

REFINITIV

# DELTA REPORT

## 10-Q

RMBL - RUMBLEON, INC.

10-Q - MARCH 31, 2024 COMPARED TO 10-Q - SEPTEMBER 30, 2023

The following comparison report has been automatically generated

TOTAL DELTAS 4005

■ CHANGES	53
■ DELETIONS	3076
■ ADDITIONS	876

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 10-Q

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended ~~September 30, 2023~~ **March 31, 2024**

or

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from to

Commission file number: **001-38248**



**RumbleOn, Inc.**

(Exact name of registrant as specified in its charter)

**Nevada**

**46-3951329**

(State or other jurisdiction of incorporation or organization)

(I.R.S. Employer Identification No.)

**901 W. W Walnut Hill Lane, Suite 110A  
Irving, Texas**

**75038**

(Address of principal executive offices)

(Zip Code)

**(214) 771-9952**

(Registrant's telephone number, including area code)

(Former name, former address and former fiscal year, if changed since last report)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
<b>Class B Common Stock, \$0.001 par value</b>	<b>RMBL</b>	<b>The Nasdaq Stock Market LLC</b>

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. x Yes o No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). x Yes o No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See definitions of "large accelerated filer," "accelerated filer," "smaller" a smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input type="radio"/>	Accelerated filer	<input checked="" type="radio"/>
Non-accelerated filer	<input type="radio"/>	Smaller reporting company	<input checked="" type="radio"/>
		Emerging growth company	<input type="radio"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).  Yes  No

The number of shares of Class B Common Stock, \$0.001 par value, outstanding on **November 3, 2023** **May 6, 2024** was **16,809,299** **35,207,240** shares. In addition, 50,000 shares of Class A Common Stock, \$0.001 par value, were outstanding on **November 3, 2023** **May 6, 2024**.

QUARTERLY PERIOD ENDED **SEPTEMBER 30, 2023** **MARCH 31, 2024**  
Table of Contents to Report on Form 10-Q

<b><u>PART I</u></b>	<b>FINANCIAL INFORMATION</b>	
<u>Item 1.</u>	Financial Statements	1
<u>Item 2.</u>	Management's Discussion and Analysis of Financial Condition and Results of Operations	23 12
<u>Item 3.</u>	Quantitative and Qualitative Disclosures About Market Risk	36 19
<u>Item 4.</u>	Controls and Procedures	37 19
<b><u>PART II</u></b>	<b>OTHER INFORMATION</b>	
<u>Item 1.</u>	Legal Proceedings	39 21
<u>Item 1A.</u>	Risk Factors	39 21
<u>Item 5.</u>	Other Information	21
<u>Item 6.</u>	Exhibits	40 22
<u>SIGNATURES</u>		41 23

[Table of Contents](#)

**PART I - FINANCIAL INFORMATION**

**Item 1. Financial Statements.**

**RumbleOn, Inc.**  
**Condensed Consolidated Balance Sheets**  
(dollars \$ in thousands, millions, except per share amounts)

	September 30, 2023	December 31, 2022
	(Unaudited)	
<b>ASSETS</b>		
Current assets:		
Cash	\$ 41,406	\$ 46,762
Restricted cash	18,046	10,000
Accounts receivable, net	33,679	28,040
Inventory	358,654	323,473
Prepaid expense and other current assets	5,654	7,422
Loans receivable held for sale	21,555	33,662
Current assets of discontinued operations	—	11,377
Total current assets	478,994	460,736
Property and equipment, net	78,608	76,078
Right-of-use assets	167,236	161,822
Goodwill	23,897	21,142
Intangible assets, net	240,457	247,413
Deferred tax assets	68,251	58,115
Other assets	1,574	1,881
Assets of discontinued operations	35	23
Total assets	\$ 1,059,052	\$ 1,027,210
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current liabilities:		
Accounts payable and other current liabilities	\$ 81,830	\$ 79,439
Vehicle floorplan notes payable	287,135	220,176

Current portion of long-term debt and line of credit	14,893	3,645
Current liabilities of discontinued operations	513	8,434
Total current liabilities	384,371	311,694
Long-term liabilities:		
Secured debt	271,671	317,494
Convertible debt, net	34,196	31,890
Financing obligation and notes payable	49,174	25,000
Operating lease liabilities	135,726	126,695
Other long-term liabilities	8,783	8,422
Total long-term liabilities	499,550	509,501
Total liabilities	883,921	821,195
Commitments and contingencies		
Stockholders' equity:		
Class A Common Stock, \$0.001 par value, 50,000 shares authorized, 50,000 shares issued and outstanding	—	—
Class B Common Stock, \$0.001 par value, 100,000,000 shares authorized, 16,735,391 and 16,184,264 shares issued and outstanding as of September 30, 2023 and December 31, 2022, respectively	17	16
Additional paid-in capital	602,026	585,937
Accumulated deficit	(422,593)	(375,619)
Treasury stock, at cost	(4,319)	(4,319)
Total stockholders' equity	175,131	206,015
Total liabilities and stockholders' equity	\$ 1,059,052	\$ 1,027,210

	March 31, 2024	December 31, 2023
	<i>(Unaudited)</i>	
<b>ASSETS</b>		
Current assets:		
Cash	\$ 50.3	\$ 58.9
Restricted cash	13.1	18.1
Accounts receivable, net	33.5	50.3
Inventory, net	353.7	347.5
Prepaid expense and other current assets	3.8	6.0
Total current assets	454.4	480.8
Property and equipment, net	74.9	76.8
Right-of-use assets	165.4	163.9
Franchise rights and other intangible assets	202.5	203.3
Other assets	1.5	1.5
Total assets	\$ 898.7	\$ 926.3
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current liabilities:		
Accounts payable and other current liabilities	\$ 72.1	\$ 68.1
Vehicle floor plan notes payable	300.2	291.3
Current portion of long-term debt	39.2	35.6
Total current liabilities	411.5	395.0
Long-term liabilities:		
Long-term debt, net of current maturities	206.0	238.7
Operating lease liabilities	136.4	134.1
Other long-term liabilities, including finance lease obligation	52.1	52.9
Total long-term liabilities	394.5	425.7
Total liabilities	806.0	820.7
Commitments and contingencies		
Stockholders' equity:		
Class A common stock, \$0.001 par value, 50,000 shares authorized, 50,000 shares issued and outstanding	—	—

Class B common stock, \$0.001 par value, 100,000,000 shares authorized, 35,153,241 and 35,071,955 shares issued and outstanding as of March 31, 2024 and December 31, 2023, respectively	—	—
Additional paid-in capital	688.6	701.0
Accumulated deficit	(591.6)	(591.1)
Class B common stock in treasury, at cost, 123,089 shares	(4.3)	(4.3)
Total stockholders' equity	<u>92.7</u>	<u>105.6</u>
Total liabilities and stockholders' equity	<u>\$ 898.7</u>	<u>\$ 926.3</u>

See [Notes accompanying notes](#) to the [Condensed Consolidated Financial Statements](#), [unaudited condensed consolidated financial statements](#).

[Table of Contents](#)

**RumbleOn, Inc.**  
**Condensed Consolidated Statements of Operations**  
**(Dollars \$ in thousands, except per share amounts)**  
**(Unaudited)**

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Revenue:				
Powersports vehicles	\$ 235,132	\$ 271,877	\$ 738,136	\$ 806,382
Parts, service and accessories	59,727	62,216	184,205	182,268
Finance and insurance, net	29,288	31,569	89,658	95,830
Vehicle logistics	13,964	15,002	43,227	42,870
Total revenue	<u>338,111</u>	<u>380,664</u>	<u>1,055,226</u>	<u>1,127,350</u>
Cost of revenue:				
Powersports vehicles	202,788	221,631	634,091	647,891
Parts, service and accessories	32,754	33,074	99,542	96,473
Vehicle logistics	10,624	11,516	32,946	33,732
Total cost of revenue	<u>246,166</u>	<u>266,221</u>	<u>766,579</u>	<u>778,096</u>
Gross profit	91,945	114,443	288,647	349,254
Selling, general and administrative	84,957	93,822	271,557	264,428
Depreciation and amortization	7,275	6,554	17,271	16,872
Operating income (loss)	<u>(287)</u>	<u>14,067</u>	<u>(181)</u>	<u>67,954</u>
Other income (expense):				
Interest expense	(19,828)	(12,209)	(55,756)	(35,622)
Other income	75	26	208	230
PPP Loan forgiveness	—	2,509	—	2,509
Change in derivative liability	—	—	—	39
Total other expense	<u>(19,753)</u>	<u>(9,674)</u>	<u>(55,548)</u>	<u>(32,844)</u>
Income (loss) from continuing operations before income taxes	(20,040)	4,393	(55,729)	35,110
Income tax provision (benefit) for continuing operations	(3,556)	678	(9,706)	8,166
Income (loss) from continuing operations, net	<u>(16,484)</u>	<u>3,715</u>	<u>(46,023)</u>	<u>26,944</u>
Loss from discontinued operations	—	(858)	(1,100)	(1,151)
Income tax benefit for discontinued operations	—	(182)	(149)	(420)
Loss from discontinued operations, net	<u>—</u>	<u>(676)</u>	<u>(951)</u>	<u>(731)</u>
Net income (loss)	<u>\$ (16,484)</u>	<u>\$ 3,039</u>	<u>\$ (46,974)</u>	<u>\$ 26,213</u>
Basic shares	16,665,709	16,020,296	16,452,254	15,859,134
Earnings (loss) per share - basic from continuing operations	\$ (0.99)	\$ 0.23	\$ (2.80)	\$ 1.70
Earnings (loss) per share - basic from discontinued operations	\$ —	\$ (0.04)	\$ (0.06)	\$ (0.05)
Diluted shares	16,665,709	16,067,395	16,452,254	15,922,484
Earnings (loss) per share - diluted from continuing operations	\$ (0.99)	\$ 0.23	\$ (2.80)	\$ 1.69

Earnings (loss) per share - diluted from discontinued operations	\$	—	\$	(0.04)	\$	(0.06)	\$	(0.05)
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See Notes to the Condensed Consolidated Financial Statements.

**RumbleOn, Inc.**

**Condensed Consolidated Statement of Stockholders' Equity**

**(Dollars in thousands, millions, except per share amounts)**

(Unaudited)

	Three Months Ended March 31,	
	2024	2023
Revenue:		
Powersports vehicles	\$ 214.8	\$ 233.3
Parts, service and accessories	52.9	59.1
Finance and insurance, net	25.8	27.2
Vehicle transportation services	14.3	14.8
Total revenue	307.8	334.4
Cost of revenue:		
Powersports vehicles	185.1	201.0
Parts, service and accessories	29.3	31.8
Vehicle transportation services	10.8	11.3
Total cost of revenue	225.2	244.1
Gross profit	82.6	90.3
Selling, general and administrative	73.9	86.3
Depreciation and amortization	3.5	4.7
Operating income (loss)	5.2	(0.7)
Floor plan interest expense	(4.0)	(2.5)
Other interest expense	(12.1)	(15.1)
Other income	0.3	—
Loss from continuing operations before income taxes	(10.6)	(18.3)
Income tax provision (benefit)	(0.3)	(1.6)
Loss from continuing operations	(10.3)	(16.7)
Loss from discontinued operations	—	(0.2)
Net loss	\$ (10.3)	\$ (16.9)
Weighted average shares - basic and diluted	35,133,414	16,224,122
Loss from continuing operations per share - basic and diluted	\$ (0.29)	\$ (1.03)
Loss from discontinued operations per share - basic and diluted	\$ —	\$ (0.01)
Net loss per share - basic and diluted	\$ (0.29)	\$ (1.04)

	Class A Common Shares		Class B Common Shares		Additional Paid in		Class B Common Shares in		Total Stockholders'
	Shares	Amount	Shares	Amount	Capital	Accumulated Deficit	Treasury	Equity	
June 30, 2023	50,000	\$ —	16,565,389	\$ 17	\$ 593,051	\$ (406,109)	123,089	\$ (4,319)	\$ 182,640
Issuance of common stock for restricted stock units	—	—	170,002	—	—	—	—	—	—
Stock-based compensation	—	—	—	—	3,077	—	—	—	3,077

Tax withholding related to vesting of restricted stock units and other	—	—	—	—	(202)	—	—	—	(202)
Issuance of warrant	—	—	—	—	6,100	—	—	—	6,100
Net loss	—	—	—	—	—	(16,484)	—	—	(16,484)
September 30, 2023	50,000	\$ —	16,735,391	\$ 17	\$ 602,026	\$ (422,593)	123,089	\$ (4,319)	\$ 175,131

See accompanying notes to the unaudited condensed consolidated financial statements.

	Class A Common Shares		Class B Common Shares		Additional Paid in		Class B Common Shares in Treasury		Total Stockholders'
	Shares	Amount	Shares	Amount	Capital	Accumulated Deficit	Shares	Amount	Equity
December 31, 2022	50,000	\$ —	16,184,264	\$ 16	\$ 585,937	\$ (375,619)	123,089	\$ (4,319)	\$ 206,015
Issuance of common stock for restricted stock units	—	—	551,127	1	—	—	—	—	1
Stock-based compensation	—	—	—	—	10,898	—	—	—	10,898
Tax withholding related to vesting of restricted stock units and other	—	—	—	—	(909)	—	—	—	(909)
Issuance of warrant	—	—	—	—	6,100	—	—	—	6,100
Net loss	—	—	—	—	—	(46,974)	—	—	(46,974)
September 30, 2023	50,000	\$ —	16,735,391	\$ 17	\$ 602,026	\$ (422,593)	123,089	\$ (4,319)	\$ 175,131

[Table of Contents](#)

	Class A Common		Class B Common		Additional	Accumulated	Class B Common Shares in Treasury		Total
	Shares		Shares				Paid in Capital	Deficit	
	Shares	Amount	Shares	Amount	Equity				
June 30, 2022	50,000	\$ —	15,940,866	\$ 16	\$ 581,197	\$ (90,932)	123,089	\$ (4,319)	\$ 485,962
Issuance of common stock for restricted stock units	—	—	194,324	—	—	—	—	—	—
Stock-based compensation	—	—	—	—	2,606	—	—	—	2,606
Net income	—	—	—	—	—	3,039	—	—	3,039
September 30, 2022	50,000	\$ —	16,135,190	\$ 16	\$ 583,803	\$ (87,893)	123,089	\$ (4,319)	\$ 491,607

	Class A Common Shares		Class B Common Shares		Additional Paid in		Class B Common Shares in Treasury		Total Stockholders'
	Shares	Amount	Shares	Amount	Capital	Accumulated Deficit	Shares	Amount	Equity
December 31, 2021	50,000	\$ —	14,882,022	\$ 15	\$ 550,055	\$ (114,106)	123,089	\$ (4,319)	\$ 431,645
Issuance of common stock for restricted stock units	—	—	206,896	—	—	—	—	—	—
Issuance of common stock in acquisition	—	—	1,048,718	1	26,511	—	—	—	26,512
Stock-based compensation	—	—	—	—	7,237	—	—	—	7,237
Escrow shares returned -Freedom acquisition	—	—	(2,446)	—	—	—	—	—	—
Net income	—	—	—	—	—	26,213	—	—	26,213
September 30, 2022	50,000	\$ —	16,135,190	\$ 16	\$ 583,803	\$ (87,893)	123,089	\$ (4,319)	\$ 491,607

**RumbleOn, Inc.**  
**Consolidated Statements of Stockholders' Equity**  
(\$ in millions)  
(Unaudited)

	Common Shares		Additional Paid-in		Treasury Shares		Total Stockholders' Equity
	Class A	Class B	Capital	Accumulated Deficit	Shares	Amount	
December 31, 2023	50,000	35,071,955	\$ 701.0	\$ (591.1)	123,089	\$ (4.3)	\$ 105.6
Cumulative effect adjustment from adoption of ASU 2020-06	—	—	(13.5)	9.8	—	—	(3.7)
Stock-based compensation	—	81,286	1.4	—	—	—	1.4
Other	—	—	(0.3)	—	—	—	(0.3)
Net loss	—	—	—	(10.3)	—	—	(10.3)
March 31, 2024	50,000	35,153,241	\$ 688.6	\$ (591.6)	123,089	\$ (4.3)	\$ 92.7

	Common Shares		Additional Paid-in		Treasury Shares		Total Stockholders' Equity
	Class A	Class B	Capital	Accumulated Deficit	Shares	Amount	
December 31, 2022	50,000	16,184,264	\$ 585.9	\$ (375.6)	123,089	\$ (4.3)	\$ 206.0
Stock-based compensation	—	111,471	2.9	—	—	—	2.9
Net loss	—	—	—	(16.9)	—	—	(16.9)
March 31, 2023	50,000	16,295,735	\$ 588.8	\$ (392.5)	123,089	\$ (4.3)	\$ 192.0

See accompanying notes to the unaudited condensed consolidated financial statements.

[Table of Contents](#)

**RumbleOn, Inc.**  
**Condensed Consolidated Statements of Cash Flows**  
**(Dollars \$ in thousands) millions**  
**(Unaudited)**

	Nine Months Ended September 30,	
	2023	2022
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Net income (loss)	\$ (46,974)	\$ 26,213
Loss from discontinued operations	(951)	(731)
Net income (loss) from continuing operations	\$ (46,023)	\$ 26,944
Adjustments to reconcile net income (loss) from continuing operations to net cash provided by operating activities of continuing operations:		
Depreciation and amortization	17,271	16,872
Amortization of debt discount and issuance costs	7,324	3,936
Stock-based compensation expense	10,898	7,237
Forgiveness of PPP loan	—	(2,509)
Gain from change in value of derivatives	—	(39)
Deferred taxes	(10,136)	3,946
Originations of loan receivables, net of principal payments received	5,006	(23,676)
Valuation allowance charge for loan receivable held for sale	5,971	—
Changes in operating assets and liabilities, net of acquisitions:		
Accounts receivable	(5,639)	1,239
Inventory	(29,983)	(93,133)
Prepaid expenses and other current assets	1,779	(494)
Other assets	177	(3,766)
Other liabilities	1,461	(2,813)
Accounts payable and accrued liabilities	3,729	(2,131)
Floorplan trade note payable	18,840	38,746
Net cash provided by (used in) operating activities of continuing operations	(19,325)	(29,641)
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Payments for acquisitions, net of cash received	(3,300)	(65,976)
Purchases of property and equipment	(7,803)	(4,334)
Technology development	(1,758)	(6,188)
Net cash used in investing activities of continuing operations	(12,861)	(76,498)
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>		
Proceeds from new secured debt	—	84,500

Proceeds from sale leaseback transaction	49,718	—
Proceeds from ROF credit facility for the purchase of consumer finance loans	—	22,925
Repayment of debt and line of credit	(59,048)	(34,082)
Payments for notes payable and finance leases	—	(2,116)
Net borrowings from non-trade floor financing plans	45,993	34,067
Debt issuance costs	(1,787)	—
Net cash provided by financing activities of continuing operations	34,876	105,294
<b>CASH FLOWS FROM DISCONTINUED OPERATIONS</b>		
Net cash provided by operating activities	3,438	11,372
Net cash used in financing activities	(5,254)	(13,286)
Net cash used in discontinued operations	(1,816)	(1,914)
<b>NET INCREASE (DECREASE) IN CASH AND RESTRICTED CASH</b>	874	(2,759)
Cash and restricted cash at beginning of period-continuing operations	56,762	49,458
Cash and restricted cash at beginning of period-discontinued operations	1,816	2,516
Cash and restricted cash at end of period, including discontinued operations	59,452	49,215
Less cash at end of period - discontinued operations	—	(602)
Cash and restricted cash at end of period	\$ 59,452	\$ 48,613

	Three Months Ended March 31,	
	2024	2023
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Net loss	\$ (10.3)	\$ (16.9)
Less: Loss from discontinued operations	—	(0.2)
Loss from continuing operations	(10.3)	(16.7)
Adjustments to reconcile loss from continuing operations to net cash provided by operating activities:		
Depreciation and amortization	3.5	4.7
Amortization of debt issuance costs	2.2	2.3
Stock-based compensation	1.4	2.9
Deferred taxes	(0.4)	(1.7)
Changes in operating assets and liabilities, net of acquisitions:		
Accounts receivable	16.8	(4.3)
Inventory	(6.2)	1.2
Prepaid expenses and other current assets	2.2	2.6
Other liabilities	0.4	1.7
Accounts payable and accrued liabilities	4.1	2.9
Floor plan trade note borrowings	(10.7)	13.4
Net cash provided by operating activities	3.0	9.0
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Acquisitions, net of cash received	—	(3.3)
Purchase of property and equipment	(1.0)	(1.9)
Technology development	(0.1)	(0.5)
Net cash used in investing activities	(1.1)	(5.7)
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>		
Repayments of debt	(35.3)	(4.0)
Increase (decrease) in borrowings from non-trade floor plans	19.6	4.0
Proceeds from debt	0.5	—
Other financing	(0.3)	—
Net cash provided by (used in) financing activities	(15.5)	—
<b>CASH FLOWS FROM DISCONTINUED OPERATIONS</b>		
Net cash used in discontinued operations	—	(0.1)
<b>NET CHANGE IN CASH AND RESTRICTED CASH</b>	(13.6)	3.2
Cash and restricted cash at beginning of period	77.0	58.6
Cash and restricted cash at end of period	\$ 63.4	\$ 61.8

See [Notes accompanying notes](#) to the [Condensed Consolidated Financial Statements](#), unaudited condensed consolidated financial statements.

**NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**(Dollars in thousands, except per share amounts)**  
(Unaudited)

**NOTE 1 – DESCRIPTION –DESCRIPTION OF BUSINESS AND SIGNIFICANT ACCOUNTING POLICIES**

**Description of Business**

Unless the context requires otherwise, references in these financial statements to "RumbleOn," the "Company," "we," "us," and "our" refer to RumbleOn, Inc. and its consolidated subsidiaries.

RumbleOn, Inc. is headquartered in the Dallas Metroplex and completed its initial public offering in 2017. We operate primarily through two operating segments, which are also our reportable segments for segment reporting: our powersports dealership group and Wholesale Express, LLC ("Express"), a transportation services provider. We were incorporated in 2013. We have grown primarily through acquisition, the largest to date being our 2021 acquisition of the RideNow business followed by our 2022 acquisition of the Freedom Powersports business. These acquisitions added 54 powersports retailer in North America, offering dealerships to our Company.

We offer a wide selection of new and used pre-owned motorcycles, all-terrain vehicles ("ATV"), utility terrain or side-by-side vehicles ("SXS"), personal watercraft ("PWC"), snowmobiles, and other powersports products, including parts, apparel, accessories, finance & insurance products and services ("F&I"), and aftermarket products from a wide range of manufacturers. Additionally, we offer a full suite of financing, parts, repair and maintenance services, and our logistics services company, Wholesale Express, LLC ("Wholesale Express"), provides freight brokerage services facilitating transportation for dealers and consumers. services. As of September 30, 2023 March 31, 2024, we operated more than 55 54 retail locations representing 30 brands primarily with powersports franchises (motorcycles, ATVs, SXSs, PWCs, snowmobiles, and other powersports products) in the Sun Belt. Alabama, Arizona, California, Florida, Georgia, Kansas, Nevada, North Carolina, Ohio, Oklahoma, South Dakota, Texas, and Washington.

We source high quality pre-owned inventory via our proprietary cash offer website, Cash Offer technology, which allows us to purchase pre-owned units directly from consumers.

Express provides asset-light brokerage services facilitating automobile transportation primarily between and among dealers. We seek provide services focused on pre-owned vehicles to provide customers with a seamless experience, broad selection, and access to clients in all 50 states through our specialized and experienced team members, including sales staff and technicians. Our established network of convenient retail locations allows us to offer services throughout the vehicle life cycle.

