

## LAND LEASE

This Land Lease ("**Lease**") is entered into as of August \_\_, 2019 (the "**Effective Date**") by and between **Tenenbaum, Inc.** a domestic profit corporation of the State of Georgia ("**Landlord**"), and **MAYOR AND ALDERMEN OF THE CITY OF SAVANNAH**, a municipal corporation of the State of Georgia ("**Tenant**").

### RECITALS:

**WHEREAS**, Landlord is the owner of a certain tract of land containing approximately 22 acres being known as W Gwinnett Street, Savannah, Chatham County, Georgia, and further referenced as Property Identification Number 20046 03011, as depicted on the attached and incorporated Exhibit "A" hereto (the "**Property**"); and

**WHEREAS**, Tenant desires to lease from Landlord the Property for purposes of providing vehicular parking and related services in associated with the planned development of an adjoining arena; and

**WHEREAS**, Landlord is willing to lease the Property to Tenant in accordance with the terms set forth in this Lease.

**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants, agreements, and conditions set forth herein, Landlord and Tenant hereby covenant and agree as follows:

1. **LEASE OF PROPERTY.** Landlord demises and leases to Tenant the Property for the Term (as defined below) and upon the covenants, agreements, and conditions set forth herein.

2. **USE.** The Property shall be used by Tenant as a parking facility and related uses associated with development and operation of the planned adjacent arena (the "Intended Use."). Tenant shall have the right to access, construct, operate, and maintain leasehold improvements on the Property. Tenant covenants and agrees that it will not use, or suffer or permit any person to use the Property for any purpose or use in violation of any federal, state or local law or ordinance of any government body having jurisdiction over the Property. The Property is leased in its as is condition and Landlord makes no warranty or representation as to the suitability of the Property for Tenant's Intended Use.

3. **INITIAL TERM.** The Property is hereby demised and leased unto Tenant for a term of five (5) years (the "Initial Term") to commence on the earlier of: 1) receipt by Landlord of the Notice to Proceed (as herein later defined) provided by Tenant, or 2) ninety-one (91) days from the Effective Date unless otherwise terminated in accordance with Section 7 regarding due diligence.

4. **FIXED BASE RENT INITIAL TERM.** During the Initial Term, Tenant shall pay to Landlord a fixed monthly base rent of \$58,000.00 (equating to \$696,000 per year), payable in advance on the first day of each month during the Initial Term. If the Lease termination date is not the last day of a month, then a prorated monthly installment shall be paid for the fractional month during which the Lease terminates. Rent shall be paid to Landlord at its address set forth in the notices section of this Lease.

5. **ADDITIONAL RENT.** During the Initial Term, Tenant shall pay all ad valorem taxes assessed on the Property and shall reimburse Landlord for all premiums paid by Landlord for landlord liability insurance maintained by Landlord on the Property. The payment of the taxes and reimbursement of insurance premiums shall be considered as additional rent and shall be due and payable thirty (30) days after Landlord submits the tax bills to Tenant or provides proof of payment of the insurance premium to Tenant. If in the event the taxes or insurance premium is for a period of time beyond the Initial Term and if Lease has not yet been renewed, the Tenant's obligation shall be for a prorated amount based on remaining time of Initial Term.

6. **ADDITIONAL TERM.** Tenant shall have the option to renew the Lease for one (1) additional five (5) year term ("Additional Term") to commence upon expiration of the Initial Term. Said option for the Additional Term shall be exercised by Tenant at least one hundred and eighty (180) days prior to the expiration of the Initial Term.

7. **FIXED RENT ADDITIONAL TERM.** The fixed rent to be paid during the Additional Term will be negotiated among the parties and finalized at least two hundred and ten (210) days prior to expiration of the Initial Term. If the parties cannot mutually agree and finalize the amount of the fixed rent payable during the Additional Term on or before two hundred and ten (210) days prior to expiration of the Initial Term, then the Lease will terminate at the expiration of the Initial Term.

