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This instrument was prepared by and after recording return to: Walter W. Hays, Jr. Fortson, Bentley and Griffin, P.A. 2500 Daniell's Bridge Road Building 200, Suite 3A Athens, Georgia 30606 (706) 548-1151

EH 2677056 PG 1 OF 7 ERNEST D ROWLEY, WEBER COUNTY RECORDER 03-MAR-14 11:17 AM FEE \$23.00 DEP SGC REC FOR: FORTSON

COLLATERAL ASSIGNMENT OF LEASE

This Collateral Assignment of Lease (this "Assignment") is made and entered into this September 21, 2013, by and among OGDEN COMMONS, LLC, a Utah limited liability company ("Landlord"), MJM 5G, LLC, a Nevada limited liability company ("Assignor"), and ZAXBY'S FRANCHISING, INC., a Georgia corporation ("ZFI"); and

In consideration of the mutual promises and covenants herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each party hereto, the parties agree as follows:

1. The Assignor hereby assigns, transfers and sets over unto ZFI all of Assignor's right, title and interest as tenant in, to and under that certain lease agreement dated June 20, 2013, and Rider to Lease Agreement dated September 21, 2013, between Landlord and Assignor (collectively, the "Lease"), for certain real property located in Weber County, Nevada, and more particularly described on the attached Exhibit A (the "Premises"). This Assignment is for collateral purposes only and except as specified herein, ZFI shall have no liability or obligation of any kind whatsoever arising from or in connection with this Assignment unless ZFI shall exercise its rights by providing the ZFI Notice (as defined herein).

2. Assignor represents and warrants to ZFI that it has full power and authority to so assign the Lease and its interest therein and Assignor has not previously assigned or transferred, and is not obligated to assign or transfer, the Lease or any of its interest in the Lease or the Premises.

3. In the event (i) of any default by Assignor under the Lease which remains uncured after expiration of any applicable cure period; or (ii) that certain License Agreement dated September 21, 2013 between ZFI and Assignor, including all amendments and renewals thereof (the "License Agreement"), for a Zaxby's® restaurant to be located at Premises should, for any reason, be terminated or expire, ZFI shall have the right for a period of thirty (30) days after the event in (i) or (ii) herein to exercise its rights pursuant to this Assignment by providing written notice to Landlord and Assignor ("ZFI Notice"). If ZFI exercises its rights by providing the ZFI Notice: (a) ZFI shall thereupon become tenant under the Lease with all rights and obligations of tenant commencing upon, first accruing and effective from and after the date of the ZFI Notice; (b) ZFI shall have the right to take possession of the Premises, expel Assignor therefrom without being guilty of trespass, forcible entry or detainer, or other tort; (c) Assignor shall have no further right, title or interest in the Lease or the Premises; and (d) Assignor shall peaceably and promptly vacate the Premises and (subject to ZFI's right to acquire any such property pursuant to the License Agreement) remove its personal property therefrom and any property not removed or otherwise disposed of by the Assignor shall be deemed abandoned. Nothing in this Assignment shall restrict, limit, terminate, waive or otherwise affect Landlord's rights against Assignor.

4. In no event shall ZFI be or become liable for any liability or obligation of Assignor accruing or applicable to the period prior to the date of the ZFI Notice. All rents and other obligations under the Lease shall be

prorated as of the date of the ZFI Notice. ZFI shall have no liability or obligation to the Landlord under the Lease unless and until it exercises its right by providing the ZFI Notice.

5. Assignor agrees it will not allow or permit any surrender, termination, amendment or modification of the Lease without the prior written consent of ZFI. Through the term of the License Agreement and any renewals thereof, Assignor agrees that it shall elect and exercise all options to extend the term of or renew the Lease not less than thirty (30) days prior to the last day that such option must be exercised, unless ZFI otherwise agrees in writing. Upon failure of ZFI to otherwise agree in writing, and upon failure of Assignor to so extend or renew the Lease as stated herein, Assignor hereby appoints ZFI as its true and lawful attorney-in fact to exercise such extension or renewal options in the name, place and stead of Assignor for the sole purpose of effecting such extension or renewal.

6. Anything herein to the contrary notwithstanding, and without waiving any rights ZFI may have under the License Agreement, in the event Assignor acquires fee simple title to the Premises during the term or any extension of the Lease, Assignor shall enter into an option agreement with ZFI (utilizing ZFI's then current form) granting ZFI the right to lease the Premises on the same terms as the Lease in the event Assignor ceases to own the Premises or the License Agreement should for any reason be terminated or expire.

7. Landlord consents to this Assignment and agrees to recognize ZFI as tenant under the Lease upon exercising the rights in favor of ZFI as set forth in this Assignment and in the Lease.