Of our retail locations, 42 were acquired in 2021 in conjunction with the purchase of RideNow Powersports ("RideNow"). On February 18, 2022 we completed the acquisition of Freedom Powersports, LLC ("Freedom Powersports") and Freedom Powersports Real Estate, LLC (together with Freedom Powersports, the "Freedom Entities"). We are headquartered in the Dallas Metroplex and completed our initial public offering in 2017.

Through June 30, 2023, we participated in the automotive industry through our wholly owned wholesale distributor of used automotive inventory, Wholesale, Inc. ("Wholesale Inc."), and our exotics retailer AutoSport USA, Inc., which did business under the name Got Speed and was previously reported in the Automotive segment. We began to wind this business down beginning in the third quarter of 2022. The results of operations of this segment of our business are reported as discontinued operations within these Condensed Consolidated Financial Statements.

Since the acquisitions of RideNow and Freedom Powersports, we have made a handful of smaller acquisitions. We plan to continue the growth of our powersports footprint through strategic acquisitions, pre-qualified carriers.

**Basis of Presentation**

The accompanying unaudited Condensed Consolidated Financial Statements condensed consolidated financial statements of the Company have been prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP") for interim information and with the instructions on Form 10-Q and Rule 101 8-03 of Regulation S-X pursuant to the rules and regulations of the Securities and Exchange Commission ("SEC") for smaller reporting companies. The Condensed Consolidated Financial Statements condensed consolidated financial statements include the accounts of RumbleOn, Inc. and its subsidiaries, which are all wholly owned, including all our acquisitions from the dates such businesses were acquired, owned. In accordance with those rules and regulations, the Company has omitted certain information and notes required by U.S. GAAP for annual consolidated financial statements. In the opinion of management, the Condensed Consolidated Financial Statements these condensed consolidated financial statements contain all normal, recurring adjustments except as otherwise noted, necessary for the fair presentation of the Company's financial position and results of operations for the periods presented. The year-end condensed balance sheet data was derived from audited financial statements. These Condensed Consolidated Financial Statements condensed consolidated financial statements should be read in conjunction with the audited consolidated financial statements and notes thereto included in our Current the Company's Annual Report on Form 8-K filed on September 27, 2023 10-K for the year ended December 31, 2023 (the "2023 Form 10-K"). The results of operations for the three and nine months ended September 30, 2023 March 31, 2024 are not necessarily indicative of the results expected for the entire fiscal year. Intercompany accounts and material intercompany transactions have been eliminated.

**Reclassifications**

Certain prior year amounts have been reclassified to conform to the current year's presentation. In particular, the financing lease obligation was reclassified from debt to other long-term liabilities on the consolidated balance sheet.

**Use of Estimates**

The preparation of these Condensed Consolidated Financial Statements financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions. Certain accounting estimates involve significant judgments, assumptions and estimates by management that have a material impact on affect the carrying

value reported amounts of certain assets and liabilities, disclosures and disclosure of contingent assets and liabilities, and at the date of the financial statements, as well as the reported amounts of revenue revenues and expenses during the reporting period, which management considers to be critical accounting estimates. The judgments, assumptions, and period. These estimates used by management are based on management's best knowledge of current events, historical experience, management's experience, actions that the Company may undertake in the future and on various other factors, which assumptions that are believed to be reasonable under the circumstances. Due to the inherent uncertainty involved with estimates, actual results may differ materially.

## Liquidity and Management's Plans

As described more completely in Note 5, the Company recently took steps to improve its liquidity and temporarily make certain debt covenants more favorable to the Company.

On August 9, 2023, the Company and Oaktree Fund Administration, LLC ("Oaktree") executed Amendment No. 5 to the Oaktree Credit Agreement (each as defined in Note 5), which provides the Company a covenant waiver as of June 30, 2023 and as of September 30, 2023, and more favorable financial covenants for each quarter through the second quarter of 2024. Amendment No. 5 also requires the Company to undertake certain actions to generate additional liquidity that will be used to repay a portion of the outstanding balance of the Oaktree Credit Agreement. These actions include divesting of certain assets and completing a proposed \$100,000 fully backstopped Rights Offering (as defined below).

The Company completed a sale-leaseback transaction pertaining to eight properties that is more fully discussed in Note 5. This transaction generated net cash proceeds of \$48,237 that were used to reduce outstanding debt under the Oaktree Credit Agreement. In addition, the Company has classified RumbleOn Finance loans receivable, that we are actively marketing, as held for sale at September 30, 2023.

On August 9, 2023, we announced our intention to conduct a proposed \$100,000 rights offering (the "Rights Offering") to the Company's existing shareholders whereby holders of record of our common stock will be granted a dividend of subscription rights to purchase a designated number of shares of Class B Common Stock at a price to be determined by the Special Committee of the Board. If the Rights Offering is not fully subscribed for, any stockholders who exercise their basic subscription rights will have an over-subscription right to purchase additional shares of Class B Common Stock that would otherwise remain unsubscribed for at the expiration date for the Rights Offering. No fractional shares of Class B Common Stock will be issued in the Rights Offering. The subscription rights are not transferable, and there will be no public market for the subscription rights. The subscription period for the Rights Offering is expected to commence on or about November 13, 2023 and terminate approximately 16 calendar days thereafter, on November 28, 2023. The Company also entered into a Standby Purchase Agreement on August 8, 2023 (the "Standby Purchase Agreement") with Mark Tkach, William Coulter, and Stone House Capital Management, LLC, a Delaware limited liability company ("Stone House" and collectively, the "Standby Purchase Agreement") that provides a binding commitment to purchase up to \$100,000 of shares of Class B Common Stock in the aggregate from the Standby Purchasers if the Rights Offering is not fully subscribed. The net proceeds of the Rights Offering are intended to be used to repay a portion of the debt under the Oaktree Credit Agreement and to fund the growth and development of the Company's business, including through possible acquisitions and other corporate purposes.

The Company monitors its working capital and determines what operating adjustments it needs to make in order to stay compliant with its various debt covenants. These adjustments can include a liquidation of inventory, expense reductions, and changes to capital expenditures. Management has considered these plans, including if they are within the control of the Company, in evaluating ASC 205-40, *Presentation of Financial Statements*. Management believes the above actions are sufficient to allow the Company to meet its obligations as they become due for a period of at least 12 months from the issuance of these financial statements and to comply with the amended financial covenants of Amendment No. 5. Management believes that its plans alleviate substantial doubt regarding the Company's ability to continue as a going concern.

In the event the Company is not able to conduct the Rights Offering or otherwise fails to close the Rights Offering by December 1, 2023, absent extension or further agreement, the Company would not be in compliance with its covenants under the Oaktree Credit Agreement as amended. Under those circumstances, and in accordance with the terms of the Oaktree Credit Agreement, Oaktree would have the right to demand payment of the outstanding indebtedness and the Company would be required to satisfy the obligation or negotiate further amendments to the agreement. If this were to occur, the Company would likely seek new or additional sources of financing or seek additional capital through public offerings, either of which may or may not be possible at terms acceptable to the Company, or at all.

## Correction [Table of an Immaterial Misstatement Related to Prior Periods Contents](#)

### During

additional information becomes available, or actual amounts are determinable, the fourth quarter of 2022, the Company identified a misstatement in its recorded estimates are revised. Consequently, operating results can be affected by revisions to prior accounting for internal powersports revenue and internal powersports cost of sales, which were included in the consolidated statements of operations rather than being eliminated, which resulted in an overstatement of both revenue and cost of sales, with no impact to gross profit, operating income (loss), or net income (loss). The misstatement impacted the unaudited Condensed Consolidated Statements of Operations for the periods ended March 31, 2022, June 30, 2022, and September 30, 2022. estimates.

The Company evaluated the misstatement and concluded that the impact was not material, either individually or in the aggregate, to its current or previously issued consolidated financial statements. The Company has corrected the Condensed Consolidated Statements of Operations by decreasing powersports revenue and cost of sales for the three months ended September 30, 2022 by \$19,614 and for the nine months ended September 30, 2022 by \$52,426.

## Recent Pronouncements

### Adoption of New Accounting Standards

*Debt—Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging—Contracts in Entity's Own Equity (Subtopic 815-40)*

On January 1, 2023 January 1, 2024, the Company adopted Accounting Standards Update ("ASU") 2016-13, *Financial Instruments - Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments* ("ASU 2016-13"), which amended the guidance on the impairment of financial instruments by requiring measurement and

recognition of expected credit losses for financial assets held. The standard did not have a material impact on the Company's Condensed Consolidated Financial Statements for the nine months ended September 30, 2023.

In March 2020, the Financial Accounting Standards Board ("FASB") issued ASU 2020-04, *Reference Rate Reform* (Topic 848), and in December 2022 subsequently issued ASU 2022-06, to temporarily ease the potential burden in accounting for reference rate reform. The standards provide optional expedients and exceptions for applying U.S. GAAP to existing contracts, hedging relationships, and other transactions affected by reference rate reform. The standards only apply to contracts and hedging relationships that reference the London Interbank Offered Rate ("LIBOR") or another reference rate expected to be discontinued due to reference rate reform. The standards were effective upon issuance and can generally be applied through December 31, 2024. Our senior secured debt and most of our floorplan arrangements transitioned from LIBOR to the use of the Secured Overnight Financing Rate ("SOFR") as an alternative benchmark rate effective July 1, 2023 under the Oaktree Credit Agreement, as amended. The Company adopted this guidance as of July 1, 2023, and the standard did not have a material impact on the Company's Condensed Consolidated Financial Statements for the nine months ended September 30, 2023.

#### **Accounting Standards Not Yet Adopted**

In August 2020, the FASB issued ASU 2020-06, *Debt - Debt with Conversion and Other Options and Derivatives and Hedging - Contracts in Entity's Own Equity*, which simplifies the accounting for convertible debt instruments by reducing the number of accounting models and the number of embedded conversion features that could be recognized separately from the primary contract. This ASU requires a convertible debt instrument to be accounted for as a single liability measured at its amortized cost, as long as no other features require bifurcation and recognition as derivatives. This ASU requires an entity to use the if-converted method in the diluted earnings per share calculation for convertible instruments. This ASU will be effective for us in the first quarter of 2024, and permits the use of either using the modified retrospective or fully retrospective method. As a result of transition. We are evaluating this adoption, the timing Company de-recognized the remaining unamortized debt discount of \$3.7 million on its 6.75% convertible secured senior notes and effects therefore no longer recognizes any amortization of such debt discount as interest expense. Upon adoption of ASU 2020-06, the Company reclassified the \$3.7 million unamortized debt discount from additional paid-in-capital to long-term debt and also recorded a \$9.8 million cumulative adjustment credit to retained earnings for amortization from the issuance date through January 1, 2024 with an offset to additional paid-in-capital. The impact of our adoption of this ASU on our standard was \$0.02 per share for the three months ended March 31, 2024, which reflected the reduction of non-cash interest expense. The prior period consolidated financial statements. statements have not been retrospectively adjusted and continue to be reported under the accounting standards in effect for those periods.

#### **Accounting Recent Pronouncements Not Yet Adopted**

##### Segment Reporting (Topic 280): Improvements to Reportable Segment Disclosures

Issued in November 2023, ASU 2023-07, *Segment Reporting (Topic 280): Improvements to Reportable Segment Disclosures*, requires a public entity to disclose significant segment expenses and other segment items on an annual and interim basis and provide in interim periods all disclosures about a reportable segment's profit or loss and assets that are currently required annually. Additionally, it requires a public entity to disclose the title and position of the Chief Operating Decision Maker ("CODM"). The ASU does not change how a public entity identifies its operating segments, aggregates them, or applies the quantitative thresholds to determine its reportable segments. The new standard is effective for Business Combinations us for fiscal year 2024 and interim periods beginning in 2025, with early adoption permitted. We will adopt this standard beginning with our 2024 Annual Report on Form 10-K. We expect this ASU to only impact our disclosures, which will be made on a retrospective basis, with no impacts to our results of operations, cash flows and financial condition.

##### Total consideration transferred for acquisitions is allocated Income Taxes (Topic 740): Improvements to Income Tax Disclosures

Issued in December 2023, ASU 2023-09, *Income Taxes (Topic 740): Improvements to Income Tax Disclosures*, focuses on the rate reconciliation and income taxes paid. This ASU requires disclosure, on an annual basis, a tabular rate reconciliation using both percentages and currency amounts, broken out into specified categories with certain reconciling items further broken out by nature and jurisdiction to the tangible extent those items exceed a specified threshold. In addition, the ASU requires disclosure of income taxes paid, net of refunds received disaggregated by federal, state/local, and intangible assets acquired foreign and liabilities assumed, by jurisdiction if any, based on their fair values the amount is at least 5% of total income tax payments, net of refunds received. The new standard is effective for the dates of acquisition. This purchase price allocation process requires management Company for 2025, with early adoption permitted. An entity may apply the amendments in this ASU prospectively by providing the revised disclosures for the period ending December 31, 2025 and continuing to make significant estimates and assumptions provide the pre-ASU disclosures for the prior periods, or may apply the amendments retrospectively by providing the revised disclosures for all periods presented. We expect this ASU to only impact our disclosures with respect to intangible assets and other fair value adjustments with respect to certain assets acquired and liabilities assumed. The fair value of identifiable intangible assets is based on detailed valuations that use information and assumptions determined by management. Any excess of purchase price over the fair value of the net tangible and intangible assets acquired is allocated to goodwill. While we use our best estimates and assumptions to accurately value assets acquired and liabilities assumed at the acquisition date as well as any contingent consideration, where applicable, our estimates are inherently uncertain and subject to refinement. As a result, during the measurement period, which may be up to one year from the acquisition date, we record adjustments to the assets acquired and liabilities assumed with the corresponding offset to goodwill. Upon conclusion of the measurement period or final determination of the values of assets acquired or liabilities assumed, whichever comes first, any subsequent adjustments are recorded no impacts to our Condensed Consolidated Statements results of Operations.

We use the income approach to determine the fair value of certain identifiable intangible assets including franchise rights. This approach determines fair value by estimating after-tax operations, cash flows, attributable to these assets over their respective useful lives and then discounting these after-tax cash flows back to a present value. We base our assumptions on estimates of future cash flows, expected growth rates, etc. We base the discount rates used to arrive at a present value as of the date of acquisition on the time value of money and certain industry-specific risk factors. We believe the estimated purchased franchise rights and non-compete intangible asset amounts so determined represent the fair value at the date of acquisition and do not exceed the amount a third-party would pay for the assets. financial condition.

#### [Table of Contents](#)

## NOTE 2 - ACQUISITIONS - REVENUE

### Freedom Transaction

On February 18, 2022, RumbleOn acquired 100% The significant majority of the equity interests Company's revenue is from contracts with customers. In the following tables, revenue is disaggregated by major lines of goods and services and timing of transfer of goods and services. We have determined that these categories depict how the Freedom Entities (the "Freedom Transaction"). The Freedom Entities own nature, amount, timing, and operate powersports retail dealerships, including associated real estate, involving sales, financing, uncertainty of our revenue and parts and service of new and used motorcycles, all-terrain vehicles ("ATVs"), utility task vehicles ("UTVs"), scooters, side-by-sides, sport bikes, cruisers, watercraft, and other powersports vehicles in Texas, Alabama, and Georgia. We completed this acquisition to increase our powersports footprint.

We accounted for the Freedom Transaction as a business combination. Under the terms of the agreement governing the Freedom Transaction, all outstanding equity interests of the Freedom Entities were acquired for total consideration of \$97,237, consisting of \$70,569 paid in cash, including certain transaction expenses paid on behalf of the Freedom Entities' equity holders, and the issuance of 1,048,718 shares of Class B Common Stock with a value of \$26,511 on the date of the acquisition. On June 22, 2022, 2,446 shares of Class B Common Stock held in escrow were cancelled as part of the final purchase price adjustment.

The following table summarizes the consideration transferred by the Company for the Freedom Transaction:

Cash	\$	70,569
Class B Common Stock		26,511
Acquiree transaction expenses paid by the Company at closing		157
<b>Total purchase price consideration</b>	<b>\$</b>	<b>97,237</b>

### Freedom Transaction Estimated Fair Value of Assets and Liabilities Assumed

The Company finalized its accounting for consideration transferred, assets acquired, and liabilities assumed during the quarter ended March 31, 2023, in connection with the acquisition of the Freedom Entities. All such adjustments were recorded within the one-year measurement period. The preparation of the valuation required the use of significant assumptions and estimates. Critical estimates included, but were not limited to, future expected cash flows including projected revenue and expenses, and the applicable discount rates. These estimates were based on assumptions that the Company believed to be reasonable. However, actual results may differ from these estimates. Total goodwill from the acquisition of the Freedom Entities acquisition was \$29,359, are affected by economic factors.

All of the assets and liabilities acquired through the acquisition of the Freedom Entities, including goodwill, have been included in the Company's Powersports reporting segment, as the Freedom Entities business is entirely within the Company's Powersports reporting segment.

The Company used the income approach to determine the fair value of certain identifiable intangible assets including franchise rights. This approach determines fair value by estimating after-tax cash flows attributable to these assets over their respective useful lives and then discounting these after-tax cash flows back to a present value. The Company based its assumptions on estimates of future cash flows, expected growth rates, retention factors, etc. Discount rates used to arrive at a present value as of the date of acquisition are based on the time value of money and certain industry-specific risk factors. The Company believes the estimated purchased franchise rights and non-compete agreements amounts so determined represented the fair value at the date of acquisition, and did not exceed the amount a third party would pay for such assets.

### Pro Forma Information for Acquisition (Unaudited)

The Company has included the operating results of the Freedom Entities in its consolidated statements of operations since February 18, 2022. The following unaudited pro forma financial information presents consolidated information of the

(\$ in millions)	Three Months Ended March 31,	
	2024	2023
<b>Revenue</b>		
New vehicles	\$ 155.0	\$ 156.4
Pre-owned vehicles	59.8	76.9
Total powersports vehicles	214.8	233.3
Parts, service and accessories	52.9	59.1
Finance and insurance, net	25.8	27.2
Vehicle transportation services	14.3	14.8
Total revenue	<b>\$ 307.8</b>	<b>\$ 334.4</b>
<b>Timing of revenue recognition</b>		
Goods and services transferred at a point in time	\$ 275.7	\$ 303.7
Good and services transferred over time	32.1	30.7
Total revenue	<b>\$ 307.8</b>	<b>\$ 334.4</b>

Company as if the Freedom Transaction had been completed at January 1, 2021. The pro forma impact to our operating results for the nine months ended September 30, 2023 was not materially different from our reported results.

	Nine Months Ended September 30, 2022	
Pro forma revenue	\$	1,151,060
Pro forma net income (loss) from continuing operations	\$	27,102
Earnings (loss) per share from continuing operations - basic	\$	1.71
Earnings (loss) per share from continuing operations - diluted	\$	1.70

#### Red Hills Powersports Acquisition

On March 3, 2023, the Company acquired Red Hills powersports, a single retail location representing 10 original equipment manufacturers ("OEMs") in Tallahassee, Florida, for total consideration approximating \$3,300 in cash. This transaction was accounted for as a business combination and has been included in the Company's Powersports reporting segment. Pro forma results are not provided for this transaction as the acquisition was not material to our operations.

#### NOTE 3 – LEASES

##### Lease Commitments

We determine whether an arrangement is a lease at inception and whether such leases are operating or financing leases. For each lease agreement, the Company determines its lease term as the non-cancellable period of the lease and includes options to extend or terminate the lease when it is reasonably certain that it will exercise that option. We use these options in determining our capitalized financing and right-of-use assets and lease liabilities. Our lease agreements do not contain any material residual value guarantees or material restrictive covenants. To determine the discount rate to use in determining the present value of the lease payments, we use the rate implicit in the lease if determinable, otherwise we use our incremental borrowing rate.

On September 8, 2023, the Company sold eight properties to a third party for \$49,958, which generated net cash proceeds of \$48,237 after transaction fees, and concurrently entered into an agreement to lease the properties back from the buyer. The initial term of the lease is 15 years and contains five renewal option terms of five years each, which the Company has currently assumed will be exercised, for a total of 40 years. Due to the control over the locations maintained by the Company, this transaction will be accounted for using the failed sale-leaseback accounting model, with the land and buildings remaining on the Company's balance sheet and the treatment of the lease as a financing obligation. Annual rental expense is \$3,747 collectively, with rent increasing annually by the lesser of two times the Consumer Price Index or 2% during the initial term and all option periods. See Note 5 for additional information.

The following table reflects the balance sheet presentation of our operating lease assets and liabilities:

Leases	Classification	September 30, 2023		December 31, 2022	
Assets:					
Operating	Right-of-use assets	\$	167,236	\$	161,822
Total right-of-use assets		\$	167,236	\$	161,822
Liabilities:					
Current:					
Operating	Accounts payable and other current liabilities	\$	24,723	\$	24,075
Non-Current:					
Operating	Operating lease liabilities		135,726		126,695
Total		\$	160,449	\$	150,770

The weighted-average remaining lease term and discount rate for the Company's operating leases are as follows:

	September 30, 2023	December 31, 2022
Weighted average lease term-operating leases	14.0 years	14.6 years
Weighted average discount rate-operating leases	14.0%	14.0%

The following table provides information related to the lease costs of finance and operating leases, including an immaterial amount of short-term lease expense, for the three and nine months ended September 30, 2023 and 2022:

Lease Expense	Income Statement Classification	Three Months Ended September 30,		Nine Months Ended September 30,	
		2023	2022	2023	2022

Operating	Selling, general and administrative expenses	\$ 8,825	\$ 7,894	\$ 25,499	\$ 22,961
Finance:					
Amortization of assets under lease	Depreciation and amortization expense	—	—	—	—
Interest on lease liabilities	Interest expense	—	—	—	—
Total lease costs		\$ 8,825	\$ 7,894	\$ 25,499	\$ 22,961

In connection with the acquisition of the RideNow companies on August 31, 2021 (the "RideNow Transaction"), the Company entered into related party leases for 24 properties. The following table provides information related to the portion of lease assets and liabilities which are attributable to related party leases at September 30, 2023:

Leases	Balance Sheet Classification	September 30, 2023	December 31, 2022
<b>Assets:</b>			
Right of use assets – related party		\$ 108,527	\$ 105,264
All other right-of-use assets		58,709	56,558
<b>Total</b>	<b>Right-of-use assets</b>	<b>\$ 167,236</b>	<b>\$ 161,822</b>
<b>Liabilities:</b>			
<b>Current:</b>			
Current portion of lease liabilities – related party		\$ 14,120	\$ 14,492
Current portion of lease liabilities – other operating leases		10,603	9,583
<b>Total</b>	<b>Accounts payable and other current liabilities</b>	<b>\$ 24,723</b>	<b>\$ 24,075</b>
<b>Non-Current:</b>			
Long-term portion of lease liabilities – related party		\$ 96,568	\$ 93,713
Long-term portion of lease liabilities – all other leases		39,158	32,982
<b>Total</b>	<b>Operating lease liabilities</b>	<b>\$ 135,726</b>	<b>\$ 126,695</b>
<b>Total lease liabilities</b>		<b>\$ 160,449</b>	<b>\$ 150,770</b>

Supplemental cash flow information related to operating leases for the nine months ended September 30, 2023 and 2022 was as follows:

	Nine Months Ended September 30,	
	2023	2022
Cash payments for operating leases	\$ 21,869	\$ 18,643
ROU assets obtained in exchange for new operating lease liabilities	\$ 14,383	\$ 15,912

The following table summarizes the future minimum payments for operating leases at September 30, 2023 due in each year ending December 31:

Year	Operating Leases
Remainder of 2023	\$ 7,774
2024	30,318
2025	28,601
2026	26,927
2027	26,131
Thereafter	282,415
<b>Total lease payments</b>	<b>402,166</b>
Less: imputed interest	(241,717)
<b>Present value of operating lease liabilities</b>	<b>\$ 160,449</b>

#### NOTE 4 – GOODWILL AND INTANGIBLE ASSETS

	September 30, 2023	December 31, 2022
Goodwill, gross	\$ 242,543	\$ 239,788
Accumulated impairment	(218,646)	(218,646)

Goodwill, net	\$	23,897	\$	21,142
Other intangible assets:				
Franchise rights (indefinite-lived)	\$	236,728	\$	236,678
Non-compete agreements and other (definite-lived)		23,796		23,795
		260,524		260,473
Less: accumulated amortization		(20,067)		(13,060)
Intangible assets, net	\$	240,457	\$	247,413

The following summarizes the changes in the carrying amount of goodwill, net, by reportable segment from December 31, 2022 to September 30, 2023.