8. **DUE DILIGENCE PERIOD.** Tenant shall have from the Effective Date of this Lease until ninety (90) days after the Effective Date (the "Inspection Period") within which to: (A) approve or disapprove the Title Commitment and the Survey (if any), including the information reflected therein, such approvals or disapprovals to be within Tenant's sole discretion; (B) conduct feasibility studies to determine, in the Tenant's sole discretion, if the Property is feasible for Tenant's intended use; and (C) conduct environmental assessments and (D) conduct such other investigations as the Tenant, in Tenant's sole discretion, shall determine to be necessary or appropriate. If Tenant determines, for any reason or no reason, that the Property is not suitable for its purposes, Tenant shall have the right to terminate this Lease by written notice (the "Termination Notice") to the Landlord given on or prior to the expiration of the Inspection Period. Notwithstanding the foregoing, Tenant may conclude its Due Diligence prior to expiration of the Inspection Period and may issue a notice to Landlord (the "Notice to Proceed") informing Landlord that Tenant is commencing the Lease. If Tenant fails to issue a Notice to Proceed or a Termination Notice during the Inspection Period, then the lease will automatically commence on the ninety-first (91<sup>st</sup>) day from the Effective Date.

9. **INSURANCE.** Tenant is self-insured and will provide Landlord with evidence of self-insurance prior to lease commencement.

10. **PERMITS AND LICENSES.** Tenant agrees to procure any and all permits or licenses necessary for its planned construction and operation of the intended use and Landlord, at no cost to it, agrees to assist Tenant to obtain such permits or licenses if such assistance is necessary.

11. **DUTY TO MAINTAIN.** During the Term of this Lease, Tenant, at its own expense, shall be solely responsible for maintaining the Property including, but without limitation, snow removal, clean-up of debris and trash, grass and landscape maintenance, and otherwise maintain the Property in a generally clean condition. Tenant covenants and agrees that it will not commit or suffer any waste to the Property.

12. **RIGHT OF FIRST REFUSAL.** Landlord hereby grants to the Tenant an ongoing right of first refusal to purchase the Property on the terms and conditions set forth herein. In the event Landlord receives an arms-length offer by an unrelated party to purchase the Property, Landlord shall notify the Tenant in writing ("Offer Notice") of receipt of such arms-length notice that Owner is willing to accept from a bona fide unrelated third-party offeror ("Offer") and setting forth the material terms of the Offer. The Tenant shall have ten (10) business days after the Tenant's receipt of the Offer Notice in which to notify Landlord of its election to purchase the Property upon the terms set forth in the Offer Notice. If the Tenant declines to exercise this Right of First Refusal Option or fails to give such written notice to Landlord with the time period required, the Tenant shall be deemed to have waived the Purchase Option. If the City exercises the Refusal Option, the closing of such purchase shall occur in accordance with the terms and conditions set forth in the Offer Notice.

13. **PER ACRE PRO-RATA RENT CREDIT.** In the event the Tenant acquires any portion of the Property, the Fixed Rent shall be reduced on a per acre pro-rata rent basis for the loss of Property involved. For example, if Tenant acquires 2.2 acres (10% of the Property), then the monthly Fixed Rent will be reduced by 10%.

14. **RIGHT TO TERMINATE; DEFAULT.** Landlord shall have the right to terminate and end this Lease upon the breach by Tenant of any of the covenants, terms, and conditions hereof, provided Landlord provides Tenant with notice of the existence of such breach and Tenant fails to commence a remedy to cure such breach within thirty (30) days after notice thereof and continues to diligently pursue remedy of such nonmonetary breach within sixty (60) days.

15. **NOTICES.** Any notice, communication, request, reply or advice (collectively, "Notice") provided for or permitted by this Lease to be made or accepted by either party must be in writing. Notice may, unless otherwise provided herein, be given or served by: (i) delivering the same to such party, or an agent of such party, in person or by commercial courier or personal messenger; (ii) confirmed electronic delivery of a PDF or Word formatted file; or (iii) depositing the same into custody of a nationally recognized overnight delivery service such as Federal Express, Overnight Express, Airborne Express, Emery or Purolator. Notice given in any of the foregoing manners shall be effective only if and when received (or refusal of receipt) by the party to be notified between the hours of 8:00 A.M. and 5:00 P.M., Savannah time, of any business day with delivery made after such hours to be deemed received the following business day. The parties hereto shall have the right from time to time to change their respective addresses, and each shall have the right to specify as its address any other address within the United States of America by at least five (5) days written notice to the other party. Notices may be sent by the attorneys for the parties. All notices concerning this Lease must be addressed as follows:

If to Landlord: Tenenbaum Inc.  
Attn: Sheldon Tenenbaum  
PO Box 2567  
Savannah, Georgia 31402

