely to the land and Improvements erected thereon.

Any dispute which arises under this Article regarding the usability of the Premises after a taking shall be settled by arbitration pursuant to the provisions of Article 28.

Article 21. Damage or Destruction of Improvements

In the event the Premises shall be rendered untenable by fire or other casualty, the Landlord will within one hundred twenty (120) days from the date of said damage or destruction, repair or replace said Premises to substantially the same conditions as prior to the damage or destruction. If the Landlord fails to commence repair of the damage or destruction within thirty (30) days from the date of such damage or destruction, or if the Premises has not been replaced or repaired to such condition within one hundred twenty (120) days, Tenant may, at its option (to be exercised by

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written notice to Landlord), terminate this Lease. The rent herein required to be paid shall abate during the period of such untenability. If the Premises shall be damaged in part by fire or other casualty, but still remain tenantable, the Landlord shall repair said Premises to substantially the same condition as prior to the damage. During the period of such repairs and restorations, the Lease shall continue in full force and effect, provided, however, that Tenant shall be required to pay the rent herein reserved, abated by the percentage or area destroyed as compared to the total area herein demised, unless such fire or other casualty is caused by Tenant's negligence, in which case the rental shall not abate but will continue unaffected during the repair period.

In the event that any damage or destruction occurring during the last twelve (12) months of the original term of this Lease or any extension of the term, to the extent of fifty percent (50%) or more, as reflected by the estimate of the adjuster for the company insuring the Premises, of the insurable value of the Premises, Landlord or Tenant may elect to terminate this Lease as of the date of the destruction or damage, by giving notice of such election within fifteen (15) days after such damage or destruction. In such event, Landlord shall receive the proceeds of the insurance policies without obligation to rebuild or restore the Premises, and Tenant shall execute any waiver which may be required of it by any insurer or Landlord.

Any dispute which arises under this Article regarding the negligence of Tenant shall be settled by arbitration pursuant to the provisions of Article 28.

Article 22. Continuity of Franchised Business - Big O Rights

This Lease is entered into by Tenant for the purpose of operation of a franchised "Big O" Tire Store. Big O Tire Dealers, Inc., Englewood, Colorado, franchisor, requires under its franchise agreement, certain rights which will ensure the continuity and security of the franchised business conducted upon premises. These rights are specified in Paragraph 10.(p) and (q) of the Big O Dealer Agreement and are made hereby a part of this Lease.

- Big O shall have the right to approval of this lease, a true and correct copy of which shall be delivered to Big O at least thirty (30) days prior to the execution thereof;
- The term of this lease shall be for a period which is not less than the term of the Big O Dealer Agreement, unless Big O shall approve, in writing, a shorter term;
- Dealer (Tenant) shall neither create nor purport to create any obligations on behalf of Big O, nor grant or purport to grant to the landlord hereunder any rights against Big O, nor agree to any other term, condition or covenant which is inconsistent with any provision of the Big O Dealer Agreement;

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- Dealer (Tenant) shall duly and timely perform all the terms, conditions, covenants and obligations imposed upon him under the lease;
- This lease shall provide that in the event of any breach or claim of breach thereof by Dealer (Tenant), the landlord thereunder shall be obligated to notify Big O in writing at least thirty (30) days prior to its termination, and Big O shall have the right, upon written notice to the landlord and the Dealer to assume Dealer's rights and obligations as the tenant, that if Big O shall exercise its said right to assume Dealer's rights and obligations as the tenant, that Big O shall have the right to sublease said premises to another authorized dealer of Big O.
- A duly executed copy of this lease shall be delivered to Big O promptly following the execution thereof.
- In the case where Big O Tire Dealers, Inc, is the Tenant party to this Lease, Big O Tire Dealers, Inc., shall have the right to assign this Lease to a succeeding franchisee under terms of the Big O Dealer Agreement. Landlord shall have the right of approval of such franchisee as Tenant party to the Lease. Such approval shall not be unreasonably withheld.