	Powersports		Vehicle Logistics		Total
Balance at December 31, 2022	\$	20,294	\$	848	\$ 21,142
Acquisition of Red Hills Powersports		2,600		—	2,600
Purchase accounting adjustments for prior year acquisitions		155		—	155
Balance at September 30, 2023	\$	23,049	\$	848	\$ 23,897

In addition to annual impairment testing, the Company monitors for events and circumstances that could indicate that it is more likely than not that its goodwill, indefinite lived intangible assets, finite lived intangible assets, and other long-lived assets are impaired or not recoverable (a triggering event), requiring an interim impairment test. During the quarter ended September 30, 2023, the Company considered a number of factors including, but not limited to, current macroeconomic conditions such as inflation, economic growth, and interest rate movements, industry and market considerations, stock price performance (including performance relative to peers), and overall financial performance of the Company. Based on the analysis of relevant events and circumstances, the Company concluded a triggering event had not occurred as of September 30, 2023. The Company will continue to monitor both macroeconomic and company-specific events and circumstances in future periods and if a triggering event is identified prior to the Company's fourth quarter annual impairment test, management will complete an interim impairment test at that time.

Estimated annual amortization expense related to our definite-lived intangible assets:

Remainder of 2023	\$	909
2024		2,675
2025		99
Thereafter		—
Total	\$	3,683

#### NOTE 5 – SECURED DEBT

Senior secured Long-term debt consisted of the following as of September 30, 2023, March 31, 2024 and December 31, 2022:

	September 30, 2023	December 31, 2022
Term Loan Credit Agreement maturing on August 31, 2026. Payments are required quarterly. Interest rate at September 30, 2023 was 13.75%.	\$ 297,680	\$ 346,066
Financing obligation	47,933	
ROF Consumer Finance Facility maturing on February 4, 2025. Interest rate at September 30, 2023 was 10.42%.	14,606	25,000
Notes payable for leasehold improvements and other	1,528	—
Total principal amount	361,747	371,066
Less: unamortized debt issuance costs	(26,009)	(28,572)
Total secured debt	335,738	342,494
Less: Current portion of secured debt	(14,893)	(3,645)
Secured debt, net of current portion	\$ 320,845	\$ 338,849

(\$ in millions)	March 31, 2024	December 31, 2023
Term Loan Credit Agreement due August 2026	\$ 226.0	\$ 248.7
Convertible senior 6.75% promissory notes due January 2025	38.8	38.8
RumbleOn Finance line of credit <sup>(1)</sup>	—	12.2
Fleet notes and other	2.0	2.1

Total principal amount	266.8	301.8
Less: unamortized debt issuance costs <sup>(2)</sup>	(21.6)	(27.5)
Total long-term debt	245.2	274.3
Less: Current portion of long-term debt	(39.2)	(35.6)
Long-term debt, net of current portion	\$ 206.0	\$ 238.7

Floorplan (1) Terminated after it was paid in full.

(2) Amount at December 31, 2023 included \$3.7 million of unamortized debt discount associated with the convertible senior 6.75% promissory notes that was derecognized in conjunction with the Company's adoption of ASU 2020-06 as of January 1, 2024. See Note 1.

Vehicle floor plan notes payable as of September 30, 2023, March 31, 2024 and December 31, 2022: December 31, 2023 were as follows:

	September 30, 2023	December 31, 2022
Floorplan notes payable - trade	\$ 94,227	\$ 75,387
Floorplan notes payable - non-trade	192,908	144,789
Floorplan notes payable	\$ 287,135	\$ 220,176

(\$ in millions)	March 31, 2024	December 31, 2023
Floor plan notes payable - trade	\$ 91.2	\$ 101.9
Floor plan notes payable - non-trade	209.0	189.4
Floor plan notes payable	\$ 300.2	\$ 291.3

[Table of Contents](#)

#### Term Loan Credit Agreement

The Company has a term loan credit agreement (the "Oaktree Credit (as amended, the "Credit Agreement") among the Company, as borrower, the lenders party thereto, (the "Lenders"), and Oaktree Fund Administration, LLC, as administrative agent and collateral agent. The Oaktree Credit Agreement provides for secured credit facilities Other than certain interest that is payable in kind ("PIK") at the form of a \$280,000 principal amount of initial term loans (the "Initial Term Loan Facility") and a \$120,000 in aggregate principal amount of delayed draw term loans (the "Delayed Draw Term Loans Facility"). Loans under the Delayed Draw Term Loans Facility were subject to customary conditions precedent for facilities of this type including the need to meet certain financial tests and were Company's option, no additional amounts are available to be drawn up to March 1, 2023. Warrants that borrowed under the Company had granted to purchase \$40,000 of shares of Class B Common Stock to Oaktree Capital Management, L.P. and its lender affiliates in consideration of the initial loan expired in April 2023. Credit Agreement.

Borrowings under the Oaktree Credit Agreement bear interest at a rate per annum equal, at the Company's option, to either (a) SOFR (with a floor of 1.00%), plus an applicable margin of 8.25%, which replaced a LIBOR rate effective July 1, 2023 with the fourth amendment to the Oaktree Credit Agreement, or (b) a fluctuating adjusted base rate in effect from time to time, plus an applicable margin of 7.25%, provided that Amendment No. 5 (as defined below) provides that an additional 0.50% 0.5% of PIK interest will accrue from the Amendment No. 5 Effective Date (as defined below) through June 30, 2024 (which additional interest may be paid in cash or paid in kind). At the Company's option, 1.0% one percent (1.00%) of such interest may be payable in kind. Interest expense for The interest rate on March 31, 2024, was 14.19%, including the three and nine months ended September 30, 2023 was \$13,587 and \$39,882, respectively, which included amortization additional 0.5% of \$1,758 and \$5,018, respectively, related to the discount and debt issuance costs. Interest expense for the three and nine months ended September 30, 2022 was \$9,605 and \$29,305, respectively, which included amortization of \$1,152 and \$4,388, respectively for the discount and debt issuance costs.

#### PIK interest.

Obligations under the Oaktree Credit Agreement are secured by a first-priority lien on substantially all of the assets of the Company and its wholly owned subsidiaries (the "Subsidiary Guarantors"), although certain assets of the Company and Subsidiary Guarantors are subject to a first-priority lien in favor of floorplan floor plan lenders, and such liens and priority are subject to certain other exceptions. The Subsidiary Guarantors also guarantee the obligations of the Company under the Oaktree Credit Agreement.

At June 30, 2023 During the quarter ended March 31, 2024, the Company repaid \$23.0 million in principal under the Credit Agreement and incurred \$10.4 million of interest expense, \$2.2 million of which represented amortization of the debt discount and deferred financing costs, and \$0.3 million that was not paid in kind. Interest expense for the quarter ended March 31, 2023 was \$12.9 million, including amortization of the debt discount and deferred financing costs of \$1.6 million. The Company provided customary representations and covenants under the Credit Agreement, which include financial covenants and collateral performance covenants. The Company was in compliance with certain leverage ratio financial the covenants under the Oaktree Credit Agreement. On August 9, 2023 (the "Amendment No. 5 Effective Date"), the Company, the Subsidiary Guarantors party thereto, Oaktree, and the Lenders party thereto executed Amendment No. 5 to the Oaktree Credit Agreement (the "Amendment No. 5"), pursuant to which, among other things: (i) all leverage ratio financial covenants under the Oaktree Credit Agreement were (a) eliminated and not tested for the for the quarters ending June 30, 2023 and September 30, 2023 and (b) made less restrictive for the quarters ending December 31, 2023, March 31, 2024, and June 30, 2024; (ii) additional performance covenants were added requiring the Company and its subsidiaries to use commercially reasonable best efforts to dispose of certain non-core real estate and monetize its consumer loan portfolios (with corresponding

requirements to use such proceeds of such sales to pay down the term loans under the Oaktree Credit Agreement); (iii) an additional performance covenant was added requiring the Company raise net cash proceeds of not less than \$100,000 from the issuance of common equity interests in the Company by December 1, 2023 (with a corresponding requirement to use certain of such equity proceeds to pay down the term loans under the Oaktree Credit Agreement), and (iv) an additional performance covenant was added requiring the Company to issue warrants, exercisable for an anticipated aggregate of 1,212,121 shares at an anticipated price of \$12 per share, in a form to be agreed upon, to the Lender. In connection with Amendment No. 5, the Company agreed to pay a fee which may be paid in cash or paid in kind. The warrants were issued on August 14, 2023. See Note 8: "Common Stock Warrants" for additional information.

The elimination of the June 30, 2023 leverage ratio financial covenants was made effective as of June 30, 2023, and the Lenders agreed in Amendment No. 5 that no event of default existed from such leverage ratio financial covenants as of such date.

Based on the amended terms of the Oaktree Credit Agreement, the Company believes that it will be in compliance with all covenants under the Oaktree Credit Agreement as amended by Amendment No. 5, for the 12-month period from the issuance of these financial statements. As of September 30, 2023, the Company has classified obligations under the Oaktree Credit Agreement as a non-current liability. March 31, 2024.

#### Financing Obligation Convertible Senior 6.75% Promissory Notes

On September 8, 2023, certain subsidiaries of the Company (collectively, the "Tenant") and a third party, as the landlord entered into a sale and leaseback transaction related to eight of the Company's properties, which generated net cash proceeds of \$48,237. The transaction, however, did not transfer control of the properties to the landlord. As a result, the Company accounted for this transaction as a failed sale-leaseback transaction, in which the assets remain on the financial statements and a financing liability was recorded for the proceeds from the sale. The Company incurred \$1,787 in transaction costs interest expense related to the sale-leaseback, which are therefore considered debt issuance costs convertible notes of \$0.7 million and will be amortized as interest expense over \$1.4 million for the expected life three months ended March 31, 2024 and 2023, respectively, including amortization of the lease.

The resulting Lease Agreement is considered a triple net lease, which requires debt discount of \$0.7 million for the Tenant to pay substantially all costs associated with the properties, and has a contractual term of 15 years, with five separate renewal options at the Company's option. The renewal terms are effective to all, but not less than all, 2023 period. There was no such amortization in 2024. See Note 1 for discussion of the property subject to the Lease Agreement. The Company has assumed an expected lease life adoption of 40 years to include all renewals. The initial annual rent under the Lease Agreement is \$3,747, and the lease provides for rent increasing annually by the lesser of two times the Consumer Price Index or 2% during the initial term and all option periods. ASU 2020-06.

The Company imputed the interest rate on the lease based upon the contractual minimum payments and the proceeds from the sale. Based on this, the Company has determined the effective interest rate on the debt to be 7.4%. Any changes in payments due to the annual rental escalations will be recorded as interest expense as incurred.

#### RumbleOn Finance Line of Credit

On February 4, 2022, RumbleOn Finance and ROF SPV I, LLC ("ROF"), an indirect subsidiary of RumbleOn, entered into a consumer finance facility ("ROF Consumer Finance Facility") primarily to provide up to \$25,000 for the underwriting of consumer loans underwritten by ROF. Credit Suisse AG, New York Branch ("Credit Suisse") is the managing agent of the ROF Consumer Finance Facility, and RumbleOn Finance is the borrower. All loans under this agreement are secured by certain collateral including the consumer finance loans purchased by the ROF Consumer Finance Facility.

We provided customary representations and covenants under the related agreements which include financial covenants and collateral performance covenants. Loans sold to or As disclosed in the ROF Consumer Finance Facility are subject to certain eligibility criteria, concentration limits and reserves.

As of September 30, 2023 consolidated financial statements in our 2023 10-K, on January 2, 2024, RumbleOn Finance did not meet the interest rate spread requirement set forth in Company repaid the ROF Consumer Finance Facility as a result of increased interest rates and limited growth of our consumer finance business. The lender has indicated no current intention to request early repayment of the principal entire balance due under this loan from cash proceeds from the ROF Consumer Finance Facility as 2023 sale of September 30, 2023. We intend to sell the loan portfolio held at RumbleOn Finance and pay off the outstanding balance during the fourth quarter of 2023. As of September 30, 2023, the outstanding balance due under the ROF Consumer Finance Facility was \$14,606, which is included in the current portion of long-term debt and Finance. This line of credit in the accompanying Condensed Consolidated Balance Sheets. was then terminated.

#### The loans receivable held by RumbleOn Finance, which are recorded at the lower of cost or fair value and which approximated \$21,555 Vehicle Floor Plan Notes Payable

Vehicle floor plan notes payable are classified as loan receivable assets held for sale in the accompanying Condensed Consolidated Balance Sheets as of September 30, 2023.

#### Floorplan Notes Payable

The Company relies on its floorplan vehicle financing credit lines ("Floorplan Lines") to finance new and used vehicle inventory at its retail locations and for the wholesale segment. Floorplan current liabilities. Floor plan notes payable - trade (trade) reflects amounts borrowed to finance the purchase of specific new and, to a lesser extent, used pre-owned powersports vehicle inventory with corresponding manufacturers' captive finance subsidiaries ("trade lenders"). Floorplan Floor plan notes payable - non-trade (non-trade) represents amounts borrowed to finance the purchase of specific new and used pre-owned powersports vehicle inventories with non-trade lenders. Changes in vehicle floorplan floor plan notes payable - trade (trade) are reported as operating cash flows, and changes in floorplan floor plan notes payable - non-trade (non-trade) are reported as financing cash flows in the accompanying Consolidated Statements of Cash Flows.

Inventory serves as collateral under floorplan vehicle floor plan notes payable borrowings.

New inventory costs are generally reduced by manufacturer holdbacks, incentives, floor plan assistance, and non-reimbursement-based manufacturer advertising rebates, while the related vehicle floor plan payables are reflective of the gross cost of the powersports vehicle. The vehicle floor plan payables will generally also be higher than the

inventory balance cost due to the timing of the sale of a vehicle and payment of the related liability. Vehicle floor plan facilities are due on demand, but in its entirety also serves as collateral the case of new vehicle inventories, are generally paid within a few business days after the related vehicles are sold.

New vehicle floor plan facilities generally utilize SOFR or ADB (Average Daily Balance)-based interest rates while pre-owned vehicle floor plan facilities are based on prime or SOFR. The aggregate capacity to finance our inventory under the Oaktree Credit Agreement, new and pre-owned vehicle floor plan facilities as of March 31, 2024 was \$449.5 million, of which \$300.2 million was used.

The Company has a Floorplan Floor Plan Line with J.P. Morgan (the "J.P. Morgan "JPM Credit Line" Line") that terminates October 25, 2024 and provides for an interest rate of SOFR plus 2.0% based on the Company's fixed charged coverage ratio, as defined in the agreement that governs it. As of September 30, 2023, advances under the J.P. Morgan JPM Credit Line are limited to \$75,000 and the outstanding balance was \$31,215. Interest expense on the J.P. Morgan Credit Line for the three and nine months ended September 30, 2023 was \$474 and \$1,282, respectively, \$47.5 million as of March 31, 2024.

As

[Table of September 30, 2023, the Company was in compliance with the covenant terms of its floorplan agreements.](#)

#### Restricted Cash

[Amounts included in restricted cash are primarily comprised of the deposits required under the Company's various Floorplan Lines and RumbleOn Finance line of credit. Contents](#)

## NOTE 6 – CONVERTIBLE NOTES

As of September 30, 2023 and December 31, 2022, the outstanding convertible senior notes net of unamortized debt discount and issue costs are summarized as follows:

	September 30, 2023			December 31, 2022		
	Principal Amount	Debt Discount and Issue Costs	Carrying Amount	Principal Amount	Debt Discount and Issue Costs	Carrying Amount
Convertible senior notes	\$ 38,750	\$ (4,554)	\$ 34,196	\$ 38,750	\$ (6,860)	\$ 31,890
Less: Current portion	—	—	—	—	—	—
Long-term portion	\$ 38,750	\$ (4,554)	\$ 34,196	\$ 38,750	\$ (6,860)	\$ 31,890

#### Convertible Senior Notes

The convertible senior notes (the "Notes") were issued on January 14, 2020 pursuant to an Indenture (the "Indenture"), by and between the Company and the trustee. The Indenture includes customary representations, warranties and covenants by the Company. The Notes bear interest at 6.75% per annum, payable semiannually on January 1 and July 1 of each year. The Notes may bear additional interest under specified circumstances relating to the Company's failure to comply with its reporting obligations under the Indenture or if the Notes are not freely tradable as required by the Indenture. The Notes mature on January 1, 2025, unless earlier converted, redeemed or repurchased pursuant to their terms.

The initial conversion rate of the Notes is 25 shares of Class B Common Stock per \$1 principal amount of Notes, which is equal to an initial conversion price of \$40.00 per share. The conversion rate is subject to adjustment in certain events as set forth in the Indenture but will not be adjusted for any accrued and unpaid interest. In addition, upon the occurrence of a "make-whole fundamental change", the Company will, in certain circumstances, increase the conversion rate by a number of additional shares for a holder that elects to convert the Notes in connection with such make-whole fundamental change. Before July 1, 2024, the Notes will be convertible only under circumstances as described in the Indenture. No adjustment to the conversion rate as a result of conversion or a make-whole fundamental change adjustment will result in a conversion rate greater than 62 shares per \$1 in principal amount.

The Indenture contains a "blocker provision" which provides that no holder (other than the depository with respect to the Notes) or beneficial owner of Notes shall have the right to receive shares of the Class B Common Stock upon conversion to the extent that, following receipt of such shares, such holder or beneficial owner would be the beneficial owner of more than 4.99% of the outstanding shares of the Class B Common Stock.

The Notes are subject to events of default typical for this type of instrument. If an event of default, other than an event of default in connection with certain events of bankruptcy, insolvency or reorganization of the Company or any significant subsidiary, occurs and is continuing, the trustee by notice to the Company, or the holders of at least 25% in principal amount of the outstanding Notes by notice to the Company and the Trustee, may declare 100% of the principal of and accrued and unpaid interest, if any, on all the Notes then outstanding to be due and payable. The Notes also contain conversion features related to certain events, which include liquidation or dissolution, as well as fundamental changes to the structure or ownership of the Company.

The Company may redeem for cash all or any portion of the Notes, at its option, if the last reported sale price of the Class B Common Stock has been at least 130% of the conversion price then in effect for at least 20 trading days (whether or not consecutive), including the trading day immediately preceding the date on which the Company provides notice of redemption, during any 30 consecutive trading day period ending on, and including, the trading day immediately preceding the date on which the Company provides notice of redemption at a redemption price equal to 100.0% of the principal amount of the notes to be redeemed, plus accrued and unpaid interest to, but excluding, the redemption date. No sinking fund is provided for the Notes.

The Notes rank senior in right of payment to any of the Company's indebtedness that is expressly subordinated in right of payment to the Notes; equal in right of payment to any of the Company's unsecured indebtedness that is not so subordinated; effectively junior in right of payment to any of the Company's secured indebtedness to the extent of the value of the assets securing such indebtedness; and structurally junior to all indebtedness and other liabilities of current or future subsidiaries of the Company (including trade payables). Interest expense recognized with respect to the Notes for the three and nine months ended September 30, 2023 and 2022 was as follows:

	Three Months Ended September 30,		Nine Months Ended September 30	
	2023	2022	2023	2022
Contractual interest expense	\$ 657	\$ 657	\$ 1,972	\$ 1,970
Total interest expense	799	672	2,296	1,934
	\$ 1,456	\$ 1,329	\$ 4,268	\$ 3,904

#### NOTE 7 – STOCK-BASED COMPENSATION

The Company has a shareholder-approved stock incentive plan (as amended, the "Plan") allowing for the issuance of restricted stock units ("RSUs"), stock options, and other equity awards (collectively "Awards"). As of September 30, 2023, the number of shares authorized for issuance under the Plan was 3,291,461 shares of Class B Common Stock. RSUs and stock options awarded under the Plan are generally service/time-based and vest over a period of up to three years.

The following table reflects the Company's stock-based compensation expense for the three and nine months ended September 30, 2023 and 2022: expense:

	Three Months Ended September 30,		Nine Months Ended September 30,		
	2023	2022	2023	2022	
(\$ in millions)					
(\$ in millions)					
(\$ in millions)	<b>Three Months Ended March 31,</b>				
	<b>2024</b>		<b>2024</b>		
			<b>2023</b>		
Restricted Stock Units	Restricted Stock Units	\$3,077	\$2,606	\$10,898	\$7,237
Stock Options	Stock Options	—	—	—	—
Total stock-based compensation	Total stock-based compensation	\$3,077	\$2,606	\$10,898	\$7,237

As of September 30, 2023 On March 19, 2024, there were 820,916 unvested RSUs outstanding. The total unrecognized compensation expense related to outstanding equity awards was approximately \$9,914, which the Company expects made its annual grant with a total fair value of \$2.3 million to recognize eligible employees consisting of 238,577 time-based RSUs and 228,042 performance-based RSUs. The time-based RSU vest annually over a weighted-average three-year period and were valued at the prior day's closing price of approximately 19 months.

#### Pending Stock Option Grant to New Chief Executive Officer

In connection with Michael W. Kennedy's appointment as Chief Executive Officer, the Company granted Mr. Kennedy an award of performance-based stock options to purchase 825,000 shares ("Options") of the Company's RMBL Class B Common Stock (the "Performance Option Award"), which will of \$5.71 per share. The performance-based RSUs vest in installments over if and when certain target stock prices are reached and maintained for a maximum period of five minimum 30 trading days within three years starting on from the grant date, subject to meeting certain stock performance thresholds ranging from \$12.00 to \$40.00 for a period of 30 days and Mr. Kennedy's continued service with the Company through each such vesting date. The award was granted as an inducement to Mr. Kennedy's entry into employment and was approved by the Compensation Committee of the Company's Board of Directors, in accordance with Nasdaq Listing Rule 5635(c)(4). The award was granted outside of the Plan, as amended. The Performance Option Award will be granted two trading days after the completion of the Rights Offering and the exercise price per share of the Options will be equal to the closing price of the Class B Common Stock on the day before the grant, subject to the terms in Mr. Kennedy's employment agreement and award agreement.

#### NOTE 8 – COMMON STOCK WARRANTS

In connection with entering into Amendment No. 5, on August 14, 2023 the Company issued warrants to Oaktree and the Lenders to purchase up to 1,212,121 shares of Class B Common Stock at an exercise price of \$12.00 per share. Such warrants are exercisable for up to five years following the date of issuance.

The Company has classified the warrants as equity in accordance with ASC 815. The \$3.91 average per-share fair value of the warrants is being amortized as interest expense over the term of the loan. The fair value of the warrants performance-based RSUs was determined at issuance using a Black-Scholes pricing model with the following estimates: Monte Carlo model.

	August 14, 2023 Warrants Issued	
Exercise price per share	\$	12.00
Stock price on date of issuance	\$	7.20
Fair value per share	\$	5.01
Volatility		100 %
Expected term (years)		5
Risk-free interest rate		4.27 %
Dividend yield		— %
Total fair value at issuance date	\$	6,100

In addition, warrants issued in conjunction with a previous financing agreement to purchase 1,048 shares of the Company's Class B Common Stock at an exercise price of \$143.13 per share expired on October 30, 2023.

