

WHEN RECORDED RETURN TO:
Mountain West Small Business Finance
2595 East 3300 South
Salt Lake City, Utah 84109

13907067 B: 11314 P: 6629 Total Pages: 5
03/08/2022 03:46 PM By: jlucas Fees: \$40.00
SUBORD- SUBORDINATION
Rashelle Hobbs, Recorder, Salt Lake County, Utah
Return To: BACKMAN FPTP
7050 S UNION PARK AVE STE 110MIDVALE, UT 840476064

**Real Estate Lease
Subordination Agreement and Assignment of Rents**

This Subordination Agreement is entered into by:

HDS UTAH LLC, a Utah limited liability company

("Lessee") for the benefit of Mountain West Small Business Finance ("MWSBF") and its successor in interest, the Small Business Administration ("SBA").

RECITALS

A. Lessee has heretofore leased from:

MASSA HOLDING LIMITED LIABILITY COMPANY, a Utah limited liability company

("Lessor") by lease dated March 8, 2022 for a term of twenty-five years (the "Lease") certain real and personal property described in SBA Loan Authorization, SBA 504 No.: 18991991-08 (the "Leased Premises") known as:

3090 West 3500 South, West Valley City, UT 84119

located in the County of Salt Lake, State of Utah and described as follows:

See Exhibit "A" which is attached hereto and incorporated herein by this reference.

B. MWSBF and the SBA have authorized the making of an SBA 504 Loan, Loan No. 18991991-08, to Lessor in the amount of \$ 149,000.00, due and payable on or before a time to be determined by the U.S. Secretary of the Treasury (the "Loan").

C. The Loan is for the benefit of both Lessee and Lessor, in that the funds are to be used for the benefit of the business conducted on the Leased Premises purchased and/or renovated by Loan proceeds.

D. A condition of the Loan is that the Lease be subordinated to the lien of a trust deed executed by Lessor and recorded as a lien superior to the Lease.

AGREEMENT

NOW, THEREFORE, in consideration of disbursement of the Loan or any part thereof, and for other good and valuable consideration the receipt and legal sufficiency of which are hereby acknowledged, Lessee covenants and agrees as follows:

1. No Default. Lessee is not now in default in the performance of the Lease; and Lessee will perform the covenants and conditions required of is by the Lease for the term of the Loan and any extensions or renewals of it.

2. Subordination of Lease. All rights under the Lease together with any and all right, interest, estate, title, lien, or charge against or respecting the Leased Premises (or any portion thereof) by virtue of the Lease, shall be and the same are hereby made subject, subordinate, inferior, and junior to the lien and title of MWSBF and the SBA represented by the SBA Note in the amount of \$ 149,000.00 and security instruments related to the Loan, including without limitation the Promissory Note, Deed of Trust, Security Agreement and UCC Financing Statements (filed with the Uniform Commercial Code Division for the State of Utah and as fixture filings in Salt Lake County, Utah) (the "Loan Documents") and to all rights, powers, title, and authority of MWSBF and the SBA under or in any way related to or arising out of the Loan Documents and to all sums heretofore or hereafter advanced on the security of the Loan Documents or any of them, including all sums advanced or costs incurred as fees, expenses, disbursements, or charges in connection with the Loan Documents or the Loan. The Lease Rights, together with any and all right, interest, estate, title, lien, or charge against or respecting the Leased Premises (or any portion thereof) by virtue of the Lease, are hereby subordinated to the Loan Documents the same and as fully as if the Loan Documents had been executed, delivered and, where appropriate, filed, prior to execution, delivery and filing of the Lease.

3. Assignment of Rents. The undersigned Lessee, for and in consideration of the moneys lent pursuant to the aforesaid note and other valuable consideration, receipt of which is hereby acknowledged, assign, transfer, and set over to CDC/SBA all sub-leases, including rents, profits, and income derived from the real estate and the building and improvements thereon, the full and complete right in SBA, in case of default in the payment of the indebtedness or any part thereof or failure to comply with any of the terms or conditions of the Note, Deed of Trust and Loan Agreements, as its assignee, to demand, collect, receive, and receipt for such rents, income and profits, to take possession of the premises and all leaseholds without having a receiver appointed therefore, to rent and manage the same from time to time and apply the net proceeds of the rents, income, and profits from the property on the indebtedness until all delinquencies, advances, and the indebtedness are paid in full by the application of the rents, or until title, is obtained through foreclosure otherwise.

4. This Agreement shall be binding upon and inure to the benefit of the personal representatives, successors and assigns of the parties hereto.

DATED March 8, 2022

LESSEE:

HDS UTAH LLC, a Utah limited liability company

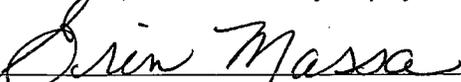

By: Erin Massa, Manager/Member

EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL 1:

Beginning 100 feet West from the Southeast corner of Lot 8, Westbrook Estates; thence West 25 feet; thence South 125 feet to North line of 3500 South Street; thence East 25 feet; thence North 125 feet to beginning.

Parcel No.: 15-28-354-042

PARCEL 2:

Beginning 50 feet West from the Southeast corner of Lot 8, Westbrook Estates; thence West 50 feet; thence South 125 feet to North line of 3500 South Street; thence East 50 feet; thence North 125 feet to beginning.

Parcel No.: 15-28-354-043

Less and excepting from Parcels 1 and 2 that portion conveyed in that certain Warranty Deed recorded May 14, 2008 as Entry No. 10427571 in Book 9606, Page 5485, being more particularly described as follows:

A parcel of land in fee, being part of an entire tract of property situate in the SW1/4 SW1/4 of Section 28, Township 1 South, Range 1 West, Salt Lake Base and Meridian. The boundaries of said parcel of land are described as follows:

Beginning at the Southwest corner of said entire tract in the Northerly right of way line of the existing highway State Route 171 which corner is 577.32 feet East and 33.00 feet North 00 deg. 01'15" East from the Southwest corner of said Section 28, said corner is also 100.20 feet (100 feet by record) West and 125.00 feet South 00 deg. 01'15" West (South by record) and 25.00 feet West from the Southeast corner of Lot 8, Westbrook Estates Subdivision, said corner is also approximately 50.32 feet perpendicularly distant Northerly from the control line of said project opposite engineer station 704+69.85; and running thence North 00 deg. 01'15" East (North by record) 19.04 feet along the Westerly boundary line of said entire tract to a point 69.36 feet perpendicularly distant Northerly from said control line; thence East 75.03 feet along a line parallel with and 52.04 feet perpendicularly distant Northerly from the Southerly section line of said section to a point in the Easterly boundary line of said entire tract which point is 69.36 feet perpendicularly distant Northerly from said control line; thence South 00 deg. 06'40" West (South by record) 19.04 feet along said Easterly boundary line to the Southeast corner of said entire tract; thence West 75.00 feet along said Northerly right of way line to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation.

Parcel No.: **15-28-354-043, 15-28-354-042**