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Article 23. Default by Tenant

If the Tenant shall fail to pay any installment of the fixed rent or any additional rent or other charges as and when the same shall become due and payable, and such default shall continue for a period of thirty (30) days after written notice given to Tenant by Landlord, or if the Tenant shall default in the performance of any of the other terms, covenants or conditions of this Lease and such default shall continue for a period of thirty (30) days after written notice given to Tenant by Landlord, or if any execution shall be issued against the Tenant or any of the Tenant's property whereby the Premises shall be taken or occupied by someone other than the Tenant (except as provided in Article 24), or if the Tenant shall vacate and abandon the Premises, or if this Lease or the estate of the Tenant hereunder shall be transferred or passed to or devolve upon any other person, firm, or corporation, except in the manner provided in this Lease, or if the Tenant shall assign, mortgage or encumber this Lease or sublet the whole or any part of the Premises, without the prior written consent of the Landlord, the Landlord shall have the right, at the Landlord's option, to terminate this Lease and the term hereof, as well as the right, title and interest of Tenant hereunder, by giving the Tenant fifteen (15) days notice in writing of such intention, and upon the expiration of the time fixed in such later notice, if such default be not cured prior thereto or (except a default for non-payment of rent or additional rent) Tenant shall not then be diligently engaged in good faith in prosecuting the work necessary to remove said cause or in taking the steps necessary to remedy said default, this Lease and the term hereof, as well as all the right, title and interest of Tenant hereunder, shall wholly cease and expire in the same manner and with the same force and effect as if the date fixed by such later notice were the expiration of the term

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herein originally granted; and the Tenant shall immediately quit and surrender the Premises to the Landlord and the Landlord may re-enter the Premises and take possession of all or any part thereof, and remove all property and persons therefrom and shall not be liable for any damage therefore or for trespass. Termination of said Lease shall not release Tenant of his financial responsibilities under the Lease and the remaining unpaid balance of the rent for the then current term (either the original term or any extended term then in effect) shall become immediately due and payable in full, without offset.

Article 24. Default by Landlord

If the Landlord shall default in the performance of any of the terms, covenants or conditions of the Lease and such default shall continue for a period of thirty (30) days after written notice given to Landlord by Tenant, the Tenant shall have the right, at the Tenant's option, to terminate this Lease and the term hereof, as well as the right, title and interest of Landlord hereunder, by giving the Landlord fifteen (15) days notice in writing of such intention and upon the expiration of the time fixed in such later notice, if such default be not cured prior thereto or Landlord shall not then be diligently engaged in good faith in prosecuting the work necessary to remove said cause or in taking the steps necessary to remedy said default, this Lease and the term hereof, as well as all the right, title and interest of Landlord hereunder, shall wholly cease and expire in the same manner and with the same force and effect as if the date fixed by such later notice were the expiration of the term herein originally granted.

Article 25. Service of Notice

Every notice, approval, consent or other communication authorized or required by this Lease shall be in writing and sent by certified or registered mail to the other party at the following address or at such other address as may be designated by notice in writing given from time to time and shall be deemed given as of the date of mailing. If notice is to be given to Landlord, it shall be given at the following address: 2101 Terra Linda Drive, Salt Lake City, Utah 84124. If notice is to be given to Tenant it shall be given at the following address: 3120 Highland Dr. S.L.C., Utah 84106. If notice is to be given to Big O Tire Dealers, Inc., it shall be given at the following address: 6021 South Syracuse Way, Suite 102, Englewood, Colorado, 80111.

Article 26. Quiet Enjoyment

Landlord hereby covenants and agrees to and with the Tenant that the Tenant shall have the peaceable possession and enjoyment of the Premises throughout the term of this Lease without any hindrances, disturbance, or ejection by the Landlord, its successors and assigns. Landlord represents and warrants that it has full right and authority to enter into and perform its obligations as Landlord under this Lease for the full term hereof.