#### NOTE 9 5 – INCOME TAXES

The Company's Company recognized a tax benefit from income taxes on continuing operations of \$0.3 million for the three months and nine months ended September 30, 2023 was \$3,556 and \$9,706, respectively, March 31, 2024, representing an effective income tax rates rate of 17.7% and 17.4%, respectively, 2.8%. The difference between the U.S. federal income tax rate of 21.0% and RumbleOn's the Company's overall income tax rate was primarily due to state income tax, the tax effect of non-deductible executive compensation and a change in the valuation allowance for federal and state tax purposes.

The Company recognized a tax benefit of \$1.6 million for the three months ended March 31, 2023, representing an effective income tax rate of 8.8%. The difference between the U.S. federal income tax rate of 21.0% and the Company's overall income tax rate for the three and nine months ended September 30, 2023 March 31, 2023 was primarily due to the tax effect of non-deductible executive compensation, non-deductible interest expense, and discrete tax impacts of stock compensation vesting in the quarter.

The Company's provision for income taxes on continuing operations for the three months and nine months ended September 30, 2022 was \$678 and \$8,166, respectively, representing effective income tax rates of 15.4% and 23.3%, respectively. The difference between the federal income tax rate of 21.0% and the Company's overall income tax rate for the three months and nine months ended September 30, 2022 was primarily due to income tax expense on non-deductible expenses, valuation allowance expense associated with state net operating losses, and state income taxes, partially offset by a benefit associated with the change in the Company's effective state income tax rate.

#### NOTE 10 6 – EARNINGS (LOSS) LOSS PER SHARE

The Company computes basic and diluted earnings (loss) per share in conformity with the two-class method required for participating securities. Basic earnings (loss) per share from continuing operations is calculated by dividing income (loss) from continuing operations, net, by the weighed-average number of shares of common stock outstanding during the period. Diluted earnings (loss) per share from continuing operations is computed giving effect to all dilutive potential following common stock equivalents outstanding were anti-dilutive and were excluded from the calculations of loss per share for the period. Per share calculations pertaining to discontinued operations use the same number of shares as are used in the calculations for continuing operations. respective periods:

For purposes of these calculations, warrants to purchase 1,212,121 shares of Class B Common Stock having an exercise price of \$12.00 per share and warrants to purchase 1,048 shares of Class B Common Stock having an exercise price of \$143.13 were considered common stock equivalents that were antidilutive for the periods ended September 30, 2023. Warrants that expired earlier in 2023 were also antidilutive for all periods that they were outstanding. Unvested RSUs have been included in the calculation of diluted earnings per share to the extent the shares would be dilutive. Additionally, the Company's senior unsecured convertible notes were antidilutive for the periods ended September 30, 2023 and 2022.

	Three Months Ended March 31,	
	2024	2023
Unvested restricted stock units	787,415	1,323,598
Warrants to purchase shares of Class B Common Stock	1,212,121	1,228,652
Shares issuable in connection with 6.75% convertible senior notes	1,302,004	982,107
Vested stock options	801	2,340
Performance stock options	825,000	—

#### [Table of Contents](#)

#### NOTE 11 7 – SUPPLEMENTAL CASH FLOW INFORMATION

The following table includes supplemental cash flow information, including non-cash noncash investing and financing activity for the nine three months ended September 30, 2023 March 31, 2024 and 2022; 2023:

(\$ in millions)	Three Months Ended March 31,	
	2024	2023
Cash paid for interest	\$ 14.7	\$ 15.8
Cash paid for (refunds from) taxes	(1.6)	—
Cash payments for operating leases	7.5	7.0
Right-of-use assets obtained in exchange for operating lease liabilities	4.8	2.8
Capital expenditures and technology development costs included in accounts payable and other current liabilities	—	0.1
Capital expenditures included in debt	—	0.5

The following table shows the cash and restricted cash balances for the Statements of Cash Flows:

(\$ in millions)	March 31, 2024	December 31, 2023	March 31, 2023
Cash	\$ 50.3	\$ 58.9	\$ 51.8
Restricted cash <sup>(1)</sup>	13.1	18.1	10.0
Total cash, cash equivalents, and restricted cash	\$ 63.4	\$ 77.0	\$ 61.8

Supplemental Disclosure of Cash Flow Information:	Nine Months Ended September 30,	
	2023	2022
Cash paid for interest	\$ 54,498	\$ 36,021
Cash paid for taxes	\$ 894	\$ 6,304
Non-cash Investing and Financing Activities:		
Capital expenditures and technology development costs included in accounts payable and other current liabilities	\$ 87	\$ 1,500
Capital expenditures included in line of credit and notes payable	\$ 48,896	\$ —
Fair value of warrants issued as financing costs	\$ 6,100	\$ —
Fair value of Class B Common Stock issued for Freedom Transaction	\$ —	\$ 26,511

(1) Amounts included in restricted cash are primarily comprised of the deposits required under the Company's various floor plan lines of credit.

#### NOTE 12.8 – RELATED PARTY RELATED-PARTY TRANSACTIONS

##### RideNow Leases

The Company has operating leases from related party leases parties for 24/25 properties consisting of dealerships and offices, in connection with one of which contains an option to purchase a property at or above its fair market value subject to the RideNow acquisition terms of the lease. Each related party lease of these related-party leases is with a wholly owned subsidiary of the Company as the tenant and an entity controlled by Mark Tkach, our former Interim Chief Executive Officer and a director of the Company until November 1, 2023, and William Coulter a director of the Company, and/or Mark Tkach, as the landlord. The Mr. Coulter and Mr. Tkach are directors and former executive officers of the Company. These leases have an initial aggregate base rent payment for all 24 leases was approximately \$1,229 per month, and each lease commenced a new 20-year term on September 1, 2021, with each lease containing and contain annual 2% increases on base rent. Rent expense associated with these related-party operating leases was \$4.625 \$4.7 million and \$13,855 and \$4,457 and \$13,372, \$4.6 million during the three and nine months ended September 30, 2023 March 31, 2024 and 2022, 2023, respectively, and is included in selling, general and administrative ("SG&A") expenses in the Condensed Consolidated Statement consolidated statements of Operations.

##### Payments to RideNow Management, LLLP operations.

The Company paid \$2 following table provides the amounts for related party leases that are included on the balance sheets:

(\$ in millions)	March 31, 2024	December 31, 2023
Right-of-use assets	\$ 111.9	\$ 108.5
Current portion of operating lease liabilities <sup>(1)</sup>	14.3	14.2
Long-term portion of operating lease liabilities	99.6	96.2

(1) Included in accounts payable and \$6 to RideNow Management, LLLP, an entity owned equally by Messrs. Coulter and Tkach, during the three and nine months ended September 30, 2023 and 2022, respectively. In addition, the Company paid off a loan to RideNow Management LLLP of approximately \$673 on June 27, 2022.

##### Payments to Coulter Management Group, LLLP

The Company paid \$62 and \$72, and \$5 and \$242 to Coulter Management Group, LLLP ("Coulter Management"), an entity owned by Mr. Coulter, during the three and nine months ended September 30, 2023 and 2022, respectively. These payments were made to cover certain proportionate costs of the Company, including health plan and IT contract expenses, that were shared among Coulter Management and the RideNow entities for a period of time after the RideNow Transaction date.

##### Bidpath Software License

On January 19, 2022, the Audit Committee approved, and the Company entered into two agreements with Bidpath Incorporated ("Bidpath"), a company owned by Adam Alexander, a former director of the Company, that provided the Company with (i) a perpetual, non-exclusive license to the then-current source code, as well as all future source code, of foundational technology for our inventory management platform, and (ii) support and maintenance services. The initial term was thirty-six (36) months but could be terminated by either party at any time by providing sixty (60) days' notice to the other party. On June 30, 2023, the Company notified Bidpath of its intent to terminate the contract. The contract was terminated effective August 31, 2023, and the Company recognized a \$2,610 impairment for the remaining amount of capitalized costs.

The Company made no cash payments for the license during the three and nine months ended September 30, 2023 and \$0 and \$3,600 during the three months and nine months ended September 30, 2022, respectively. The Company also paid monthly platform development costs of \$30 while the contract was in effect. **current liabilities.**

#### Ready Team Grow, LLC

The Company paid \$0 and \$100, and \$52 and \$162 to Ready Team Grow, LLC for employee recruiting services during the three and nine months ended September 30, 2023 and 2022, respectively. Ready Team Grow, LLC is an entity owned by the domestic partner of the Company's former Chief Executive Officer, Mr. Chesrown.

#### Death Benefit to a former Chief Financial Officer ("CFO") and Director

As approved by the Audit Committee of the Board of Directors in September 2021, the Company is paying a death benefit to the estate of a former CFO and director of the Company comprised of (1) \$1,338, divided into equal weekly installments beginning October 1, 2021 and ending June 30, 2024 and (2) the cash bonus paid to the Company's Chief Executive Officer ("CEO") each quarter over the same period ending June 30, 2024, if and when paid to the CEO in accordance with the Company's Executive Incentive Program. A total of \$115 and \$474, and \$262 and \$778 in cash payments were made under these awards during the three and nine months ended September 30, 2023 and 2022, respectively.

#### Employment of Immediate Family Members

Mr. Coulter had one immediate family member who was employed by the Company until August 30, 2022. This family member received aggregate gross pay of approximately \$50 and \$200 for the three and nine months ended September 30, 2022, respectively. No payments have been made in 2023.

Mr. Tkach has two immediate family members that were, or continue to be, are employed by the Company. One of these family members was employed by the Company until February 21, 2022. This family member received aggregate gross pay of approximately \$0 Company: one as a salaried employee and \$81, for the three one as a commissioned sales representative. The salaried employee's annual base salary exceeds \$120,000; however, he is not in an officer capacity, and nine months ended September 30, 2022, respectively. No payments all compensation-related decisions were made during 2023. The other family member received aggregate gross pay of approximately \$137 in a manner that is consistent with internal practices and \$331, and \$89 and \$239 during the three and nine months ended September 30, 2023 and 2022, respectively, and cumulative grants of restricted stock units representing 42,273 shares of Class B Common Stock. **policies for both employees.**

#### NOTE 13 - SEGMENT REPORTING

Business segments are defined as components [Table of an enterprise about which discrete financial information is available that is evaluated regularly by the chief operating decision maker in deciding how to allocate resources and in assessing operating performance. Our operations are organized by management into operating segments by line of business. We have determined that we have two reportable segments for segment reporting: \(1\) powersports and \(2\) vehicle logistics. Our powersports segment consists principally of the sale of new and used motorcycles and other powersports vehicles, service parts and accessories, together with the associated costs to source and service the vehicles, parts and accessories. Our vehicle logistics segment provides nationwide transportation brokerage services between dealerships and auctions.](#)

[Information about continuing operations by operating segment for the three and nine months ended September 30, 2023 and 2022 were as follows:](#)

		Powersports	Vehicle Logistics	Eliminations <sup>(1)</sup>	Total
<b>Three Months Ended September 30, 2023</b>					
Revenue	\$	324,147	\$ 14,005	\$ (41)	\$ 338,111
Operating income (loss)	\$	(1,702)	\$ 1,415	\$ —	\$ (287)
Depreciation and amortization	\$	7,265	\$ 10	\$ —	\$ 7,275
Interest expense	\$	(19,828)	\$ —	\$ —	\$ (19,828)
<b>Three Months Ended September 30, 2022</b>					
Revenue <sup>(2)</sup>	\$	365,726	\$ 15,527	\$ (589)	\$ 380,664
Operating income (loss)	\$	12,734	\$ 1,398	\$ (65)	\$ 14,067
Depreciation and amortization	\$	6,544	\$ 10	\$ —	\$ 6,554
Interest expense	\$	(12,209)	\$ —	\$ —	\$ (12,209)
<b>Nine Months Ended September 30, 2023</b>					
Revenue	\$	1,011,999	\$ 43,605	\$ (378)	\$ 1,055,226
Operating income (loss)	\$	(4,506)	\$ 4,325	\$ —	\$ (181)
Depreciation and amortization	\$	17,241	\$ 30	\$ —	\$ 17,271
Interest expense	\$	(55,756)	\$ —	\$ —	\$ (55,756)

Change in derivative liability	\$	—	\$	—	\$	—	\$	—
<b>Nine Months Ended September 30, 2022</b>								
Revenue <sup>(2)</sup>	\$	1,084,480	\$	45,774	\$	(2,904)	\$	1,127,350
Operating income (loss)	\$	64,183	\$	3,746	\$	25	\$	67,954
Depreciation and amortization	\$	16,842	\$	30	\$	—	\$	16,872
Interest expense	\$	(35,621)	\$	(1)	\$	—	\$	(35,622)
Change in derivative liability	\$	39	\$	—	\$	—	\$	39

Total assets by operating segment at were as follows:

	Powersports		Vehicle Logistics		Eliminations <sup>(1)</sup>		Continuing Operations		Discontinued Operations		Total	
Total assets at September 30, 2023	\$	1,926,226	\$	2,837	\$	(870,046)	\$	1,059,017	\$	35	\$	1,059,052
Total assets at December 31, 2022	\$	1,872,201	\$	3,857	\$	(860,247)	\$	1,015,811	\$	11,399	\$	1,027,210

<sup>(1)</sup> Content: Intercompany investment balances primarily relate to the acquisitions of RideNow, Freedom Entities, Wholesale Inc. and Wholesale Express, and receivables and other balances related to intercompany freight services of Wholesale Express are eliminated in the Condensed Consolidated Balance Sheets. Revenue and costs for these intercompany freight services have been eliminated in the Condensed Consolidated Statements of Operations.

<sup>(2)</sup> Revenue for Powersports has been adjusted by \$19.6 million and \$52.4 million, respectively, for the three and nine months ended September 30, 2022. See "Correction of an Immaterial Misstatement Related to Prior Periods" in Note 1.

## NOTE 9 - SEGMENT INFORMATION

(\$ in millions)	Vehicle Transportation							
	Powersports	Services	Eliminations <sup>(1)</sup>	Total				
<b>Three Months Ended March 31, 2024</b>								
Revenue from external customers	\$	293.5	\$	14.3	\$	—	\$	307.8
Operating income (loss)		3.8		1.4		—		5.2
Depreciation and amortization		3.5		—		—		3.5
Interest expense <sup>(2)</sup>		16.1		—		—		16.1
<b>Three Months Ended March 31, 2023</b>								
Revenue from external customers		319.6		14.8		—		334.4
Revenue from other operating segments <sup>(1)</sup>		—		0.2		(0.2)		—
Operating income (loss)		(2.1)		1.4		—		(0.7)
Depreciation and amortization		4.7		—		—		4.7
Interest expense <sup>(2)</sup>		17.6		—		—		17.6
<b>Total Assets by Segment</b>								
March 31, 2024		1,697.3		4.8		(803.4)		898.7
December 31, 2023		1,766.3		4.0		(844.0)		926.3

<sup>(1)</sup> Primarily revenue from the automotive segment, which is reported as discontinued operations.

<sup>(2)</sup> Includes floor plan interest and other interest expense.

## NOTE 14 - DISCONTINUED OPERATIONS 10 – COMMITMENTS AND LOAN RECEIVABLE ASSETS HELD FOR SALE CONTINGENCIES

### Discontinued Operations Legal Matters

In the fourth quarter of 2022, From time to time, the Company announced plans to wind down its automotive is involved in various claims and legal actions that arise in the ordinary course of business. As Although the results of September 30, 2023 litigation and claims cannot be predicted with certainty, as of March 31, 2024, the Company had completed all substantial activities pertaining does not believe that the ultimate resolution of any legal actions, either individually or in the aggregate, will have a material adverse effect on its financial position, results of operations, liquidity, and capital resources.

Future litigation may be necessary to defend the wind down Company by determining the scope, enforceability and validity of third-party proprietary rights or to establish its own proprietary rights. The results of any current or future litigation cannot be predicted with certainty, and regardless of the outcome, litigation can have an adverse impact on the Company because of defense and settlement costs, diversion of management resources, and other factors.

As previously disclosed, the Company is conducting an investigation of certain allegations surrounding Marshall Chesrown's use of Company resources. The investigation remains ongoing and as of the date of this filing, the Company has made no final determination as to what action to take. On July 7, 2023, Mr. Chesrown provided the Board a letter of resignation (the "Resignation Letter") describing Mr. Chesrown's disagreement with several recent corporate governance, disclosure and other actions taken by the Company, the Board and certain of its automotive business, which represents members, and indicated his intent to pursue legal claims. The Company disagrees with the characterization of the

allegations and assertions described in the Resignation Letter. The Company and Mr. Chesrown conducted a **strategic shift having** pre-suit mediation in October 2023, as required in his employment agreement, but did not resolve the matter. On March 13, 2024, Mr. Chesrown filed suit against the Company in Delaware Superior Court for the claims asserted in his Resignation Letter. Mr. Chesrown is seeking a **major effect on our operations** declaratory judgment that he resigned with good reason, termination compensation damages in the amount of \$7.5 million, general and reputational damages in the amount of \$50 million, punitive damages, attorney's fees and litigation costs. We intend to defend these claims vigorously; however, we can provide no assurance regarding the outcome of this matter.

#### Letters of Credit

We issue letters of credit to secure the Company's various financial results, obligations, including floor plan financing arrangements and insurance policy deductibles and other claims. The total amount of outstanding letters of credit as of March 31, 2024 was \$10.5 million. We do not believe that it is probable that any of the letters of credit will be drawn upon.

We have classified all direct revenues, costs, and expenses related to commercial operations

[Table of the wholesale automotive business, within income \(loss\) from discontinued operations, net of tax, in the Condensed Consolidated Statements of Operations for all periods presented. We have not allocated any amounts for shared general and administrative operating support expenses to discontinued operations.](#)

[While ASC 205-20 does not explicitly require assets and liabilities of a discontinued operation to be separately presented in prior periods when the disposal is other than by sale, we have presented related assets and liabilities as assets and liabilities of discontinued operations in our Condensed Consolidated Balance Sheets as of December 31, 2022.](#)

[Discontinued operations for three and nine months ended September 30, 2023 and September 30, 2022 consisted of the following:](#)

	Three-Months Ended		Nine Months Ended	
	September 30, 2023	September 30, 2022	September 30, 2023	September 30, 2022
Income (loss) from operations of discontinued Automotive segment	\$ —	\$ (858)	\$ (1,100)	\$ (1,151)
Income tax provision (benefit)	—	(182)	(149)	(420)
Income (loss) from discontinued operations	\$ —	\$ (676)	\$ (951)	\$ (731)

#### Contents

The following were the carrying amounts of the assets and liabilities of discontinued operations:

	September 30, 2023	December 31, 2022
Cash	\$ —	\$ 1,816
Accounts receivable, net	—	1,311
Inventory	—	8,248
Prepaid expense and other current assets	—	2
Other assets	35	23
Total assets of discontinued operations	\$ 35	\$ 11,400
Accounts payable and accrued expenses	\$ 513	\$ 3,137
Vehicle floorplan notes payable	—	5,254
Accrued interest payable	—	43
Total liabilities of discontinued operations	\$ 513	\$ 8,434

#### Loans Receivable Held For Sale

As approved by our Board of Directors, the Company plans to sell the loan portfolio held by RumbleOn Finance. Upon the classification of the loans receivable as held for sale, the allowance for credit losses was reversed and a valuation allowance was recorded. To mark the loan receivable assets down to the lower of cost or fair value, the Company recorded a valuation allowance of \$5,971 in the nine months ended September 30, 2023. This charge was classified as SG&A expenses. The fair value of the loan receivable assets is classified as loan receivable assets held for sale in the accompanying Condensed Consolidated Balance Sheets. We expect that anticipated proceeds from sale of the loan receivable assets will be used to pay down the RumbleOn Finance line of credit, which approximated \$14,606 and is included in current portion of long-term debt and line of credit in the accompanying Condensed Consolidated Balance Sheets as of September 30, 2023. We anticipate the sale of the loan portfolio to be completed during the fourth quarter of 2023.

#### NOTE 15 - SUBSEQUENT EVENT

##### New Chief Executive Officer

Michael W. Kennedy became Chief Executive Officer and director of the Company effective as of November 1, 2023. Mr. Kennedy, age 56, previously served as the President and Chief Executive Officer of Vance & Hines, LLC from April 2019 until October 2023. Prior to that Mr. Kennedy served as Founder and Managing Partner of MWK Partner Advisors from December 2017 until March 2019. Mr. Kennedy is an accomplished Powersports industry veteran with over three decades of experience in strategy, commercial operations, financial management, and manufacturing at leading Powersports companies. See Note 7 - "Stock-Based Compensation".

In connection with Mr. Kennedy's appointment as Chief Executive Officer and effective as of the same date, Mr. Tkach resigned from his roles as Interim Chief Executive Officer and as a director of the Company. Upon his resignation, Mr. Tkach was appointed to serve as a Board observer.

## Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS.

This Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A") is provided as a supplement to, and should be read in conjunction with, our audited consolidated financial statements, the accompanying notes, and the MD&A included in our 2022 2023 Form 10-K, the as well as our unaudited condensed consolidated financial statements and notes thereto included in our Current Report on Form 8-K filed on September 27, 2023, and our unaudited Condensed Consolidated Financial Statements and the accompanying notes included in Item 1 of this Quarterly Report on Form 10-Q. All dollars Terms not defined in this MD&A have the meanings ascribed to them in the condensed consolidated financial statements. Unless otherwise noted, comparisons are reported in thousands except per share and per unit amounts.

Forward-looking statements throughout this Quarterly Report on Form 10-Q are not guarantees of future performance and may involve risks and uncertainties that could cause actual results to differ materially from those projected. Refer for the quarter ended March 31, 2024 to the "Forward-Looking and Cautionary Statements" section below and in our 2022 Form 10-K and Current Report on Form 8-K filed on September 27, 2023 for a discussion of these risks and uncertainties. quarter ended March 31, 2023.

### Overview

RumbleOn, Inc. operates primarily through two operating segments: our powersports dealership group and Wholesale Express, LLC ("Express"), a vehicle transportation services provider. We were incorporated in 2013. We have grown primarily through acquisitions, the largest to date being our 2021 acquisition of the RideNow business followed by our 2022 acquisition of the Freedom Powersports business. These acquisitions added 54 powersports dealerships to our Company.

### Powersports Segment

Our powersports segment is the largest powersports retailer retail group in North America, the United States (as measured by reported revenue, major unit sales and dealership locations), offering a wide selection of new and used pre-owned motorcycles, all-terrain vehicles ("ATV"), utility terrain or side-by-side vehicles ("SXS"), personal watercraft ("PWC"), snowmobiles, and other powersports products, including products. We also offer parts, apparel, accessories, finance & insurance products and services ("F&I"), and aftermarket products from a wide range of manufacturers. Additionally, we offer a full suite of financing, parts, repair and maintenance services, and our logistics services company, Wholesale Express, LLC ("Wholesale Express"), provides freight brokerage services facilitating transportation for dealers and consumers. services. As of September 30, 2023 March 31, 2024, we operated more than 55 54 retail locations representing 30 consisting of hundreds of powersports franchises (representing various brands primarily of motorcycles, ATVs, SXSs, PWCs, snowmobiles, and other powersports products) in the Sun Belt. Alabama, Arizona, California, Florida, Georgia, Kansas, Nevada, North Carolina, Ohio, Oklahoma, South Dakota, Texas, and Washington.

We source high quality pre-owned inventory online via our proprietary cash offer website, Cash Offer technology, which allows us to purchase pre-owned units directly from consumers.

We seek to provide customers with a seamless experience, broad selection, Our powersports retail distribution locations represent all major manufacturers, or OEMs, and access to our specialized and experienced team members, including sales staff and technicians. Our network of convenient retail locations allows us to offer services throughout the vehicle life cycle. As a result of our growth to date, RumbleOn enjoys a leading position in the highly fragmented powersports market.

Of our retail locations, 42 were acquired in 2021 in conjunction with the purchase of RideNow Powersports ("RideNow"). On February 18, 2022 we completed the acquisition of Freedom Powersports, LLC ("Freedom Powersports") and Freedom Powersports Real Estate, LLC (together with Freedom Powersports, the "Freedom Entities"). We are headquartered in the Dallas Metroplex and completed our initial public offering in 2017.