8. All notices (including the ZFI Notice) shall be deemed sufficient and properly given in writing (except as otherwise expressly provided herein) if delivered by one of the following methods: (i) by personal delivery or by a reputable delivery service at the street address specified below, or (ii) by first-class, registered or certified mail, postage prepaid, to the post office box specified below or to the street address if no post office box is given. The hand delivery address and mailing address for receipt of notice or other documents by such parties are as follows:

If to Landlord: Ogden Commons, LLC  
1572 Woodland Park Drive, Suite 505  
Layton, Utah 84041  
Attention: Members

If to Assignor: MJM 5G, LLC  
2152 E. Creek Road  
Sandy, Utah 84093  
Attention: Managing Members

If to ZFI: Zaxby's Franchising, Inc.  
1040 Founder's Boulevard, Suite 100  
Athens, Georgia 30606  
Attention: President

Any of the above-mentioned parties may, by like notice, designate any further or different addresses to which subsequent notices shall be sent. Any notice hereunder signed on behalf of the notifying party by its identified attorney at law shall be valid and effective to the same extent as if signed by such party. Any notice or other communications shall be deemed delivered when actually delivered to the address of the party to whom directed or, if sent by mail, three (3) days after such notice or document is deposited in the United States mail, as provided above.

9. Time is of the essence.

10. This Assignment shall inure to the benefit of and be binding upon their respective heirs, successors, representatives and permitted assigns.

11. This Assignment shall be governed by, and construed in accordance with the laws of the state in which the Premises are located.

IN WITNESS WHEREOF, the parties have caused this Assignment to be executed under seal the day and year written above.

Signed, sealed and delivered in the presence of:

LANDLORD: OGDEN COMMONS, LLC

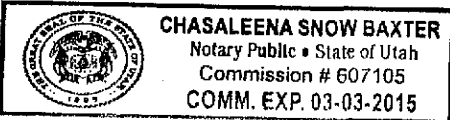
Witness: Blair Bond  
Witness: Kristall Hamman

By: [Signature] [SEAL]  
Name: Spencer H. Wright  
Title: MANAGER

State of Utah  
County of DAVIS

I, a Notary Public of said County and State, certify that Spencer H. Wright personally came before me this day and acknowledged that he/she is manager of Ogden Commons, LLC, a Utah limited liability company and that he/she, as manager, being authorized to do so, executed the foregoing on behalf of the company.

WITNESS my hand and official seal, this the 28<sup>th</sup> day of September, 2013.

(SEAL) 

[Signature]  
Notary Public  
My commission expires: 03/03/2015

Signed, sealed and delivered in the presence of:

ASSIGNOR: MJM 5G, LLC

Witness: \_\_\_\_\_  
Witness: \_\_\_\_\_

By: \_\_\_\_\_ [SEAL]  
Name: Jeff Howes  
Title: Managing Member

State of \_\_\_\_\_  
County of \_\_\_\_\_

I, a Notary Public of said County and State, certify that Jeff Howes personally came before me this day and acknowledged that he is a Managing Member of MJM 5G, LLC, a Nevada limited liability company, and that he, as a Managing Member, being authorized to do so, executed the foregoing on behalf of the company.

WITNESS my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

(SEAL) Notary Public  
My commission expires: \_\_\_\_\_

IN WITNESS WHEREOF, the parties have caused this Assignment to be executed under seal the day and year written above.

Signed, sealed and delivered in the presence of:

LANDLORD:  
OGDEN COMMONS, LLC

\_\_\_\_\_  
Witness  
  
\_\_\_\_\_  
Witness

By: \_\_\_\_\_ [SEAL]  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

State of \_\_\_\_\_  
County of \_\_\_\_\_

I, a Notary Public of said County and State, certify that \_\_\_\_\_, personally came before me this day and acknowledged that he/she is \_\_\_\_\_ of Ogden Commons, LLC, a Utah limited liability company and that he/she, as \_\_\_\_\_, being authorized to do so, executed the foregoing on behalf of the company.

WITNESS my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

(SEAL)

Notary Public  
My commission expires: \_\_\_\_\_

Signed, sealed and delivered in the presence of:

ASSIGNOR:  
MJM 5G, LLC

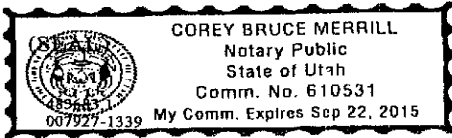
\_\_\_\_\_  
Witness  
  
\_\_\_\_\_  
Witness

By: \_\_\_\_\_ [SEAL]  
Name: Jeff Howes  
Title: Managing Member

State of Utah  
County of Salt Lake

I, a Notary Public of said County and State, certify that Jeff Howes personally came before me this day and acknowledged that he is a Managing Member of MJM 5G, LLC, a Nevada limited liability company, and that he, as a Managing Member, being authorized to do so, executed the foregoing on behalf of the company.