With a copy to: Dana F. Braun  
P.O. Box 9946  
Savannah, GA 31406

If to Tenant: City of Savannah – City Manager’s Office  
P.O. Box 1027  
Savannah, Georgia 31402

If to Tenant: City of Savannah – Real Estate Services  
P.O. Box 1027  
Savannah, Georgia 31402

With a copy to: City of Savannah – City Attorney’s Office  
P.O. Box 1027  
Savannah, Georgia 31402

16. **PEACEABLE POSSESSION.** Landlord covenants and agrees that Tenant, upon performing and quietly observing the terms and conditions of this Lease, and subject to the terms and conditions of this Lease, may peacefully hold and enjoy the Property during the Term without any interruption by Landlord, its successors or assigns, or any person or company lawfully claiming by or through it.

17. **SURRENDER.** Upon termination of this Lease by lapse of time or otherwise, Tenant agrees that it will immediately surrender and deliver up to Landlord physical possession of the Property.

18. **CONDEMNATION.** If, during the Term of this Lease the Property should be taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain, or should be sold to the condemning authority under threat of condemnation, this Lease shall terminate and rent shall be abated during the unexpired portion of this Lease, effective as of the date when the physical taking of the Property shall occur. All damages awarded for any such taking under the power of eminent domain, whether for the whole or part of the Property, shall belong to and be the property of the Landlord, whether such damages shall be awarded as compensation for diminution in value of the leasehold or for the fee of the Property. If only a portion of the Property should be taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain, or should be sold to the condemning authority under threat of condemnation, Tenant shall have the option, but not the obligation, to proceed with the lease but the Fixed Rent will be reduced in proportion to the loss of land areas involved and any award of compensation for diminution in value shall be split amongst the Tenant and Landlord based on appraisals of the value of the remaining leasehold and leased fee estates.

19. **LIEN CLAIMS.** It is expressly covenanted and agreed by and between the parties hereto that nothing in this Lease contained shall authorize Tenant to do any act which shall in

any way encumber the title of Landlord in and to the Property, nor shall the interest or estate of the Landlord in the Property be in any way subject to any claim by way of lien or encumbrance, whether by operation of law or by virtue of any express or implied contract by Tenant, and any claim to or lien upon the Property arising from any act or omission of Tenant shall accrue only against the leasehold estate of Tenant, and shall in all respects be subject and subordinate to the paramount title and right of Landlord in and to the Property. Tenant will not permit the Property to become subject to any mechanics', laborers' or materialmen's lien on account of labor or material furnished to the Tenant in connection with work of any character performed or claimed to have been performed on the Property by or at the direction or sufferance of the Tenant and shall take all necessary and appropriate steps to promptly release any such liens; provided, however that Tenant shall have the right to contest in good faith and with reasonable diligence, the validity of any such lien or claimed lien. On any final determination of the lien or claim for lien, Tenant will immediately pay any judgment rendered, with all proper costs and charges, and will, at its own expense, have the lien released and any judgment satisfied.

20. **HAZARDOUS MATERIALS.** Landlord acknowledges Tenant will perform environmental assessments, and Tenant acknowledges, to the extent permissible by law, that it will keep the results of those assessments confidential. The parties acknowledge the environmental assessments will establish base-line conditions of the Property prior to Tenant occupancy and use. Tenant agrees that it will not use, handle, generate, treat, remediate, store or dispose of, or permit the use, handling, generation, treatment, storage or disposal of any Hazardous Materials in, on, under, around or above the Property now or at any future time. If environmental assessments identify any Hazardous Materials present in, on, under, around, or above the Property, Landlord acknowledges Tenant may develop plans to manage and/or remediate such conditions and materials to create safe working and use conditions prior to constructing and using the Property for the Intended Use; said plans may include, but not be limited to, consulting with environmental professionals, contractors, and regulators on potential site excavations, fill materials, grading, drainage, controls, etc. Such site development plans will be subject to the approval of Landlord; whose consent and approval will not be unreasonably withheld.

“Hazardous Material” shall mean any substance, including without limitation, asbestos or any substance containing asbestos and deemed hazardous under any Hazardous Material Law, the group of organic compounds known as polychlorinated biphenyl’s, petroleum products or any derivative thereof, flammable explosives, radioactive materials, infectious waste, biomedical and medical waste chemicals known to cause cancer or reproductive toxicity, pollutants, effluents, contaminants, emissions or related materials and any item included in the definition of hazardous or toxic wastes, materials or substances under any Hazardous Material Law.