Through June 30, 2023, we participated in the automotive industry through our wholly owned wholesale distributor of used automotive inventory, Wholesale, Inc. ("Wholesale Inc."), and our exotics retailer AutoSport USA, Inc., which did business under the name Got Speed. We began winding this business down in the third quarter of 2022. The results of operations of this segment of our business are reported as discontinued operations in Part I, Item 1, Financial Statements, of this Quarterly Report on Form 10-Q.

Since the acquisitions of RideNow and Freedom Powersports, we have made a handful of smaller acquisitions. We plan to continue to grow our powersports footprint through strategic acquisitions.

RumbleOn's powersports business offers motorcycles, all-terrain vehicles, utility terrain vehicles, personal watercraft, and all other powersports products, parts, apparel, and accessories from a wide range of manufacturers, their representative brands, including those listed below.

## RumbleOn's Powersports Representative Brands

Alumacraft	Honda	Soul E Bikes
Argo	Hurricane Boats	Specialized (bicycles)
Benelli	Indian Motorcycles	Speed/UTV Segway Powersports
Blazer Boats BMW	Karavan Trailers	SSR
BMW	Kawasaki	STACYC (electric) Ski-Doo
Can-Am	Kayo Kawasaki	Suzuki Speed/UTV
CF Moto	Kayo	SSR
Club Car	KTM	Suzuki
Continental Trailers	Lynx (Snowmobiles)	Tidewater Boats
Club Car Cub Cadet	Lynx (Snowmobiles) MAGICTILT Trailers	Timbersled (snow bikes)
Continental Trailers	MAGICTILT Trailers	Trailmaster (off-road/gocarts)
Crevalle Boats Ducati	Manitou	Triton Trailers
Cub Cadet	Manitou (pontoon boats)	Triumph
Ducati Gas-Gas	Mercury (boat engines)	Vanderhall
Gas-Gas	Polaris	Wellcraft (boats)
Godfrey Pontoon Boats	Scarab	Yamaha
Hammerhead Off-Road Harley-Davidson	Sea-Doo Polaris	Yamaha Marine
Harley-Davidson Honda	Segway Powersports	Zero Motorcycles
Hisun	Ski-Doo Royal Enfield	Zieman Trailers
Husqvarna	Sea-Doo	

## Recent Developments

### New Chief Executive Officer Vehicle Transportation Services Segment

Michael W. Kennedy became Chief Executive Officer Express provides asset-light transportation brokerage services facilitating automobile transportation primarily between and director among dealers.

[Table of the Company effective as of November 1, 2023. Mr. Kennedy, age 56, previously served as the President and Chief Executive Officer of Vance & Hines, LLC from April 2019 until October 2023. Prior to that Mr. Kennedy served as Founder and Managing Partner of MWK Partner Advisors from December 2017 until March 2019. Mr. Kennedy is an accomplished Powersports industry veteran with over three decades of experience in strategy, commercial operations, financial management, and manufacturing at leading Powersports companies.](#)

[In connection with Mr. Kennedy's appointment as Chief Executive Officer and effective as of the same date, Mark Tkach resigned from his roles as Interim Chief Executive Officer and as a director of the Company. Upon his resignation, Mr. Tkach was appointed to serve as a Board observer.](#)

### Rights Offering

[On August 9, 2023, we announced our intention to conduct a proposed \\$100,000 rights offering \(the "Rights Offering"\) to the Company's existing shareholders whereby holders of record of our common stock will be granted a dividend of subscription rights to purchase a designated number of shares of Class B Common Stock at a price to be determined by the Special Committee of the Board. If the Rights Offering is not fully subscribed for, any stockholders who exercise their basic subscription rights will have an over-subscription right to purchase additional shares of Class B Common Stock that would otherwise remain unsubscribed for at the expiration date for the Rights Offering. No fractional shares of Class B Common Stock will be issued in the Rights Offering. The subscription rights are not transferable, and there will be no public market for the subscription rights. The subscription period for the Rights Offering is expected to commence on or about November 13, 2023 and terminate approximately 16 calendar days thereafter, on November 28, 2023. The Company also entered into a Standby Purchase Agreement on August 8, 2023 \(the "Standby Purchase Agreement"\) with Mark Tkach, William Coulter, and Stone House Capital Management, LLC, a Delaware limited liability company \("Stone House" and collectively, the "Standby Purchase Agreement"\) that provides a binding commitment to purchase up to \\$100,000 of shares of Class B Common Stock in the aggregate from the Standby Purchasers if the Rights Offering is not fully subscribed. The net proceeds of the Rights Offering are intended to be used to repay a portion of the debt under the Oaktree Credit Agreement and to fund the growth and development of the Company's business, including through possible acquisitions and other corporate purposes. Contents](#)

## KEY OPERATING METRICS Key Operating Metrics

We regularly review a number of key operating metrics to evaluate our segments, measure our progress, and make operating decisions. Our key operating metrics reflect what we believe will be the primary drivers of our business, including increasing brand awareness, maximizing the opportunity to source vehicles from consumers and dealers, and enhancing the selection and timing of vehicles we make available for sale to our customers.

**During the first quarter of 2022, the Company completed its acquisition of the Freedom Entities, a retailer group with 13 retail locations in Texas, Georgia, and Alabama. Please note that results of the Freedom Entities prior to the date of their acquisition are not reflected in the presentation below. Increases in line items within the powersports segment are partially the result of the acquisitions and the reader should note that period-over-period dollar comparisons that incorporate the first quarter of 2022 (as opposed to per unit amounts) are impacted by the introduction of the Freedom Powersports businesses (the "Acquisition Effect").**

## **Powersports Segment**

### Revenue

Revenue is comprised of powersports vehicle sales, finance and insurance products bundled with retail vehicle sales ("F&I"), and parts, service and accessories/merchandise ("PSA"). We sell both new and pre-owned powersports vehicles through retail and wholesale channels. F&I and PSA revenue is almost exclusively earned through retail channels. These sales Retail channels provide us the opportunity to maximize profitability through by increased sales volume and lower average days to sale and are impacted by selling through the channel where the opportunity is the greatest at any given time based on customer demand, market conditions and inventory availability. The wholesale channel provides the opportunity to move excess inventory or inventory availability, that does not meet our needs for retail. The number of vehicles sold to any given channel may vary varies from period to period based on due to these factors.

A material part of our ability to sell vehicles is predicated on being able to have sufficient inventory, both new and used, to satisfy customer demand or meet our financial objectives. New inventory is ultimately controlled by our OEMs and their willingness to allocate inventory to us and their ability to manufacture and distribute a sufficient number of vehicles given the ongoing environment of manufacturing slowdowns, computer chip shortages, and logistic/transportation challenges (collectively, the "Demand/Supply Imbalances"). Subject to the resulting Demand/Supply Imbalances, we expect pre-owned vehicle sales to increase as we begin to utilize a combination of brand building and direct response channels to efficiently source and scale our addressable markets while expanding our suite of product offerings to consumers who may wish to trade-in or to sell us their vehicle independent of a retail sale. Factors primarily affecting pre-owned vehicle sales include inventory levels and the availability of inventory, as well as the number of retail pre-owned vehicles sold and the average selling price of these vehicles.

### Gross Profit

Gross profit generated on vehicle sales reflects the difference between the vehicle selling price and the cost of revenue associated with acquiring the vehicle and preparing it for sale. Cost of revenue includes the vehicle acquisition cost, inbound transportation cost, and particularly for pre-owned vehicles, reconditioning costs. The aggregate gross profit and gross profit per vehicle vary across vehicle type, make, model, etc. as well as through retail and wholesale channels, and with regard to gross profit per vehicle, are not necessarily correlated with the sale price. Vehicles sold through retail channels generally have the highest dollar gross profit per vehicle given the vehicle is sold directly to the consumer. Pre-owned vehicles sold through wholesale channels, including directly to other dealers or through auction channels, including via our dealer-to-dealer auction market, generally have lower margins and do not include enable any other ancillary gross profit attributable to financing and accessories. Factors affecting gross profit from period to period include the mix of new versus used pre-owned vehicles sold, the distribution channel through which they are sold, the sources from which we acquired such inventory, retail market prices, our average days to sale, and our pricing strategy. We may opportunistically choose to shift our inventory mix to higher or lower cost vehicles, or to opportunistically raise or lower our prices relative to market to take advantage of Demand/Supply Imbalances demand/supply imbalances in our sales channels, which could temporarily lead to gross profits increasing or decreasing in any given channel.

### Vehicles Sold

We define vehicles sold as the number of vehicles sold through both retail and wholesale and retail channels in each period. Vehicles sold is the primary driver of our revenue and indirectly, gross profit. Vehicles sold also enables impacts complementary revenue streams, such as financing, F&I and PSA. Vehicles sold increases our base of customers and improves brand awareness, and repeat which can lead to future sales. Vehicles sold also provides the opportunity to successfully scale our logistics, fulfillment, and customer service operations.

### Total Gross Profit per Powersports Vehicle Unit

Total gross profit per vehicle unit is the aggregate gross profit of the powersports segment in a given period, divided by retail powersports vehicles units sold in that period. The aggregate gross profit of the powersports segment includes gross profit generated from the sale of new and used pre-owned vehicles, any income related to the origination of loans originated to finance the vehicle, revenue earned from the sale of F&I products including extended service contracts, maintenance programs, guaranteed auto protection, tire and wheel protection, and theft protection products, gross profit on the sale of PSA products, and gross profit generated from wholesale sales of vehicles.

## **Vehicle Logistics Transportation Services Segment**

### Revenue

Revenue is derived from freight brokerage agreements with dealers, distributors, or private party individuals to transport vehicles from a point of origin to a designated destination. The freight brokerage agreements are fulfilled by independent third-party transporters who must meet our performance obligations and standards. Wholesale Express is considered the principal in the delivery transactions since it is primarily responsible for fulfilling the service.

### [Table of Contents](#)

### Vehicles Transported Delivered

We define vehicles transported delivered as the number of vehicles delivered from a point of origin to a designated destination under freight brokerage agreements with dealers, distributors, or private parties. Vehicles transported delivered are the primary driver of revenue and, in turn, profitability in the vehicle logistics transportation services segment.

## Total Gross Profit Per Vehicle Transported Unit

Total gross profit per vehicle transported represents the difference between the price received from non-affiliated customers and our cost to contract an independent third-party transporter divided by the number of third-party vehicles transported.

## Results of Operations

### Results of Continuing Operations

#### Three and Nine Months ended September 30, 2023 Compared to September 30, 2022

#### Total Company Metrics (dollars in thousands)

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2023	2022	YoY Change	2023	2022	YoY Change
Financial Overview						
Revenue						
Powersports	\$ 235,132	\$ 271,877	\$ (36,745)	\$ 738,136	\$ 806,382	\$ (68,246)
PSA	59,727	62,216	(2,489)	184,205	182,268	1,937
Finance and insurance, net	29,288	31,569	(2,281)	89,658	95,830	(6,172)
Vehicle Logistics	13,964	15,002	(1,038)	43,227	42,870	357
Total revenue	\$ 338,111	\$ 380,664	\$ (42,553)	\$ 1,055,226	\$ 1,127,350	\$ (72,124)
Gross Profit						
Powersports	\$ 32,344	\$ 50,246	\$ (17,902)	\$ 104,045	\$ 158,491	\$ (54,446)
PSA	26,974	29,142	(2,168)	84,663	85,795	(1,132)
Finance and insurance, net	29,288	31,569	(2,281)	89,658	95,830	(6,172)
Vehicle Logistics	3,339	3,486	(147)	10,281	9,138	1,143
Total Gross Profit	\$ 91,945	\$ 114,443	\$ (22,498)	\$ 288,647	\$ 349,254	\$ (60,607)
Total Operating Expenses	\$ 92,232	\$ 100,376	\$ (8,144)	\$ 288,828	\$ 281,300	\$ 7,528
Operating Income (Loss)	\$ (287)	\$ 14,067	\$ (14,354)	\$ (181)	\$ 67,954	\$ (68,135)
Income (Loss) from Continuing Operations, net	\$ (16,484)	\$ 3,715	\$ (20,199)	\$ (46,023)	\$ 26,944	\$ (72,967)
Net Income (Loss)	\$ (16,484)	\$ 3,039	\$ (19,523)	\$ (46,974)	\$ 26,213	\$ (73,187)
Adjusted EBITDA <sup>(1)</sup>	\$ 13,176	\$ 26,117	\$ (12,941)	\$ 47,600	\$ 101,078	\$ (53,478)

(\$ in millions)	Three Months Ended March 31,			
	2024	2023	\$ Change	% Change
Revenue				
Powersports vehicles	\$ 214.8	\$ 233.3	\$ (18.5)	(7.9)%
Parts, services, and accessories	52.9	59.1	(6.2)	(10.5)%
Finance and insurance, net	25.8	27.2	(1.4)	(5.1)%
Vehicle transportation services	14.3	14.8	(0.5)	(3.4)%
Total Revenue	307.8	334.4	(26.6)	(8.0)%
Gross Profit				
Powersports	29.7	32.2	(2.5)	(7.8)%
Parts, services, and accessories	23.6	27.3	(3.7)	(13.6)%
Finance and insurance, net	25.8	27.2	(1.4)	(5.1)%
Vehicle transportation services	3.5	3.6	(0.1)	(2.8)%
Total Gross Profit	82.6	90.3	(7.7)	(8.5)%
SG&A Expenses	73.9	86.3	(12.4)	(14.4)%
Depreciation and amortization	3.5	4.7	(1.2)	(25.5)%
Operating Income (Loss)	5.2	(0.7)	5.9	NM

Floor plan interest expense	4.0	2.5	1.5	60.0 %
Other interest expense	12.1	15.1	(3.0)	(19.9)%
Other income (expense)	0.3	—	0.3	NM
Loss from continuing operations before income taxes	(10.6)	(18.3)	7.7	(42.1)%
Income tax provision (benefit)	\$ (0.3)	(1.6)	1.3	(81.3)%
Income (loss) from continuing operations	\$ (10.3)	\$ (16.7)	\$ 6.4	(38.3)%

NM = not meaningful

(1) Adjusted EBITDA is a non-GAAP measure Table of operating performance that does not represent and should not be considered an alternative to net income (loss) or cash flow from operations, as determined by U.S. GAAP. We believe that Adjusted EBITDA is a useful measure to us and to our investors because it excludes certain financial and capital structure items that we do not believe directly reflect our core operations and may not be indicative of our recurring operations, in part because they may vary widely across time and within our industry independent of the performance of our core operations. See the section titled "Adjusted EBITDA" for the definition of Adjusted EBITDA and a reconciliation of Net Income (Loss) to Adjusted EBITDA. Contents

**Powersports Metrics (dollars (\$ in thousands millions except per unit)**

	Three Months Ended September 30,			Nine Months Ended September 30,			
	2023	2022	YoY Change	2023	2022	YoY Change	
	Three Months Ended March 31,						
	Three Months Ended March 31,						
	Three Months Ended March 31,						
	2024						
	2024						
	2024						2023
Revenue	Revenue						
New retail vehicles	New retail vehicles	\$159,573	\$165,373	\$ (5,800)	\$ 501,513	\$ 491,187	\$ 10,326
Used vehicles:							
New retail vehicles							
New retail vehicles							\$ 155.0
Pre-owned vehicles:							\$ 156.4
Retail							
Retail	Retail	68,736	100,781	(32,045)	215,562	299,809	(84,247)
Wholesale	Wholesale	6,823	5,724	1,099	21,061	15,386	5,675
Total used vehicles		75,559	106,505	(30,946)	236,623	315,195	(78,572)
Total pre-owned vehicles							Total pre-owned vehicles
							59.8
Finance and insurance, net	Finance and insurance, net	29,288	31,569	(2,281)	89,658	95,830	(6,172)
							Finance and insurance, net
							25.8
							27.2
							27.2

Parts, service and accessories								Parts, service, accessories				
		59,727	62,216	(2,489)	184,205	182,268	1,937		52.9		59.1	
Total revenue	Total revenue	\$324,147	\$365,663	\$(41,516)	\$1,011,999	\$1,084,480	\$(72,481)	Total revenue	\$ 293.5	\$	\$ 319.6	\$
Gross Profit								Gross Profit				
Gross Profit								Gross Profit				
New retail vehicles								New retail vehicles				
		\$ 22,081	\$ 32,071	\$( 9,990)	\$ 74,440	\$ 100,549	\$(26,109)					
Used vehicles:								Used vehicles:				
New retail vehicles								New retail vehicles				
								\$ 19.2		\$ 23.8		
Pre-owned vehicles:								Pre-owned vehicles:				
Retail								Retail				
Retail	Retail	10,871	18,691	(7,820)	31,216	57,538	(26,322)	10.5	9.3	9.3	1.2	
Wholesale	Wholesale	(607)	(588)	(19)	(1,610)	304	(1,914)	(0.1)	(0.8)	(0.8)		
Total used vehicles		10,264	18,103	(7,839)	29,606	57,842	(28,236)					
Total pre-owned vehicles								Total pre-owned vehicles				
								10.4		8.5		
Finance and insurance								Finance and insurance				
		29,288	31,569	(2,281)	89,658	95,830	(6,172)	25.8	27.2	27.2		
Parts, service and accessories								Parts, service, accessories				
		26,973	29,143	(2,170)	84,663	85,794	(1,131)	23.6		27.3		
Total gross profit								Total gross profit				
		\$ 88,606	\$110,886	\$(22,280)	\$ 278,367	\$ 340,015	\$(61,648)	\$ 79.1	\$	\$ 86.7	\$	
Vehicle Unit Sales								Vehicle Unit Sales				
Vehicle Unit Sales								Vehicle Unit Sales				
New retail vehicles								New retail vehicles				
		10,851	9,973	878	34,413	31,016	3,397					
Used vehicles:								Used vehicles:				
New retail vehicles								New retail vehicles				
								10,503		10,436		
Pre-owned vehicles:								Pre-owned vehicles:				
Retail								Retail				
Retail	Retail	5,619	7,508	(1,889)	17,537	22,228	(4,691)	5,005	5,781	(776)		
Wholesale	Wholesale	1,103	912	191	3,121	2,619	502	1,077		1,004		
Total used vehicles		6,722	8,420	(1,698)	20,658	24,847	(4,189)					
Total pre-owned vehicles								Total pre-owned vehicles				
								6,082		6,785		

Total vehicles sold	Total vehicles sold	17,573	18,393	(820)	55,071	55,863	(792)	Total vehicles sold	16,585		17,221
Total retail vehicles sold	Total retail vehicles sold							Total retail vehicles sold	15,508		16,217
Revenue per vehicle	Revenue per vehicle										
Revenue per vehicle	Revenue per vehicle										
New retail vehicles	New retail vehicles	\$ 14,706	\$ 16,582	\$ (1,876)	\$ 14,573	\$ 15,837	\$ (1,264)				
Used vehicles:											
New retail vehicles	New retail vehicles							\$14,754			\$ 14,982
Pre-owned vehicles:											
Retail	Retail	12,233	13,423	(1,190)	12,292	13,488	(1,196)	10,784	12,152	12,152	(1,366)
Wholesale	Wholesale	6,186	6,276	(90)	6,748	5,875	873	5,418	6,657	6,657	
Total used vehicles		11,241	12,649	(1,408)	11,454	12,685	(1,231)				
Total pre-owned vehicles	Total pre-owned vehicles							9,834			11,339
Finance and insurance, net	Finance and insurance, net	1,778	1,806	(28)	1,726	1,800	(74)	1,664	1,679	1,679	
Parts, service and accessories		3,626	3,559	67	3,546	3,423	123				
Parts, service, accessories	Parts, service, accessories							3,411			3,642
Total revenue per retail vehicle	Total revenue per retail vehicle	\$ 19,267	\$ 20,590	\$ (1,323)	\$ 19,075	\$ 20,079	\$ (1,004)	\$18,547	\$	\$	19,294
Gross Profit per vehicle	Gross Profit per vehicle										
Gross Profit per vehicle	Gross Profit per vehicle										
New vehicles	New vehicles	\$ 2,035	\$ 3,216	\$ (1,181)	\$ 2,163	\$ 3,242	\$ (1,079)				
Used vehicles		\$ 1,935	\$ 2,489	\$ (554)	\$ 1,780	\$ 2,589	\$ (809)				
New vehicles	New vehicles							\$ 1,831			\$ 2,278
Pre-owned vehicles	Pre-owned vehicles							1,716			1,249
Finance and insurance, net	Finance and insurance, net	\$ 1,778	\$ 1,806	\$ (28)	\$ 1,726	\$ 1,800	\$ (74)	1,664	1,679	1,679	
Parts, service and accessories		\$ 1,638	\$ 1,667	\$ (29)	\$ 1,630	\$ 1,611	\$ 19				

Parts, service, accessories						Parts, service, accessories	1,522		1,682
Total gross profit per vehicle <sup>(1)</sup>	Total gross profit per vehicle <sup>(1)</sup>	\$ 5,380	\$ 6,343	\$ (963)	\$ 5,358	Total gross profit per vehicle <sup>(1)</sup>	5,099	5,349	5,349

(1) Calculated as total gross profit divided by new and used pre-owned retail powersports units sold.

[Table of Contents](#)

**Revenue**

**Three and Nine Months Ended September 30, 2023 Compared to September 30, 2022**

Total Powersports revenue decreased by \$26.1 million in the first quarter of 2024, with the majority of the decrease coming from sales of pre-owned retail vehicles and PSA. Pre-owned retail unit sales were down 13.4%, and revenue per pre-owned retail vehicles sold was down 11.3%. Demand for pre-owned units was impacted by the broad availability of new retail vehicles, with unit sales of new retail vehicles increasing slightly.

The total number of vehicles sold decreased by 636 to 16,585. Overall, the average revenue per retail vehicle sold decreased \$747, primarily driven by more competitive macroeconomic conditions.

**Gross Profit**

Total powersports gross profit decreased \$7.6 million. Lower gross profit for new retail vehicles, F&I and PSA drove the decline in gross profit, and was partially offset by improved gross profit for pre-owned vehicles. Competitive pressures resulted in lower pricing and compressed gross profit for new units.

Gross profit per vehicle decreased by \$250 to \$5,099. The decrease is primarily attributable to the competitive pressures of new vehicles, particularly with the mix skewed toward new vehicles.

**Vehicle Transportation Services**

	Three Months Ended March 31,			
	2024	2023	\$ Change	% Change
Revenue (\$ in millions)	\$ 14.3	\$ 14.8	\$ (0.5)	(3.4)%
Gross Profit (\$ in millions)	\$ 3.5	\$ 3.5	\$ —	— %
Vehicles transported	24,637	23,608	1,029	4.4 %
Revenue per vehicle transported	\$ 580	\$ 629	\$ (49)	(7.8)%
Gross Profit per vehicle transported	\$ 142	\$ 152	\$ (10)	(6.6)%

Vehicles transported grew 4.4% with 3.4% lower revenue and gross profit flat with first quarter last year, as we focused on gaining volume and leveraging our costs.

**Selling, General and Administrative Expenses**

(\$ in millions)	Three Months Ended March 31,		
	2024	2023	Change
Compensation and related costs	\$ 42.0	\$ 51.0	\$ (9.0)
Facilities	11.4	11.6	(0.2)
General and administrative	9.4	9.8	(0.4)
Advertising, marketing and selling	5.9	5.8	0.1
Professional fees	3.3	3.8	(0.5)
Stock-based compensation	1.4	2.9	(1.5)
Technology and software	0.5	1.4	(0.9)
Total SG&A expenses	\$ 73.9	\$ 86.3	\$ (12.4)
Total SG&A as a % of gross profit	89.5 %	95.6 %	(6.1)bps

Selling, general and administrative (“SG&A”) expenses decreased \$12.4 million primarily due to our cost savings initiatives that were implemented in 2023, including a workforce reduction and the absorption of certain outside services by our internal team. As a percentage of gross profit, SG&A improved 610 basis points.