WITNESS my hand and official seal, this the 23rd day of September, 2013.



Notary Public  
My commission expires: 9/22/2015

Signed, sealed and delivered  
in the presence of:

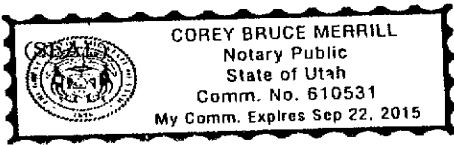
[Signature]  
Witness  
[Signature]  
Witness

By: [Signature] [SEAL]  
Name: Ryan Howes  
Title: Managing Member

State of Utah  
County of Salt Lake

I, a Notary Public of said County and State, certify that Ryan Howes personally came before me this day and acknowledged that he is a Managing Member of MJM 5G, LLC, a Nevada limited liability company, and that he, as a Managing Member, being authorized to do so, executed the foregoing on behalf of the company.

WITNESS my hand and official seal, this the 23rd day of September, 2013.



Notary Public  
My commission expires: 9/22/2015

Signed, sealed and delivered  
in the presence of:

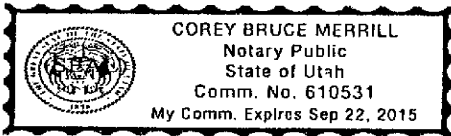
[Signature]  
Witness  
[Signature]  
Witness

By: [Signature] [SEAL]  
Name: Mike Cummings  
Title: Managing Member

State of Utah  
County of Salt Lake

I, a Notary Public of said County and State, certify that Mike Cummings personally came before me this day and acknowledged that he is a Managing Member of MJM 5G, LLC, a Nevada limited liability company, and that he, as a Managing Member, being authorized to do so, executed the foregoing on behalf of the company.

WITNESS my hand and official seal, this the 23rd day of September, 2013.



Notary Public  
My commission expires: 9/22/2015

Signed, sealed and delivered  
in the presence of:

ZFI:  
ZAXBY'S FRANCHISING, INC

Kathryn B. Smith  
Witness  
Sharon Miller  
Witness

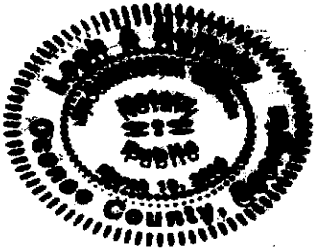
By: [Signature]  
Name: Amy C. Pritchett  
Title: Vice President of Franchise Administration

[CORPORATE SEAL]

State of Georgia  
County of Oconee

I, a Notary Public of said County and State, certify that Amy C. Pritchett personally came before me this day and acknowledged that she is Vice President of Franchise Administration for Zaxby's Franchising, Inc., a Georgia corporation, and that she, being authorized to do so, executed the foregoing on behalf of the corporation.

WITNESS my hand and official seal, this the 11<sup>th</sup> day of November, 2013.



Notary Public [Signature]  
My commission expires: 3-18-2016

EXHIBIT "A"LEGAL DESCRIPTION OF PREMISES

BEGINNING AT A POINT ON THE SOUTH RIGHT OF WAY LINE OF 12TH STREET, SAID POINT BEING LOCATED SOUTH 87°03'35" EAST 210.62 FEET AND SOUTH 84°50'29" EAST 86.23 FEET FROM THE NORTHWEST CORNER OF LOT 2 OF THE COMMONS AT OGDEN FIRST AMENDMENT, SAID POINT ALSO BEING LOCATED SOUTH 88°8'35" EAST ALONG THE MONUMENTED CENTERLINE OF 12TH STREET 1212.11' AND SOUTH 38.20 FEET FROM THE CENTERLINE MONUMENT LOCATED AT THE INTERSECTION OF THE MONUMENTED LINE OF 12TH STREET AND THE CENTERLINE OF GIBSON AVENUE AND RUNNING THENCE SOUTH 84°50'29" EAST ALONG SAID SOUTH LINE 80.24 FEET TO THE BEGINNING OF A NON-TANGENT CURVE; THENCE SOUTHEASTERLY ALONG SAID SOUTH LINE 150.19 FEET ALONG THE ARC OF A 10066.92 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 0°51'17" (CHORD BEARS SOUTH 89°51'08" EAST 150.19 FEET, RADIAL BEARING IS N 0°34'31" E); THENCE SOUTH 01°35'30" WEST 190.95 FEET; THENCE NORTH 88°24'30" WEST 230.23 FEET; THENCE NORTH 01°35'30" EAST 192.15 FEET TO THE POINT OF BEGINNING.

CONTAINS: 43,547 SQ. FT. / 1.0 AC.

Out of 12-241-0001; 12-241-0002 and 12-241-0003