“Hazardous Material Law” shall mean any local, state, or federal law relating to environmental conditions and industrial hygiene, including, without limitation, the Resource Conservation and Recovery Act of 1976 (“RCRA”), the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“CERCLA”), as amended by the Superfund Amendments and Reauthorization Act of 1986 (“SARA”), the Hazardous Materials Transportation Act, the Federal Water Pollution Control Act, the Clean Air Act, the Clean Water Act, the Toxic Substances Control Act, the Safe Drinking Water Act, and all federal, state, and local environmental statutes, ordinances and regulations, orders and decrees now or hereafter promulgated thereunder.

17. **INDEMNITY.** To the extent permissible by law and without waiver of sovereign immunity, Tenant agrees to indemnify, defend and save Landlord and each of its partners, officers, manager, members, employees and agents, and their respective personal representatives, heirs, successors and assigns (collectively, including Landlord, the "**Landlord Indemnified Parties**") harmless from and against any and all losses, liabilities, fines, penalties and damages (including without limitation any damages or injury to persons, property or to the environment as provided hereunder), or actions or claims in respect thereof (including without limitation, amounts paid in settlement, reasonable cost of investigation, reasonable attorneys' fees and other legal expenses and reasonable fees of other necessary professionals) in any manner arising out of or in connection with: (i) at Tenant's direction, the performance of any labor or services or the furnishing of any materials or other property in respect of the Property; (ii) any negligence or willful act of Tenant, its employees or agents; (iii) the breach or default on the part of Tenant in the performance of any covenant or agreement contained in this Lease for which written notice (if required) has been received by Tenant and the applicable cure period as set forth in such notice has expired; and (iv) any personal injury or property damage action or claim against Landlord arising or alleged to have arisen from the condition of the Property, including premises liability claims. This indemnification of the Landlord Indemnified Parties by Tenant includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by a state or local government agency, a political subdivision or a private party. Landlord will promptly notify Tenant of any actions, proceedings, claims, or demands for which Landlord requests indemnification from Tenant. Tenant has the right to assume the entire control of the defense thereof, and Landlord will cooperate fully with Tenant in such defense at Tenant's cost. Tenant's obligations pursuant to this Section shall survive the termination or expiration of the Lease.

18. **BROKER.** Landlord and Tenant hereby represent and warrant to each other that neither of them have had any dealings with respect to the Property with any broker or real estate dealer.

19. **ATTORNEYS' FEES.** In the event that at any time during the Term of this Lease either Landlord or Tenant shall institute any action or proceeding against the other relating to the provisions of this Lease, or any default hereunder, then, and in that event, the unsuccessful party in such action or proceeding shall reimburse the successful party for their reasonable expenses of attorneys' fees and disbursements incurred therein by the successful party.

20. **PARTIES, SUCCESSORS, AND ASSIGNS.** This Lease shall be binding and inure to the benefit of the parties hereto, their respective successors and permitted assigns.

21. **ENTIRE AGREEMENT.** This Lease constitutes the entire agreement between the parties hereto. This Lease is not subject to modification except in writing and contains the entire agreement of the parties with respect to the matters covered in this Lease and no other agreement, statement, or promise made by any party, or to any employee, officer, or agent of any party, which is not contained in this Lease shall be binding or valid.

22. **COUNTERPARTS; FACSIMILE/ELECTRONIC.** This Lease may be executed in a number of counterparts, each of which constitute an original and all of which will constitute one and the same agreement. A facsimile or electronic copy of this Lease and

any signatures thereon will be considered for all purposes as originals.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the Effective Date by their duly authorized representative(s).

**LANDLORD:**

**TENENBAUM INC.**

By: *Sheldon U. Tenenbaum*  
—

Name: *SHELDON U. TENENBAUM*  
—

Its: *MANAGER / SECRETARY*  
—

**TENANT:**

**MAYOR AND ALDERMEN OF  
THE CITY OF SAVANNAH,** a  
municipal corporation of the State of  
Georgia

By: \_\_\_\_\_  
—

Name: \_\_\_\_\_  
—

Its: \_\_\_\_\_  
—

**EXHIBIT A**