[Table of Contents](#)

**Depreciation and Amortization**

Depreciation and amortization decreased by \$1.2 million for the three months ended September 30, 2023 decreased 11.4% from the same period in 2022, primarily driven by a decline in the volume of used vehicles sold through retail as well as generally lower revenue per vehicle. The overall decline in retail sales contributed to a decline in F&I and PSA revenue and reflects the sales volume approaching a more normalized level following the pandemic.

Total Powersports revenue for the nine months ended September 30, 2023 decreased 6.7% compared to the same period in 2022, primarily driven by lower revenue from the sale of used vehicles sold via retail channels and lower F&I revenue, partially offset by higher revenue from the sale of new vehicles, as well as higher wholesale and PSA revenue. Both quantity and price per used vehicle sold via retail were lower than in the prior year. While we sold more new vehicles in the nine months ended September 30, 2023 compared to the same period in the prior year, the vehicles were sold at a lower average price that is more indicative of post-pandemic pricing than in the prior year. The mix of new and used vehicles sold was attributable to higher new vehicle inventory and more competitive macroeconomic conditions March 31, 2024, as compared to the same period in 2022.

**Gross Profit**

*Three and Nine Months Ended September 30, 2023 Compared to September 30, 2022*

Total Powersports gross profit for the three months ended September 30, 2023 decreased 20.1% as compared to the same period in 2022, primarily driven by a 15.2% 2023. The overall decrease in gross profit per vehicle sold and a 4.5% decrease in total vehicles sold. Gross profit from used vehicles decreased 43.3%, is primarily driven by lower volume and a 22.3% decrease in gross profit per used vehicle sold as market conditions were less favorable as compared to amortization of the same period in 2022. Gross profit various non-compete agreements resulting from new vehicles decreased 31.1%, driven by a 36.7% decrease in gross profit per new vehicle sold partially offset by an increase in new vehicle units sold. F&I and PSA gross profit was lower than in the same period in 2022, consistent with lower numbers of vehicles sold and impacted by our strategic initiative related to RumbleOn Finance.

Total Powersports gross profit for the nine months ended September 30, 2023 decreased by \$61,648 from the same period in 2022, primarily driven by a 16.1% decrease in gross profit per vehicle sold. Gross profit from used vehicles decreased 48.8%, primarily driven by a 31.2% decrease in gross profit per used vehicle sold and a 16.9% decrease in used vehicles sold as compared to the same period in 2022. Gross profit from new vehicles sold decreased 26.0%, primarily driven by a 33.3% decrease in gross profit per new vehicle sold, offset by a 11.0% increase in new vehicle units sold as compared to the same period in 2022. F&I gross profit decreased 6.4%, primarily driven by a 4.1% decrease in F&I gross profit per vehicle sold. The overall decreases were partially offset by a 1.1% increase in PSA gross profit as compared to the same period in 2022. prior acquisitions.

Other contributing factors to the overall decrease in gross profit include a less favorable product mix of vehicle sales, with a greater skew towards new units sold, and softening demand which resulted in lower pricing during the three and nine months ended September 30, 2023 as compared to the same period in 2022.

**Vehicle Logistics Metrics (dollars in thousands except per unit)**

	Three Months Ended September 30,			YoY Change	Nine Months Ended September 30,			YoY Change
	2023	2022			2023	2022		
Revenue	\$ 13,963	\$ 15,002	\$ (1,039)	\$ 43,226	\$ 42,870	\$ 356		
Gross Profit	\$ 3,339	\$ 3,486	\$ (147)	\$ 10,280	\$ 9,139	\$ 1,141		
Vehicles transported	22,930	23,105	(175)	67,528	66,307	1,221		
Revenue per vehicle transported	\$ 609	\$ 649	\$ (40)	\$ 640	\$ 647	\$ (7)		
Gross Profit per vehicle transported	\$ 146	\$ 151	\$ (5)	\$ 152	\$ 138	\$ 14		

**Revenue**

*Three and Nine Months Ended September 30, 2023 Compared to September 30, 2022*

Total Vehicle Logistics revenue for the three months ended September 30, 2023 decreased 6.9%, driven primarily by a 0.8% decrease in vehicles transported as compared to the same period in 2022.

Total Vehicle Logistics revenue for the nine months ended September 30, 2023 increased in line with the increase in vehicles transported as compared to the same period in 2022.

**Gross Profit**

*Three and Nine Months Ended September 30, 2023 Compared to September 30, 2022*

Total Vehicle Logistics gross profit for the three months ended September 30, 2023 decreased in line with the decrease in the number of vehicles transported as compared to the same period in 2022.

Total Vehicle Logistics gross profit for the nine months ended September 30, 2023 increased 12.5%, driven by the increase in number of vehicles transported, as well as the 10.5% increase in gross profit per vehicle transported compared to the same period in 2022.

#### Selling, General and Administrative

##### Cost Savings Initiatives

In the first quarter of 2023, the Company identified approximately \$15,000 of selling, general and administrative ("SG&A") expenses primarily related to discontinued operations and insurance costs that we began to remove from the business. Actions to reduce SG&A expenses related to discontinued operations were mostly completed by June 30, 2023. During the second quarter of 2023, the Company successfully executed its strategy to reduce annualized insurance costs by approximately \$7,000, and took actions to reduce compensation and professional fees.

During the second quarter of 2023, the Company began implementing a plan expected to further reduce annualized SG&A expenses by an additional \$15,000. Since our Interim CEO started in late June 2023, we have identified an additional \$12,000 in annualized cost savings, which would bring our total annualized SG&A expense reductions to approximately \$42,000. We expect to see the full effects of these SG&A expense reductions in 2024, driven by additional headcount reductions, subleases of unused facilities, and cost restructuring at our dealerships.

##### Three and Nine Months Ended September 30, 2023 Compared to September 30, 2022

The following table compares our SG&A expenses for the three and nine months ended September 30, 2023 to the comparable periods in 2022.

	Three Months Ended September 30,		YoY	Nine Months Ended September 30,		YoY
	2023	2022	Change	2023	2022	Change
Advertising, marketing and selling	\$ 7,081	\$ 8,751	\$ (1,670)	\$ 21,449	\$ 24,546	\$ (3,097)
Compensation and related costs	48,926	55,477	(6,551)	157,033	158,965	(1,932)
Facilities	12,947	10,812	2,135	35,447	32,095	3,352
General and administrative	8,925	10,754	(1,829)	29,697	26,643	3,054
Professional fees	2,633	4,952	(2,319)	13,100	12,872	228
Stock based compensation	3,077	2,605	472	10,898	7,237	3,661
Technology development and software	1,368	471	897	3,933	2,070	1,863
Total SG&A expenses	\$ 84,957	\$ 93,822	\$ (8,865)	\$ 271,557	\$ 264,428	\$ 7,129

SG&A expenses from continuing operations decreased for the three months ended September 30, 2023 compared to the same period in 2022 as we began to realize reductions from our cost savings initiatives discussed above. Partially offsetting savings from headcount reductions were costs for personnel hired to support our growth. Technology development and software increased primarily due to our strategic technology projects focused on inventory management, infrastructure, and integration efforts.

SG&A expenses for the nine months ended September 30, 2023 increased compared to the same period in 2022. The increase was primarily driven by: (1) increased headcount as the Company deployed its growth initiatives; (2) investments in facilities and technologies; (3) the valuation allowance charge in the nine months ended September 30, 2023 for the loan receivable assets that are being held for sale; (4) professional fees in connection with shareholder proposals for the annual meeting of the shareholder and reorganization of the Board of Directors; (5) executive separation costs; and (6) higher stock based compensation. The increases were partially offset by lower advertising, marketing, and selling costs as the Company focused expenditures on its most effective initiatives during the nine months ended September 30, 2023 as compared to the same period in 2022. In the case of technology and development, the Company is pursuing strategic technology projects focused on inventory management, infrastructure, and integration efforts which continued to progress during the nine months ended September 30, 2023.

##### Depreciation and Amortization

	Three Months Ended September 30,		YoY	Nine Months Ended September 30,		YoY
	2023	2022	Change	2023	2022	Change
Depreciation and amortization	\$ 7,275	\$ 6,554	\$ 721	\$ 17,271	\$ 16,872	\$ 399

Depreciation and amortization expense for the three and nine months ended September 30, 2023 was higher than the comparable 2022 periods because it included a \$2,610 impairment of the remaining capitalized costs of the Bidpath Software License as we terminated the related contract. The impact of the impairment was partially offset by lower amortization expense related to certain non-compete agreements that became fully amortized.

##### Interest Expense

	Three Months Ended September 30,		YoY	Nine Months Ended September 30,		YoY
	2023	2022	Change	2023	2022	Change
Interest expense	\$ 19,828	\$ 12,209	\$ 7,619	\$ 55,756	\$ 35,622	\$ 20,134

Interest expense increased for the three and nine months ended September 30, 2023 from the comparable periods in 2022 primarily due to higher interest rates and higher average borrowings. Interest expense consists primarily of interest and the amortization of deferred financing costs for borrowings under on the: (i) Oaktree Credit Agreement; term loan facility; (ii) various floorplan facilities; finance lease entered into in September 2023; (iii) private placement notes; (iv) convertible senior notes; and (v) in 2023, (iv) the ROF Consumer Finance Facility.

#### Derivative Liability

In connection with interest expense decreased \$3.0 million as our various financings, we undertake an analysis overall borrowings were lower, including the pay down of each financial instrument to determine principal on the appropriate accounting treatment, including which, if any, require bifurcation into liability and equity components. We have determined that each of our convertible senior notes issued on January 10, 2020 (the "New Notes") term loan facility and the Warrants have a liability component that needs to be remeasured each reporting period with the change in value recorded in the Condensed Consolidated Statements of Operations.

The change in value of the derivative liability for the three and nine months ended September 30, 2023 and 2022 were \$0 and \$39, respectively, and is included in change in derivative liability in the Condensed Consolidated Statement of Operations. The value of the derivative liability as of both September 30, 2023 and December 31, 2022 was \$26.

#### Adjusted EBITDA

Adjusted EBITDA is a non-GAAP financial measure and should not be considered as an alternative to operating income or net income as a measure of operating performance or cash flows. Non-GAAP financial measures are not necessarily calculated the same way by different companies and should not be considered a substitute for or superior to U.S. GAAP.

We define Adjusted EBITDA as net income (loss) adjusted to add back interest expense, depreciation and amortization, income tax effects, changes in derivative liabilities and certain recoveries, charges and expenses, such as an insurance recovery, non-cash stock-based compensation costs, acquisition-related costs, litigation expenses, restructuring costs, and other non-recurring costs, as these recoveries, charges and expenses are not considered a part of our core business operations and are not an indicator of ongoing, future company performance.

Adjusted EBITDA is one of the primary metrics used by management to evaluate the financial performance of our business. We present Adjusted EBITDA because we believe it is frequently used by analysts, investors, and other interested parties to evaluate companies in our industry. Further, we believe it is helpful in highlighting trends in our operating results, because it excludes, among other things, certain results of decisions that are outside the control of management, while other measures can differ significantly depending on long-term strategic decisions regarding capital structure and capital investments.

For the three and nine months ended September 30, 2023 and 2022, adjustments to Adjusted EBITDA were primarily comprised of:

- Income associated with the change in value of derivative liability as reported on the Condensed Consolidated Statement of Operations,
- Charges related to the shareholder proposals for the annual meeting of shareholders and reorganization of our Board of Directors, which includes the reimbursement of advisor fees incurred by shareholders in connection with the proxy contest of \$2,500,
- Lease expense associated with favorable related party leases in excess of contractual lease payments,
- Charges associated with litigation outside of our ongoing operations,
- Impairment associated with the reduction pay-off of the RumbleOn Finance loan receivables portfolio down consumer finance facility in early January 2024. Other interest expense was also lower due to its fair value in preparation our adoption of its sale, which is anticipated to occur in ASU 2020-06, as we are no longer amortizing the fourth quarter of 2023,
- Other non-recurring costs, which include one-time expenses incurred. For the three and nine months ended September 30, 2023, the balance was comprised of integration costs and professional fees debt discount associated with acquisitions, and a death benefit to the estate of a former officer and director of the Company. For the three and nine months ended September 30, 2022, the balance was primarily related to various integration costs and professional fees associated with the Freedom Powersports and RideNow acquisitions, technology implementation, and establishment of the RumbleOn Finance secured loan facility.
- Personnel restructuring costs, comprised of severance and charges associated with the separation of former executives, including the Company's former President and Chief Operating Officer, and former Chief Financial Officer,
- Purchase accounting adjustments, which represent one-time charges related to acquisitions,
- Non-cash stock-based compensation expense, and
- Transaction costs associated with acquisitions, which primarily include professional fees and third-party costs.

The following tables reconcile Adjusted EBITDA to net income (loss) for the periods presented:

Three Months Ended September 30,

Nine Months Ended September 30,

	2023		2022	
<b>Net income (loss)</b>	\$	(16,484)	\$	3,039
Income (loss) from discontinued operations, net		—		(676)
Income (loss) from continuing operations, net	\$	(16,484)	\$	3,715
<b>Add back:</b>				
Interest expense		19,828		12,209
Income tax provision (benefit)		(3,556)		678
Depreciation and amortization		7,275		6,554
<b>EBITDA</b>	\$	7,063	\$	23,156
<b>Adjustments:</b>				
Change in derivative liability		—		—
Charges related to proxy contest and Board of Directors reorganization		324		—
Lease expense associated with favorable related party leases in excess of contractual lease payments		271		177
Litigation settlement expenses		9		—
Loss associated with RumbleOn Finance loan receivables		600		—
Other non-recurring costs		64		2,588
Personnel restructuring costs		1,768		—
PPP Loan forgiveness		—		(2,509)
Purchase accounting related		—		—
Stock based compensation		3,077		2,605
Transaction costs - acquisitions		—		100
<b>Adjusted EBITDA</b>	\$	13,176	\$	26,117

## Liquidity and Capital Resources

Our primary sources of liquidity are available cash, amounts available under our floorplan lines of credit, and the monetization of our retail loan portfolio.

We had the following liquidity resources available as of September 30, 2023 and December 31, 2022:

	September 30, 2023		December 31, 2022	
Cash	\$	41,406	\$	46,762
Availability under floorplan facilities <sup>(1)</sup>		32,181		50,651
Committed liquidity resources available	\$	73,587	\$	97,413

<sup>(1)</sup>Availability under floorplan facilities is the available amount we can borrow under our existing vehicle inventory floorplan credit facilities based on the pledgable value of vehicle inventory on our balance sheet as of September 30, 2023 and December 31, 2022. Availability under floorplan facilities is distinct from the maximum borrowing capacity of these facilities because it represents the current amount available to borrow, rather than amounts available to borrow for future inventory purchases.

Our primary cash requirements include payments related to our debt and lease obligations. Excluding operating lease liabilities and the derivative liability, the outstanding principal amount of indebtedness is summarized in the table below. convertible senior notes. See Note 3 - "Leases", Note 5 - "Secured Debt", Description of Business and Note 7 - "Stock-based Compensation" to our Condensed Consolidated Financial Statements Significant Accounting Policies, included in Part I, Item 1, Financial Statements, of this Quarterly Report on Form 10-Q for more information related to details on our debt, equity adoption.

## Liquidity and leases.

	September 30, 2023		December 31, 2022	
Asset-Based Financing:				
Inventory (floorplan notes)	\$	287,135	\$	220,176 <sup>(1)</sup>
Total asset-based financing		287,135		220,176 <sup>(1)</sup>
Term loan facility		297,680		346,066
Financing obligation		47,933		—

Unsecured senior convertible notes	38,750	38,750
RumbleOn Finance secured loan facility	14,606	25,000
Note payable for leasehold improvements and other	1,528	—
Total debt	687,632	629,992 <sup>(1)</sup>
Less: unamortized discount and debt issuance costs	(30,563)	(35,432)
Total debt, net	\$ 657,069	\$ 594,560 <sup>(1)</sup>

## Capital Resources

<sup>(1)</sup> Excludes floorplan notes. Our primary sources of \$5,254 for the Automotive segment that liquidity are reported as liabilities available cash and amounts available under our floor plan lines of discontinued operations.

At June 30, 2023, the Company was not in compliance with certain leverage ratio financial covenants under the Oaktree Credit Agreement. On August 9, 2023 (the "Amendment No. 5 Effective Date"), the Company, the Subsidiary Guarantors party thereto, Oaktree and the Lenders party thereto executed Amendment No. 5 to the Oaktree Credit Agreement (the "Amendment No. 5"), pursuant to which, among other things, (i) all leverage ratio financial covenants under the Oaktree Credit Agreement were (a) eliminated and not tested for the for the quarters ending June 30, 2023 and September 30, 2023 and (b) made less restrictive for the quarters ending December 31, 2023, March 31, 2024, and June 30, 2024; (ii) additional performance covenants were added requiring the Company and its subsidiaries to use commercially reasonable best efforts to dispose of certain non-core real estate and monetize its consumer loan portfolios (with corresponding requirements to use such proceeds of such sales to pay down the term loans under the Oaktree Credit Agreement); (iii) an additional performance covenant was added requiring the Company to raise net cash proceeds of not less than \$100,000 from the issuance of common equity interests in the Company by December 1, 2023 (with a corresponding requirement to use certain of such equity proceeds to pay down the term loans under the Oaktree Credit Agreement), and (iv) an additional performance covenant was added requiring the Company to issue warrants, in a form to be agreed upon, to the Lenders. In connection with Amendment No. 5, the Company has agreed to pay a fee which may be paid in cash or paid-in-kind. The foregoing description of Amendment No. 5 does not purport to be complete and is qualified in its entirety by reference to the full text of Amendment No. 5, included as Exhibit 10.5 attached hereto.

The Company believes that it will be in compliance with all covenants under the Oaktree Credit Agreement, as amended by Amendment No. 5, for the next year. Further, Management believes that current working capital, results of operations of the Oaktree Credit Agreement, as amended by Amendment No. 5, and existing financing arrangements are sufficient to fund operations for at least one year from the date of the financial statements included in Part I, Item 1, Financial Statements, of this Quarterly Report on Form 10-Q credit.

Our financial statements reflect estimates and assumptions made by management that affect the carrying values of the Company's assets and liabilities, disclosures of contingent assets and liabilities, and the reported amounts of revenue and expenses during the reporting period. The judgments, assumptions and estimates used by management are based on historical experience, management's experience, and other factors, which are believed to be reasonable under the circumstances. Because of the nature of the judgments and assumptions made by management, actual results could differ materially from these judgments and estimates, which could have a material impact on the carrying values of the Company's assets and liabilities and the results of operations.

Management believes that current working capital, results of operations, and existing financing arrangements are sufficient to fund operations for at least one year from the financial statement date.

We had the following liquidity resources available as of March 31, 2024 and December 31, 2023:

(\$ in millions)	March 31, 2024	December 31, 2023
Cash	\$ 50.3	\$ 58.9
Restricted cash <sup>(1)</sup>	13.1	18.1
Total cash and restricted cash	63.4	77.0
Availability under powersports inventory financing credit facilities <sup>(1)</sup>	149.3	165.0
Committed liquidity resources available	\$ 212.7	\$ 242.0

<sup>(1)</sup> Amounts included in restricted cash are primarily comprised of the deposits required under the Company's various floor plan lines of credit.

Our outstanding principal amount of indebtedness is summarized in the table below:

## Table of Contents

(\$ in millions)	March 31, 2024	December 31, 2023
<b>Asset-based Short-term Financing:</b>		
Floor plan notes (financing for inventory)	\$ 300.2	\$ 291.3
<b>Long-term Debt:</b>		
Term loan facility	226.0	248.7
6.75% convertible senior notes	38.8	38.8

Fleet notes and other	2.0	2.1
RumbleOn Finance secured loan facility <sup>(1)</sup>	—	12.2
Principal amount of long-term debt	266.8	301.8
Less: unamortized debt issuance costs	(21.6)	(27.5)
Total long-term debt, including current maturities	245.2	274.3
Total debt <sup>(2)</sup>	\$ 545.4	\$ 565.6

(1) Amount was repaid on January 2, 2024 and facility was terminated.

(2) Excludes finance lease obligations, which are included in other long-term liabilities.

## Cash Flows

The following table sets forth a summary of our cash flows for the nine three months ended September 30, 2023, March 31, 2024 and 2022: 2023:

	Nine Months Ended September 30,	
	2023	2022
Net cash provided by (used in) operating activities of continuing operations	\$ (19,325)	\$ (29,641)
Net cash used in investing activities of continuing operations	(12,861)	(76,498)
Net cash provided by financing activities of continuing operations	34,876	105,294
Net change in cash from continuing operations	\$ 2,690	\$ (845)

(\$ in millions)	Three Months Ended March 31,	
	2024	2023
Net cash provided by operating activities	\$ 3.0	\$ 9.0
Net cash used in investing activities	(1.1)	(5.7)
Net cash used in financing activities	(15.5)	—
Net cash used by discontinued operations	—	(0.1)
Net change in cash	\$ (13.6)	\$ 3.2

## Operating Activities

Our primary sources of operating cash flows result from the sale sales of powersports vehicles and ancillary products. Our primary uses use of cash in from operating activities are purchases of inventory, cash used to fund operations, parts and merchandise; marketing costs; interest payments on trade floor plans, long-term debt, and finance lease obligations; rental costs for facilities; and personnel-related expenses. For the nine months ended September 30, 2023, net Lower operating cash used in operating activities was lower than in the comparable 2022 period due in part to first quarter from lower revenue, higher inventory purchases and the following: (1) the wind net pay down of RumbleOn Finance, our loan origination program in preparation for the sell-off of its receivables as described in Note 14 – "Discontinued Operations and Assets Held For Sale" included in Part I, Item 1, Financial Statements, of this Quarterly Report on Form 10-Q, (2) a more favorable impact from net changes in inventory, (3) the realized impact of management's cost reduction initiatives, (4) lower income taxes paid in the 2023 period, and (5) our ongoing initiatives to optimize our working capital, all of which were trade floor plan borrowings was partially offset by the impact receipt of cash from lower revenue the settlement in early 2024 from the sale of the RumbleOn Finance loan portfolio and higher interest payments, the benefits of our cost savings initiatives.

## Investing Activities

Our primary uses of cash for investing activities are business acquisitions, technology development to support and expand our operations, and capital investments for our stores. operations. Net cash used in investing activities was lower in decreased \$4.6 million primarily because the nine months ended September 30, 2023 than in prior year included the comparable period in 2022 primarily due to the \$3.3 million acquisition of Freedom Powersports, which occurred a powersports dealership in the 2022 period, Florida.

## Financing Activities

Cash flows from financing activities primarily relate to our short and long-term debt activity and proceeds from any equity issuances which have been used to provide working capital and for general corporate purposes, including paying down our short-term revolving facilities. Cash provided In the first quarter this year, cash used was higher primarily from debt repayments of \$35.3 million that were partially offset by financing activities \$19.6 million higher borrowings from non-trade floor plans. Last year's first quarter included the \$4.0 million pay down of debt that was lower in the nine months ended September 30, 2023, compared to the same period offset by increased borrowings from non-trade floor plans.

[Table of 2022. This was primarily because we had issued new secured debt in 2022 to fund the purchase of Freedom Powersports, and we repaid more debt in the nine months ended September 30, 2023 than in the comparable 2022 period. Partially offsetting these reductions in net cash provided by operating activities are the proceeds received from the](#)

[sale-leaseback transaction described in Note 3 - "Leases" included in Part I, Item 1, Financial Statements, of this Quarterly Report on Form 10-Q \(which is being accounted for as a failed sale-leaseback transaction\), Contents](#)

## Critical Accounting Policies and Estimates

See Note 1 - "Description of Business and Significant Accounting Policies" included in Part I, Item 1, Financial Statements, of this Quarterly Report on Form 10-Q for accounting pronouncements and material changes to our critical accounting policies since December 31, 2022. There have been no other material changes to our critical accounting policies and use of estimates from those described under "Management's Discussion and Analysis of Financial Condition and Results of Operations" included in our 2022 Form 10-K and our Current Report on Form 8-K filed on September 27, 2023.