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Article 27. Subordination and Non-Disturbance

This Lease and all of the rights of Tenant hereunder are and shall be subject and subordinate to the lien of any mortgage or mortgages hereinafter placed on the Premises or any part thereof, except the Tenant's property including trade fixtures, signs, equipment, stock in trade, and other items used in connection with Tenant's business and to any and all renewals, modifications, replacements, extensions or substitutions of any such mortgage or mortgages (all of which are hereinafter termed the mortgage or mortgages) provided, nevertheless, each or all of such mortgage or mortgages shall contain a provision to the effect that so long as the Tenant is not in default under this Lease, or any renewal thereof, no foreclosures of the lien of said mortgage or any other proceeding in respect thereto shall divest, impair, modify, abrogate or otherwise adversely affect any interest or rights whatsoever of the Tenant under the said Lease.

Article 28. Arbitration

Any controversy or claim arising out of or relating to:

- (a) the usability of the Premises after a taking as provided in Article 20; or
- (b) the negligence of Tenant as provided in Article 21; or
- (c) the reasonableness of Landlord's consent to assignment or subletting as provided in Article 18; or
- (d) the rental adjustment as provided in Article 5;

shall be settled by arbitration in accordance with the rules of the American Arbitration Association. The arbitration decision will be final and binding upon the parties.

Article 29. Bankruptcy

In the event Tenant be adjudged bankrupt or involved in corporate reorganization proceedings under bankruptcy law or makes voluntary assignment for the benefit of creditors, or in the event its leasehold estate shall be taken on execution, then at Landlord's option, this lease shall cease and determine, and in such event Tenant's leasehold estate shall never pass to any trustee or other representative in Federal Bankruptcy or reorganization proceedings, or state court receiver. If a receiver be appointed for Tenant in any proceeding (other than bankruptcy or reorganization) and if the receiver is not discharged within thirty (30) days after appointment, then at Landlord's option this Lease may be terminated under the procedure of notice set forth in the preceding sentence, such notice to be given to Tenant or said receiver.

Article 30. Governing Law

This Lease and the performance thereof shall be governed, interpreted, construed and regulated by the laws of the State of Utah; and the effect of Article 29 may also involve application of the Federal Bankruptcy Law.

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Article 31. Partial Invalidty

If any term, covenant, condition or provision of this Lease, or the application thereof, to any person or circumstance, shall at any time or to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition and provision of this Lease shall be valid and be enforced to the fullest extent permitted by the law.

Article 32. Interpretation

Whenever in this Lease the singular number is used, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders, and vice versa, as the context shall require. The section headings used herein are for reference and convenience only and shall not enter into the interpretation thereof. This Lease may be executed in several counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

Article 33. Entire Agreement

No oral statement or prior written matter shall have any force or effect, provided, however, the Parties hereto agree that neither is relying on any representations or agreements other than those contained in this Lease. This agreement shall not be modified or cancelled except by writing subscribed by all parties.

Article 34. Parties

Except as otherwise expressly provided herein, the covenants, conditions, and agreements contained in this Lease shall bind and inure to the benefit of Landlord and Tenant and their respective successors and assigns.

In Witness Whereof, the parties hereto have set their hands and seals the day and year first above written.

Arthur W. Bench Family Trust Landlord

By: Arthur W. Bench
Trustee

Kenneth Gubler Tenant
Kenneth Gubler

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KATIE L. DIXON
RECORDER, SALT LAKE COUNTY, UTAH
ASSOCIATED TITLE
REC BY: KARMA BLANCHARD, DEPUTY

BEGINNING AT A POINT South 246.62 feet and North 88 degrees 30 minutes East 94.03 feet and South 32 feet and South 86 degrees 21 minutes East 50 feet from the Northwest Corner of the Southwest Quarter of Section 28, Township 1 South, Range 1 East, Salt Lake Meridian; And running thence South 36 degrees 21 minutes East 154.82 feet to the center line of Highland Drive; thence South 15 degrees 18 minutes East 183.95 feet; thence North 87 degrees 15 minutes West 202.54 feet; thence North 177 feet to the point of beginning. Less street and right of way, 0.44 acre excepting therefrom, the West nine (9) inches as described in the certain Quit Claim Deed recorded in Book 1601 at Page 35 of Official Records.

BK6239PG0107