10-K.

## Forward-Looking and Cautionary Statements

This Quarterly Report on Form 10-Q, as well as information included in oral statements or other written statements made or to be made by us, contain statements that constitute "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements are any statements other than statements of historical fact. Forward-looking statements represent our current judgment about possible future events and generally can be identified by words such as "anticipate," "anticipates," "believe," "believes," "could," "estimates," "estimate," "expects," "expect," "intends," "intend," "plans," "may," "predicts," "plan," "predict," "project," "projects," "will be," "will continue," "will likely result," and similar expressions. In making Forward-looking statements are neither historical facts nor assurances of future performance. These forward-looking statements we rely on assumptions and analysis are based on our experience current, reasonable expectations and perception of historical trends, current conditions assumptions, which expectations and expected future developments as well as other factors we consider appropriate under the circumstances. We believe these judgments assumptions are reasonable, but forward-looking statements are not guarantees of any future events or financial results, subject to risks and uncertainties that could cause our actual results may differ materially due to a variety of important factors, many of which are beyond our control. from those reflected in the forward-looking statements. Factors that could cause or contribute to such differences include the following:

- our significant indebtedness and the covenants those discussed in our debt agreements;
- increasing interest rates in connection with our debt agreements;
- our ability to acquire additional financing;
- the material weakness in our internal control over financial reporting;
- changes in general economic conditions and demand for our products and services;
- consumers acceptance of our business model;
- our ability to acquire vehicles that satisfy consumer demand;
- the results of investments made in the development, growth and expansion of our business;
- any diversion of management's attention in connection with acquisitions;
- difficulties integrating acquired businesses;
- any inability to retain or attract qualified personnel;
- any inability to develop, maintain or market our brands;
- any inability to drive traffic to our website and mobile applications;
- any inability to grow our complementary product offerings;
- any failure of third parties to provide financing, extended protection products, or other products or services to our customers;
- any failure of third parties to provide certain operating or administrative functions for us;
- changes to the supply or prices of new or pre-owned vehicles;
- competitive pressures from existing and new companies;
- climate change legislation or regulations restricting emission of greenhouse gases;
- any failure to adequately protect personal information;
- any failure to adequately protect our intellectual property;
- any failure to obtain or maintain adequate insurance coverage;
- adverse conditions affecting one or more of the powersports manufacturers with which we hold franchises;
- any change or deterioration in the relationship with the manufacturers of vehicles we sell;
- any reduction or discontinuing of sales incentive, warranty, or other promotional programs by manufacturers; and
- other factors discussed in Part I, Item 1A in our 2022 Form 10-K [and Part II, Item 1A of and this Quarterly Report on Form 10-Q].

10-Q. Given these risks and uncertainties, readers are cautioned not to place undue reliance on forward-looking statements. Forward-looking statements speak only as of the date they are made, and we We undertake no obligation to publicly update or revise or any forward-looking statements, except as required by law.

## Item 3. Quantitative and Qualitative Disclosures About Market Risk.

This item is not applicable as we are currently considered a smaller reporting company.

#### Item 4. Controls and Procedures.

##### Evaluation of Disclosure Controls and Procedures

We maintain disclosure controls and procedures that are designed to provide reasonable assurance that information required to be disclosed in our reports filed or submitted under the Securities Exchange Act of 1934, as amended (the "Exchange Act") is recorded, processed, summarized, and reported within the time periods specified in the SEC's rules and forms and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow for timely decisions regarding required disclosure. Our management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, evaluated the effectiveness of our disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) as of September 30, 2023 March 31, 2024. Based on this evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were not effective as of September 30, 2023 March 31, 2024, based on the ongoing remediation of a material weakness weaknesses identified in the 2022 2023 Form 10-K. The material weakness weaknesses existing in our internal control over financial reporting relates relate to:

- Insufficient As previously disclosed, there was an insufficient number of accounting resources to facilitate an effective control environment following the integration of the RideNow business and incorporation of the acquired business into the Company's control environment. Consequently, the Company did not effectively operate process-level control activities related to the elimination of intercompany transactions, transactions; review and approval of certain account reconciliations, payroll, and journal entries; review and approval of accounting estimates accounting for non-routine transactions, estimates; and execution and documentation of management review controls, including but not limited to evaluating debt covenants, and assumptions included in the Company's annual indefinite-lived impairment assessment.
- In the areas of user access and segregation of duties related to certain information technology systems that support the Company's financial reporting processes, resulting in ineffective journal entry and other manual controls.

##### [Table of Contents](#)

As set forth below, management has taken and will continue to take steps to remediate the identified material weakness. Notwithstanding the material weakness, we have performed additional analyses and procedures to enable management to conclude that our consolidated financial statements included in this Form 10-Q fairly present in all material respects our financial condition and results of operations as of and for the periods presented.

##### Management's Remediation Plan

In response to the material weakness discussed above, we have implemented and plan to continue efforts already underway to remediate internal control over financial reporting, which include the following:

- We have hired an are committed to hiring additional accounting resource resources with the required technical expertise and clearly defined roles and responsibilities. & responsibilities;
- We have evaluated continue to evaluate system enhancements to automate the consolidation and elimination of intercompany transactions. transactions;
- We have enhanced continue to enhance the overall review and approval process relating to elimination of intercompany transactions. transaction;
- We have enhanced continue to enhance the review and approval controls related to reconciling certain accruals and accounting estimates. estimates and assumptions;
- We have implemented proper are in the process of conducting additional training on the Company's document retention policies;
- We are enhancing our processes around reviewing privileged access to key financial systems and ensuring appropriate segregation of duties; and
- We continue to enhance governance and reporting over the execution of these remediation action items, including expansion of mitigating controls where appropriate.

Management and our Audit Committee will monitor these specific remedial measures and the effectiveness of our overall control environment. The A material weakness will not be considered remediated, however, until the applicable controls operate for a sufficient period of time and management has concluded, through testing, that these controls are operating effectively. We can provide no assurance as to when the remediation of the these material weakness weaknesses will be completed to provide for an effective control environment.

##### Changes in Internal Control Over Financial Reporting

Other than incorporating the controls and procedures of the acquired Freedom entities and addressing the remediation actions described above, there were no changes in our internal control over financial reporting (as defined in Rule 13a-15(f) and 15d-15(f) under the Exchange Act) that occurred during the quarter ended September 30, 2023 March 31, 2024 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

##### Limitations on Effectiveness of Controls and Procedures

In designing and evaluating the disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives. In addition, the design of disclosure controls and procedures must reflect the fact that there are resource constraints that require management to apply its judgment in evaluating the benefits of possible controls and procedures relative to their costs.

## PART II - OTHER INFORMATION

### Item 1. Legal Proceedings.

We are not a party to any material legal proceedings as set forth in Item 103 of Regulation S-K, other than ordinary routine litigation incidental to our business.

As previously disclosed, the Company is conducting an investigation of certain allegations surrounding Marshall Chesrown's use of Company resources. The investigation remains ongoing and as of the date of this filing, the Company has made no final determination as to what action to take. On July 7, 2023, Mr. Chesrown provided the Board a letter of resignation (the "Resignation Letter") describing Mr. Chesrown's disagreement with several recent corporate governance, disclosure and other actions taken by the Company, the Board and certain of its members, and indicated his intent to pursue legal claims. The Company disagrees with the characterization of the allegations and assertions described in the Resignation Letter. **As of the date of this filing, there has been no release or other agreement with Mr. Chesrown, nor has a lawsuit been filed by Mr. Chesrown against the Company.** The Company and Mr. Chesrown have conducted a pre-suit mediation in October 2023, as required in his employment agreement, but did not resolve the matter. **On March 13, 2024, Mr. Chesrown filed suit against the Company in Delaware Superior Court for the claims asserted in his Resignation Letter. Mr. Chesrown is seeking a declaratory judgment that he resigned with good reason, termination compensation damages in the amount of \$7.5 million, general and reputational damages in the amount of \$50 million, punitive damages, attorney's fees and litigation costs. We intend to defend these claims vigorously; however, we can provide no assurance regarding the outcome of this matter.**

### Item 1A. Risk Factors.

Our business, financial condition, operating results, and cash flows may be impacted by a number of factors, many of which are beyond our control, including those set forth in our **2022 2023 Form 10-K and in Part II, Item 1A of our Quarterly Report on Form 10-Q for the three months ended June 30, 2023. 10-K.** There have been no material changes to the risk factors previously disclosed in our **2022 2023 Form 10-K, except as described in and in Part II, Item 1A of our Quarterly Report on Form 10-Q for the three months ended June 30, 2023,** the occurrence of any of which could have a material adverse effect on our actual results.

### Item 5. Other Information.

**During the three months ended March 31, 2024, no director or officer of the Company adopted or terminated a "Rule 10b5-1 trading arrangement" or "non-Rule 10b5-1 trading arrangement," as such terms are defined in Item 408(a) of Regulation S-K.**

### Item 6. Exhibits.

Exhibit Number	Description
<a href="#">4.1</a> <a href="#">3.1</a>	<a href="#">Form Amendment No. 2 to Amended and Restated Bylaws of 2023 Warrant, RumbleOn, Inc., dated April 16, 2024 (incorporated by reference to Exhibit 4.1 to 3.1 in the Company's Company's Current Report on Form 8-K 8-K, filed with the SEC on August 17, 2023 April 19, 2024).</a>
<a href="#">10.1+</a> <a href="#">10.1</a>	<a href="#">Separation Form of 2024 Restricted Stock Unit Award Agreement, dated July 14, 2023, by and between RumbleOn, Inc. and Michael Francis. (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K filed on July 20, 2023), effective March 19, 2024*</a>
<a href="#">10.2+</a> <a href="#">10.2</a>	<a href="#">Special Advisor Form of 2024 Performance Stock Unit Award Agreement, dated July 14, 2023, by and between RumbleOn, Inc and Michael Francis (incorporated by reference to Exhibit 10.2 to the Current Report on Form 8-K filed on July 20, 2023), effective March 19, 2024*</a>
<a href="#">10.3+</a>	Employment Agreement, dated July 20, 2023, by and between RumbleOn, Inc. and Steven Pully. (incorporated by reference to Exhibit 10.3 to the Current Report on Form 8-K filed on July 26, 2023).
<a href="#">10.4</a> <a href="#">31.1</a>	Purchase Agreement, dated as of August 8, 2023, by and among the Company, Mark Tkach, William Coulter and Stone House Capital Management, LLC. (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K filed on August 11, 2023).
<a href="#">10.5</a>	Amendment No. 5 to the Term Loan Credit Agreement, dated August 9, 2023, by and among RumbleOn, Inc., the Subsidiary Guarantors party thereto, the lenders party thereto, and Oaktree Fund Administration, LLC, as administrative agent and collateral agent. (incorporated by reference to Exhibit 10.8 to the Quarterly Report on Form 10-Q filed on August 8, 2023).
<a href="#">10.6+</a>	Employment Agreement, dated August 16, 2023, by and between RumbleOn, Inc. and Mark Tkach. (incorporated by reference to Exhibit 10.3 to the Current Report on Form 8-K filed on August 18, 2023).
<a href="#">10.7</a>	Real Estate Purchase and Sale Contract, dated August 22, 2023 (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K filed on August 28, 2023).
<a href="#">10.8*</a>	Unitary Master Lease Agreement dated September 8, 2023
<a href="#">10.9+</a>	Executive Employment Agreement, dated October 19, 2023, between Michael Kennedy and RumbleOn, Inc. (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K filed on October 20, 2023).
<a href="#">31.1*</a>	Certification of Principal Executive Officer pursuant to Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002*
<a href="#">31.2*</a> <a href="#">31.2</a>	Certification of Principal Financial Officer pursuant to Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002*
<a href="#">32.1**</a> <a href="#">32.1</a>	Certifications of Principal Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002**
<a href="#">32.2**</a> <a href="#">32.2</a>	Certifications of Principal Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002**
<a href="#">101.INS*</a> <a href="#">101.INS</a>	Inline XBRL Instance Document*
<a href="#">101.SCH*</a> <a href="#">101.SCH</a>	Inline XBRL Taxonomy Extension Schema*
<a href="#">101.CAL*</a> <a href="#">101.CAL</a>	Inline XBRL Taxonomy Extension Calculation Linkbase*
<a href="#">101.DEF*</a> <a href="#">101.DEF</a>	Inline XBRL Taxonomy Extension Definition Linkbase*
<a href="#">101.LAB*</a> <a href="#">101.LAB</a>	Inline XBRL Taxonomy Extension Label Linkbase*
<a href="#">101.PRE*</a> <a href="#">101.PRE</a>	Inline XBRL Taxonomy Extension Presentation Linkbase*
<a href="#">104*</a> <a href="#">104</a>	Cover Page Interactive Data File (formatted as inline XBRL and contained in Exhibit 101)*

\* Filed herewith.

\*\* Furnished herewith.

+ Management contract or compensatory plan or arrangement.

[Table of Contents](#)

## SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

**RUMBLEON, INC. RumbleOn, Inc.**

Date: **November 7, 2023** May 8, 2024

By: /s/ Michael W. Kennedy  
Michael W. Kennedy  
Chief Executive Officer  
(Principal Executive Officer)

Date: **November 7, 2023** May 8, 2024

By: /s/ Blake Lawson  
Blake Lawson  
Chief Financial Officer  
  
(Principal Financial Officer and Principal Accounting Officer)

**41 23**

slide1

**UNITARY MASTER LEASE AGREEMENT**

**Between**

**NNN REIT, LP,**

**a Delaware limited partnership, as Landlord,**

**and**

**Freedom Powersports Fort Worth, LLC, a Texas limited liability company; Freedom Powersports, LLC, a Texas limited liability company;**

**Freedom Powersports McKinney, LLC, a Texas limited liability company; Freedom Powersports Johnson County, LLC, a Texas limited liability company; Freedom Powersports Dallas, LLC, a Texas limited liability company;**

**Freedom Powersports Lewisville, LLC, a Texas limited liability company; and Freedom Powersports McDonough LLC, a Delaware limited liability company, collectively, as Tenant**

RumbleOn (8-Site) **1**

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**TABLE OF CONTENTS**

## ARTICLE I AGREEMENT TO LEASE 2

- 1.1 Demise 2
- 1.2 Condition 2
- 1.3 Quiet Enjoyment 2

## ARTICLE II TERM 2

- 2.1 Term 2
- 2.2 Option to Renew 3
- 2.3 Termination 3

## ARTICLE III RENT 3

- 3.1 Base Rent 3
- 3.2 Base Rent Increases 3
- 3.3 Additional Rent; Rent Defined 4
- 3.4 Payment of Rent 5
- 3.5 Past Due Rent 5

## ARTICLE IV USE AND OPERATION OF DEMISED PREMISES 5

- 4.1 Permitted Use 5
- 4.2 First-Class Operation 7
- 4.3 Compliance with Legal Requirements 7
- 4.4 Energy Efficiency, Waste Management and Green Building Practices. 7
- 4.5 Environmental Compliance, Defense and Indemnity – Tenant Obligations. 8
- 4.6 Mold and Other Biocontaminants 13
- 4.7 Continuous Operations. 13
- 4.8 Compliance With Title Restrictions, Etc 14

## ARTICLE V TAXES AND ASSESSMENTS 14

- 5.1 Real Estate Taxes and Assessments 14

## ARTICLE VI UTILITIES 17

## ARTICLE VII INSURANCE 17

- 7.1 Insurance by Tenant 17
- 7.2 Carriers and Features 20
- 7.3 Failure to Procure Insurance 21
- 7.4 Waiver of Subrogation - Personal Property of Tenant in the Demised Premises 21

## ARTICLE VIII ADDITIONS, ALTERATIONS AND REMOVALS 21

- 8.1 Permitted and Required Renovations. 21
- 8.2 Prohibition 23

i

ARTICLE IX MAINTENANCE AND REPAIRS 23

- 9.1 Tenant 23
- 9.2 No Landlord's Obligation 23

ARTICLE X DAMAGE OR DESTRUCTION 24

- 10.1 Restoration and Repair 24
- 10.2 Escrow of Insurance Proceeds 24
- 10.3 Uninsured Losses 24

ARTICLE XI CONDEMNATION 25

- 11.1 Eminent Domain - Generally 25

ARTICLE XII LANDLORD'S RIGHT OF ENTRY 27

ARTICLE XIII ASSIGNMENT AND SUBLETTING BY TENANT 27

- 13.1 Assignment and Subletting 27
- 13.2 No Release 29
- 13.3 No Recognition 30
- 13.4 Adequate Assurances in Bankruptcy 30

ARTICLE XIV LANDLORD'S INTEREST NOT SUBJECT TO LIENS 31

- 14.1 Liens, Generally 31
- 14.2 Mechanics' Liens 31
- 14.3 Contest of Liens 32
- 14.4 Notices of Commencement of Construction 32

ARTICLE XV SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE 32

- 15.1 Subordination 32
- 15.2 Attornment 33
- 15.3 Rights of Mortgagees and Assignees 33

ARTICLE XVI END OF TERM 33

- 16.1 Surrender of Demised Premises 33
- 16.2 Holding Over 34

ARTICLE XVII LIABILITY OF LANDLORD; INDEMNIFICATION 34

- 17.1 Defense and Indemnity of Tenant by Landlord. 34
- 17.2 Defense and Indemnification of Landlord by Tenant 35
- 17.3 Notice of Claim or Suit 35

ARTICLE XVIII DEFAULT 35

- 18.1 Events of Default 35
- 18.2 Remedies on Default 38
- 18.3 Landlord May Cure Tenant Default 40
- 18.4 Rights Cumulative 40

18.5	Landlord Default	40
18.6	Leasehold Mortgages.	41

ARTICLE XIX TENANT'S PROPERTY 42

19.1	Intentionally Deleted	42
------	-----------------------	----

ARTICLE XX NOTICES 42

ARTICLE XXI MISCELLANEOUS 43

21.1	Characterization of Lease	43
21.2	Estoppel Certificates	44
21.3	Brokerage	44
21.4	No Partnership or Joint Venture	44
21.5	Entire Agreement	44
21.6	Waiver	45
21.7	Time	45
21.8	Costs and Attorneys' Fees; Consent	45
21.9	Limitation on Liability of Landlord	45
21.10	Records and Financial Statements	45
21.11	Captions and Headings	46
21.12	Severability	46
21.13	Drafting	46
21.14	Successors and Assigns	46
21.15	Applicable Law, Venue and Jurisdiction	46
21.16	Recordation of Memorandum of Lease	46
21.17	Waiver of Jury Trial	47
21.18	Counterparts	47
21.19	Maintenance Records and Contracts	47
21.20	Specially Designated Nationals and Blocked Persons.	47
21.21	Guaranty	48
21.22	Landlord's Right of Assignment	48
21.24	Intentionally Deleted.	49
21.25	Force Majeure	49
21.26	Master Lease Characterization	49
21.27	Authority of Landlord and Tenant	50

iii

---

21.28	Security	50
21.29	Joint and Several Liability	51

EXHIBIT "A"	LEGAL DESCRIPTION OF THE REAL PROPERTIES	EXHIBIT "B"	TENANT ESTOPPEL CERTIFICATE
EXHIBIT "C"	MEMORANDUM OF LEASE	EXHIBIT "D"	FINANCIAL INFORMATION
EXHIBIT "E"	UNCONDITIONAL AND CONTINUING GUARANTY	EXHIBIT "F"	ANNUAL STORAGE TANK INFORMATION
EXHIBIT "G"	OTHER LEASES		

**UNITARY MASTER LEASE AGREEMENT**

THIS UNITARY MASTER LEASE AGREEMENT RESTRICTED STOCK UNIT AWARD TO: You ("Grantee") have been granted this restricted stock unit ("RSU") award (the "**Lease**") is made and entered into effective as of the 8th day of September, 2023 (the "**Effective Date**" "Award") by and between NNN REIT, LP, a Delaware limited partnership RumbleOn, Inc. (the "**Landlord**" "Company"), and Freedom Powersports Fort Worth, LLC, a Texas limited liability company; Freedom Powersports, LLC, a Texas limited liability company; Freedom Powersports McKinney, LLC, a Texas limited liability company; Freedom Powersports Johnson County, LLC, a Texas limited liability company; Freedom Powersports Dallas, LLC, a Texas limited liability company; Freedom Powersports Lewisville, LLC, a Texas limited liability company; and Freedom Powersports McDonough LLC, a Delaware limited liability company (collectively, the "**Tenant**");

**WITNESSETH:**

WHEREAS, Landlord acquired from Tenant or Tenant's affiliates and owns title to nine (9) certain parcels of real property as more particularly described in Exhibit "A" attached hereto (each a "**Real Property**" and collectively, the "**Real Properties**"), upon which are located a building and related site improvements such as pavement, access ways, curb cuts, parking, drainage systems and facilities, landscaping, and utility facilities and connections for sanitary sewer, potable water, irrigation, electricity, telephone and natural gas, if applicable, signs, sign and light poles, HVAC and utility systems (the "**Improvements**");

WHEREAS, Tenant or Tenant's affiliates on the Effective Date hereof has conveyed the Real Properties and Improvements to Landlord together with all licenses, rights, privileges, tenements, hereditaments and appurtenances belonging or in any way appertaining to such Real Properties; and

WHEREAS, Tenant desires to lease from Landlord, and Landlord has agreed to lease to Tenant, the Real Properties and Improvements (each Real Property and its related Improvements are referred to herein individually as a "**Demised Premise**" or "**Demised Property**" and collectively as the "**Demised Premises**" or "**Demised Properties**") upon the terms and conditions as more particularly hereinafter provided and described; and

WHEREAS, the obligations of Tenant under this Lease are guaranteed by Guarantor pursuant to that certain Guaranty of even date herewith;

WHEREAS, this Lease constitutes a single and indivisible lease of the Demised Premises, and is not an aggregation of leases for each separate Demised Property. Neither Landlord nor Tenant would have entered into this Lease except as a single and indivisible lease, and the rental herein has been established on the basis of the price paid by Landlord in its acquisition of the Demised Premises subject to a unitary master lease and not on the basis of the valuation or price of any individual Demised Property subject to separate leases; and

NOW, THEREFORE, for and in consideration of the premises hereof, the sums of money to be paid hereunder, and the mutual and reciprocal obligations undertaken herein, the parties hereto do hereby covenant, stipulate and agree as follows:

**ARTICLE I AGREEMENT TO LEASE**

1.1 **Demise.** Landlord does hereby demise, let and lease unto Tenant, and Tenant does hereby hire, lease and take as tenant from Landlord the entire Demised Premises upon those terms and conditions hereinafter set forth.

1.2 **Condition.** Landlord leases to Tenant and Tenant leases from Landlord the Demised Premises including, without limitation, the Storage Tank System in its **"AS-IS, WHERE IS, WITH ALL FAULTS"** condition, and Landlord makes absolutely no representations or warranties whatsoever with respect to the Demised Premises or the condition thereof. Tenant or its affiliate is the immediate past owner and operator of the Demised Premises. Tenant acknowledges that Tenant has both inspected and operated the Demised Premises prior to the commencement of this Lease, and that Tenant's familiarity and knowledge of the condition of the Demised Premises including, without limitation, the Storage Tank System is vastly superior to that of Landlord. Landlord has not investigated and does not warrant or represent to Tenant that the Demised Premises are including, without limitation, the Storage Tank System fit for the purposes intended by Tenant or for any other purpose or purposes whatsoever. Tenant acknowledges that Tenant shall be solely responsible for any and all actions, repairs, permits, approvals and costs required for the rehabilitation, renovation, use, occupancy and operation of the Demised Premises in accordance with applicable governmental requirements, including, without limitation, all governmental charges and fees, if any, which may be due or payable to applicable authorities. Tenant agrees that, by leasing the Demised Premises, Tenant warrants and represents that Tenant has examined and approved all things concerning the Demised Premises which Tenant deems material to Tenant's leasing and use of the Demised Premises. Tenant further acknowledges and agrees that (a) neither Landlord nor any agent of Landlord has made any representation or warranty, express or implied, concerning the Demised Premises including, without limitation, the Storage Tank System, or which have induced Tenant to execute this Lease except as set forth in Section 1.3 of this Lease, and (b) any other representations and warranties are expressly disclaimed by Landlord. The provisions of this Section 1.2 have been negotiated, and are intended to be a complete exclusion and negation of any warranties by Landlord, express or implied, with respect to the Demised Premises, arising pursuant to the Uniform Commercial Code or any other law now or hereafter in effect or arising otherwise.

1.3 **Quiet Enjoyment** RumbleOn 2017 Stock Incentive Plan (as amended to date, the "Plan"). Landlord covenants This Restricted Stock Unit Award Agreement (the "Agreement") confirms the understanding between the Company and agrees that so long you as Tenant shall timely pay all Rent due to Landlord from Tenant hereunder and keep, observe and perform all covenants, promises and agreements on Tenant's part to be kept, observed and performed hereunder, Tenant shall and may peacefully and quietly have, hold and occupy the Demised Premises free of any interference from Landlord; subject, however, and nevertheless to the terms, provisions and conditions of this Lease.

## ARTICLE II TERM

2.1 **Term.** The initial term of this Lease (the **"Initial Term"**) shall, unless sooner terminated as elsewhere provided in this Lease, commence on the Effective Date and shall terminate and expire at 11:59 p.m. on the last day of the month following the fifteenth (15th)

anniversary of the Effective Date. The Initial Term, together with any properly exercised Option Period (defined Award represents an unsecured and unfunded promise of the Company to deliver Class B Common Stock of the Company in Section 2.2 below) shall the future subject to the fulfillment of the vesting conditions set forth in the Agreement. The grant of the RSUs is made in consideration of the services to be collectively referred rendered by Grantee to herein as the **"Term"**.

2.2 **Option to Renew.** Tenant shall have and is hereby granted five (5) options (individually an **"Option"**) to extend this Lease beyond Company. 1. Introduction. The terms of the Initial Term for an additional period of five (5) years each (individually an **"Option Period"**), upon the same terms, covenants, conditions and rental Award are as set forth herein, except in this Agreement and in the Base Rent shall increase as provided herein. Tenant may exercise each such Option successively Plan. The Plan is incorporated into this Agreement by giving written notice to Landlord not less than twelve (12) months prior reference, which means that this Agreement is limited by and subject to the expiration express terms and provisions of the Initial Term Plan. You agree that you have been provided access to the Plan and that this Award shall be subject to the conditions set forth in the Plan, including future amendments thereto. In the event of a conflict between the terms of this Lease or expiration Agreement and the terms of the then current Option Period, Plan, the terms of the Plan shall control. Capitalized terms that are not defined in this Agreement have the meanings given to them in the Plan. The most important terms of the Award are summarized as applicable. Notwithstanding follows: 2. Effective Date: 3. Grant ID: 4. Number of RSUs Subject to this Award: 5. Vesting Schedule: Subject to your continuous employment and the foregoing, Tenant shall not be entitled to extend the Term terms of this Lease if, Agreement, including, without limitation, Sections 6, 7 and 9, the Award will vest according to the following schedule: Vesting Date Number of RSUs that Vest 6. Conversion of RSUs and Issuance of Shares. Upon each vesting of the Award (each, a "Vest Date"), one share of Common Stock shall be issuable for each RSU that vests

on such Vest Date (the "Shares"), subject to the terms and provisions of the Plan and this Agreement. Thereafter, the Company will transfer such Shares to you upon satisfaction of any required Tax-Related Items (as defined in Section 10). No fractional shares shall be issued under this Agreement. 7. Termination of Employment or Other Services; Change in Control. a. Termination. Except as otherwise provided for in a separate agreement between the Company and you that is in effect at the time of exercise your termination, the unvested portion of an Option or at the time of commencement of an Option Period, Tenant is in default under any provision of this Lease as to which default Landlord has given notice to Tenant in accordance with Article XX hereof Award will terminate automatically and such default remains uncured after the expiration of any applicable cure period. If Tenant shall fail, or shall not be entitled pursuant forfeited to the preceding sentence, to extend Company immediately and without further notice upon the Term voluntary or involuntary termination of this Lease for an additional Option Period, all remaining rights of renewal shall automatically expire.

2.3 **Termination.** Notwithstanding your employment with the Company or any present or future law to the contrary, this Lease shall not be terminated by Tenant for any failure of Landlord to perform pursuant to the terms and conditions of this Lease or otherwise subsidiary for any reason except and the Company will have no further obligations to Grantee with respect to such forfeited Award. Notwithstanding the preceding, in the event of a condemnation as more specifically provided termination due to death or Disability, the Committee or its designee may, in Article XI of this Lease.

### ARTICLE III RENT

3.1 **Base Rent.** Beginning its sole discretion, provide that RSUs which have not vested on the Effective Date, and subject to proration as set forth below, Tenant date of such termination shall pay annual base rent for the Demised Premises during the first (1st) Lease Year (as hereinafter defined), in equal monthly installments of THREE HUNDRED TWELVE THOUSAND TWO HUNDRED THIRTY FIVE AND 83/100 DOLLARS (\$312,235.83), together with all applicable sales and use taxes thereon, if any (collectively, "**Base Rent**"). Base Rent for each Lease Year during the Term shall be paid by Tenant to Landlord in equal monthly installments, in advance, on the first (1st) day of each calendar month commencing on the first (1st) day vest immediately. b. For purposes of the calendar month immediately following Award, your employment will be considered terminated as of the Effective Date, provided, however, Landlord and Tenant agree that date the prorated Base Rent payable for the period from the Effective Date Company determines you are no longer actively providing services to the first (1st) day Company or a subsidiary (regardless of the first (1st) full calendar month following the Effective Date, if any, plus Base Rent reason for the entire first (1st) month following the Effective Date shall such termination and whether or not later found to be due on the Effective Date. For the purposes invalid or in breach of this Lease, the term "**Lease Year**" shall mean for the first (1st) Lease Year the period commencing on the Effective Date and ending on the last day of the twelfth (12th) full calendar month following the Effective Date (i.e. if the Effective Date is not the first (1st) day of a calendar month the first (1st) Lease Year will be more than twelve (12) months in length). Each successive Lease Year after the first (1st) Lease Year shall be defined as each successive twelve (12) calendar month period. Base Rent shall be proportionately prorated for any partial month at the beginning of the first (1st) Lease Year, if any.

3.2 **Base Rent Increases.** The capitalized terms used herein are defined below. Base Rent shall increase annually every Lease Year during the Term as more particularly set forth herein. Effective on each Adjustment Date, Base Rent shall be increased by the lesser of (i) two

(2.0) times the increases employment laws in the CPI or (ii) two percent (2.0%) per annum. The amount of the increase in the Base Rent shall be calculated as follows: (a) subtract one point zero (1.0) from a fraction, the numerator of which shall be the Variable Index, and the denominator of which shall be the Base Index; then (b) multiply the result obtained in (a) above by 2.0; and then (c) multiply the Base Rent for the month immediately prior to the Adjustment Date by the result obtained in

(b) above. Notwithstanding the foregoing, in no event shall the increase in Base Rent on any Adjustment Date be more than two percent (2.0%) and in no event shall the Base Rent decrease on any Adjustment Date. By way of example, if the Variable Index is 101 and Base Index is 100, and if the Base Rent is \$20,000, the amount of the increase in the Base Rent would be  $[2.0 \times (101/100 - 1.0) \times 20,000 = \$400.00]$ .

The new Base Rent shall be payable in advance in consecutive monthly installments on the first (1st) day of each month until the next Adjustment Date, jurisdiction where you are employed or the expiration terms of the Term, as the case may be. Landlord's delay or the failure of Landlord, beyond commencement of any Adjustment Date in computing or billing for these adjustments will not impair the continuing obligation of Tenant to pay any your employment agreement, if any), and all Base Rent or other Rent due hereunder including any increased Base Rent from the

Adjustment Date, when calculated and billed by Landlord. In applying the foregoing formula for Base Rent adjustments, the following terms shall have the following meaning:

**“Adjustment Date”** shall mean every year during the Term including throughout any exercised Option Period (i.e. the first (1st) day of the second (2nd) Lease Year and the first (1st) day of each successive Lease Year thereafter during the Term).

**“Base Index”** for the first (1st) Adjustment Date shall mean the CPI for the month which is two (2) months prior to the Effective Date. Thereafter, the Base Index shall mean the CPI for the month which is two (2) months prior to the prior Adjustment Date. By way of example, for the first (1st) Adjustment Date, the Base Index will be the CPI for the month which is two (2) months prior to the Effective Date, for the second (2nd) Adjustment Date, the Base Index will be the CPI for the month which is two (2) months prior to the first (1st) Adjustment Date, for the third (3rd) Adjustment Date the Base Index will be the CPI for the month which is two (2) months prior to the second (2nd) Adjustment Date, etc.

**“CPI”** shall mean the Consumer Price Index for All Urban Consumers, All Items, U.S.A. Area, 1982-1984 = 100, as published by the Bureau of Labor Statistics, United States Department of Labor (U.S. City Average). If such index is discontinued, CPI shall then mean the most nearly comparable index published by the Bureau of Labor Statistics or other official agency of the United States Government as determined by Landlord.

**“Variable Index”** shall mean the CPI for the month which is two (2) months prior to the then current Adjustment Date.

3.3 **Additional Rent; Rent Defined.** If Landlord shall make any expenditure for which Tenant is responsible or liable under this Lease, or if Tenant is or shall become obligated to

Landlord under this Lease for any sum other than Base Rent, the amount thereof shall be deemed to constitute additional rent (**“Additional Rent”**) and shall be due and payable by Tenant to Landlord, together with all applicable sales taxes thereon, if any, simultaneously with the next succeeding monthly installment of Base Rent or at such other time as may be unless otherwise expressly provided in this Lease Agreement or determined by the Company, your right to continue to vest in the Award, if any, will terminate as of such date and will not be extended by any notice period (e.g., your period of service would not include any contractual notice period or any period of "garden leave" or similar period mandated under employment laws, statutory laws, regulatory laws or common laws in the jurisdiction where

slide2

you are employed or the terms of your employment agreement, if any). c. Change in Control. In the event of a Change in Control, all RSUs which have not yet vested on the date of such Change in Control shall immediately vest. 8. Right to Shares. Unless otherwise provide in the Plan, you shall have no rights of that of a shareholder with respect to the RSUs (including any voting rights or rights with respect to dividends paid on the Class B Common Stock) issuable under the Award until the Award is settled by the issuance of such Shares to you. a. Distribution. Provided that the vesting requirements have been met, the Company shall deliver the Shares to Grantee or direct the brokerage agent whom the Company is using to administer the distribution of Shares as soon as reasonably practical. Notwithstanding the foregoing, to the extent that the vesting of RSUs is accelerated pursuant to Section 7 hereof, the Shares shall be delivered within thirty (30) days following the satisfaction of such vesting requirement. b. Transferability. The RSUs may not be sold, assigned, pledged, exchanged, hypothecated or otherwise transferred, encumbered or disposed of unless the Plan so provides. 9. Non-Competition and Non-Solicitation. a. In consideration of the RSUs, Grantee agrees and covenants not to, during Grantee's employment with the Company or a subsidiary and for a period of twelve (12) months following Grantee's termination of employment with the Company or a subsidiary for any reason, directly or indirectly, in any capacity, on Grantee's own behalf or on behalf of any other person or entity (except on behalf of the Company or any subsidiary): i. Engage in the Competitive Business or be employed by or serve as an officer, director, partner, shareholder, member, owner, employer, employee, consultant, agent, independent contractor, advisor, or guarantor, for a Competitive Business (as defined in this Agreement), or ii. Induce, encourage, solicit or cause, or attempt to induce, encourage, solicit or cause clients to cease doing business with, or otherwise change or diminish the client's business with the Company or any subsidiary, or iii. Hire, attempt to hire, solicit, divert, induce, or otherwise cause, attempt to cause, or encourage employees or agents of the Company or any subsidiary to leave the Company's employ or such subsidiary's employ for any reason. b. Competitive Business means the ownership or operation of (i) any individual dealership or group of dealerships, operating at any retail location within 50 miles of any retail location operated by the Company or its subsidiary as of the termination of Grantee's employment with the Company or any subsidiary that sell or lease new or pre-owned motorcycles, three wheeled motorcycles/autocycles, snowmobiles, watercraft, ATVs, UTVs, side-by-sides, or other modes of transportation, for either on-road and off-highway use, ("Powersports Equipment") or offer the sale, leasing, rental, financing, servicing (including supply of parts) and ancillary activities relating to Powersports Equipment, (ii) any technology or e-commerce platform and/or any other internet-based platform, that sell or lease new or pre-owned Powersports Equipment or offer the sale, leasing, rental, financing, servicing (including supply of parts) and ancillary activities relating to Powersports Equipment; and (iii) any other business engaged in by the Company or any subsidiary during Grantee's employment therewith. c. If Grantee breaches any of the covenants set forth in Section 9(a) of this Agreement, (i) all unvested RSUs will terminate automatically and be immediately forfeited and (ii) Grantee consents and agrees that the Company will be entitled to seek, in addition to other available remedies, a temporary or permanent injunction or other equitable relief against such breach or threatened breach from any court of competent jurisdiction, without the necessity of showing any actual damages or that money damages would not afford an adequate remedy, and without the necessity of posting any bond or other security. The aforementioned equitable relief shall be in addition to, not in lieu of, legal remedies, monetary damages or other available forms of relief.



10. Taxes. a. Responsibility for Taxes. You acknowledge that, regardless of any action taken by the Company or, if different, your employer (the "Employer"), the ultimate liability for all income tax, social insurance payroll tax, fringe benefits tax, payment on account or other tax-related items related to your participation in the Plan and legally applicable to you or deemed by the Company or the Employer in its discretion to be an appropriate charge to you even if legally applicable to the Company or the Employer (collectively, "Tax-Related Items") is and remains your responsibility and may exceed the amount (if any) withheld by the Company or the Employer. You further acknowledge that (i) neither the Company nor the Employer make any representation or undertaking regarding the treatment of any Tax-Related Items in connection with any aspect of the Award including without limitation, the grant, vesting, or settlement of the Award or the subsequent sale of Shares issued pursuant to the Award; and (ii) the Company and the Employer do not commit to and are under no obligation to structure the Award to reduce or eliminate your liability for Tax-Related Items or achieve any particular tax result. Further, if you are subject to Tax-Related Items in more than one jurisdiction between the Award Date and the date of any relevant taxable or tax withholding event, as applicable, you acknowledge that the Company or the Employer (or former employer, as applicable) may be required to withhold or account for Tax-Related Items in more than one jurisdiction. b. Payment of Tax-Related Items. Prior to any event in connection with the Award (e.g., vesting) that gives rise to a Tax-Related Items obligation, you must arrange for the payment satisfaction of such Tax-Related Items in a manner acceptable to the Company and the Employer. i. By Sale of Shares. Unless you choose to satisfy the Tax-Related Items by some other means in accordance with clause (ii) below, your acceptance of this Award constitutes your instruction and authorization to the Company and the Designated Broker to sell on your behalf a number of Shares from those Shares issued to you as the Company determines to be appropriate to generate cash proceeds sufficient to satisfy your obligation for Tax-Related Items. Such Shares will be sold on the day of the same. For event giving rise to the purpose Tax-Related Items (e.g., a Vest Date) or as soon thereafter as practicable. You will be responsible for all broker's fees and other costs of this Lease, sale, and you agree to indemnify and hold the term "Rent" shall mean Company harmless from any losses, costs, damages, or expenses relating to any such sale. The number of Shares sold may be determined by considering any applicable withholding rates, including maximum applicable rates, and to the extent the proceeds of such sale exceed your obligation for Tax-Related Items, the Company agrees to pay such excess in cash to you through payroll or otherwise as soon as practicable and you acknowledge that you have no entitlement to the equivalent in Shares. You further acknowledge that the Company or its designee is under no obligation to arrange for such sale at any particular price, and that the proceeds of any such sale may not be defined sufficient to satisfy your obligation for Tax-Related Items. Accordingly, you agree to pay to the Company or any of its Subsidiaries including the Employer as all Base Rent, and Additional Rent due from Tenant to Landlord hereunder.

3.4 Payment of Rent. Each soon as practicable, including through additional payroll withholding, any amount of the foregoing amounts Tax-Related Items that is not satisfied by the sale of Rent and other sums shall be paid to Landlord without demand and without deduction, diminution, abatement, set-off, claim Shares described above. ii. (ii) By Wire Transfer or counterclaim of any nature whatsoever which Tenant may have or allege to have against Landlord at law or equity, and all such payments shall, upon receipt by Landlord, be and remain the sole and absolute property of Landlord. All such Rent and other sums shall be paid to Landlord by legal tender of the United States at the following address: Lockbox 945205, Atlanta, Georgia 30394- 5205 or to such other party or to such other address as Landlord may designate from time to time by written notice to Tenant or, at Landlord's option at Other Means. At any time during not less than five business days before any obligation for Tax-Related Items arises (e.g., a Vest Date), you may elect to satisfy your obligation for Tax-Related Items by delivering to the Term, Company an amount that the Company determines is sufficient to satisfy the Tax-Related Items by electronic funds wire transfer to such account directed as the Company may direct, or such other means as the Company may establish or permit. If you have made an election to satisfy your obligation for Tax-Related Items by Landlord in writing to Tenant wire transfer or by Automated Clearing House Debit, other means and, as provided below in this Section. Upon request of Landlord, Tenant shall deliver to Landlord a complete Authorization Agreement – Pre-Arranged Payments in the form agreed to determined by the parties, together with Company, have not adequately funded the obligation for Tax-Related Items within five business days before a voided check Vest Date for account verification, establishing arrangements whereby payments of the Base Rent and all other Rent are transferred by Automated Clearing House Debit initiated by Landlord from an account established by Tenant at a United States bank or other financial institution to such account as Landlord may designate. Tenant shall continue to pay all Rent by Automated Clearing House Debit unless otherwise directed by Landlord. Landlord may change the account for payment of Rent any time during the Term. If Landlord shall at any time accept any such Rent or other sums after the same shall become due and payable, such acceptance shall not excuse a delay upon subsequent occasions, or constitute or be construed as a waiver of any of Landlord's rights hereunder.

3.5 Past Due Rent. If Tenant fails to make any payment of Rent this Award or any other sums award of restricted stock units granted to you under the Plan, the Company reserves the right to satisfy your obligation for Tax-Related Items pursuant to the method described above in Section 10(b)(i). c. Right to Retain Shares or Cash. The Company may refuse to issue or deliver any Shares or the proceeds from the sale of Shares to you until the obligation for any Tax-Related Items due in connection with the Award has been satisfied. To the extent permitted by law, the Company has the



right to retain, without notice, from Shares issuable under the Award, Shares having a value sufficient to satisfy the Tax-Related Items. Further, the Company or the Employer has the right to retain, without notice, from salary or other amounts payable to you, cash sufficient to satisfy the Tax-Related Items. If your obligation for Tax-Related Items is satisfied by the Company withholding in Shares, for tax purposes, you are deemed to have been issued the full number of Shares subject to the vested Award, notwithstanding that a number of the Shares is held back solely for the purpose of paying the Tax-Related Items. You agree to pay to the Company or the Employer any amount of Tax-Related Items that the Company or the Employer may be required to withhold or account for as a result of your participation in the Plan that cannot be satisfied by the means described in this Section 10. 11. Registration. The Company currently has an effective registration statement on file with the U.S. Securities and Exchange Commission with respect to the Shares subject to the Award. The Company intends to maintain this registration but has no obligation to do so. If the registration ceases to be paid effective, you will not be able to transfer or sell Shares issued to you pursuant to the Award unless exemptions from registration under applicable securities laws are available. Such exemptions from registration are very limited and might be unavailable. You agree that any resale by Tenant within five (5) days after the date such payment is due and payable, Tenant shall pay to Landlord an administrative late charge of five percent (5%) you of the amount of such payment. In addition, such past due payment shall bear interest from the date such payment became due Shares issued pursuant to the date of payment thereof by Tenant at a rate which is equal to the lesser of (i) twelve percent (12%) per annum, or (ii) the maximum interest rate then allowable under applicable laws (the "Default Rate"). Such late charge and interest Award shall constitute Additional Rent and shall be due and payable comply in all respects with the next installment requirements of Rent due hereunder.

#### ARTICLE IV

#### USE AND OPERATION OF DEMISED PREMISES

4.1 Permitted Use. Tenant covenants that it shall, throughout the Term of this Lease, use all applicable securities laws, rules and occupy the Demised Premises only for any lawful commercial use which use shall be subject to and shall not conflict with any Title Restrictions, as defined herein, affecting title to the Demised Premises. Notwithstanding the foregoing provision, and, in addition to the foregoing use restriction, the following uses shall be prohibited on the Demised Premises under any and all circumstances:

- (a) Any obnoxious odor, noise or sound which can be heard or smelled outside of the building, provided that any usual paging system shall be allowed and further provided that typical restaurant odors shall not be deemed prohibited hereby if such restaurant facilities have been properly constructed and maintained so as not to pollute.
- (b) Any operation primarily used as a warehouse operation and any assembling, manufacturing, distilling, refining, smelting, agricultural or mining operation.
- (c) Any mobile home, trailer court, labor camp, junk yard or stock yard (except that this provision shall not prohibit the temporary use of construction trailers during periods of construction, reconstruction or maintenance).
- (d) Any dumping, disposing, incineration or reduction of garbage (exclusive of garbage compactors located in the rear of any building).
- (e) Any fire sale, bankruptcy sale (unless pursuant to a court order) or auction house operation.
- (f) Intentionally deleted.
- (g) Any bowling alley.
- (h) Any skating rink, school or other place of public assembly.
- (i) Any living quarters, sleeping apartments or lodging rooms.
- (j) Any veterinary hospital or animal raising facility (except that this provision shall not prohibit pet shops such as PetSmart or Petstuff or the maintenance of live animals for sale or the provision of veterinary services in conjunction with the operation of any such pet shop).

(k) Any mortuary.

(l) Any establishment which displays, exhibits or sells pornographic materials, regulations, including, without limitation, any adult book or film store the provisions of the Securities Act, the Exchange Act and the respective rules and regulations promulgated thereunder, and any adult entertainment nightclub.

(m) Any bar, tavern other law, rule or other establishment whose principal business is the sale regulation including, without limitation, applicable securities law and exchange control regulations for on premises consumption your country of alcoholic beverages, provided that nothing contained herein shall prohibit the selling of alcoholic beverages by a restaurant operation not otherwise prohibited by this Lease.

(n) Any flea market, amusement arcade, pool or billiard hall, dance hall or discotheque, carnival, circus or off-track betting parlor.

(o) Intentionally deleted.

(p) Any central laundry, dry cleaning facility or laundromat.

(q) Any so called "head shop" and the sale of rolling paper and other drug paraphernalia. Any use which involves the sale or dispensing of marijuana or marijuana derivatives no matter the form.

(r) Intentionally deleted.

4.2 **First-Class Operation.** Throughout the Term of this Lease, Tenant shall operate the Demised Premises in a first class manner and in a fashion so residence, as to maximize gross operating profit for the Demised Premises. Tenant shall further provide, or commit its affiliates to provide, all group services, facilities and benefits generally available to similar facilities operated elsewhere by Tenant.

4.3 **Compliance with Legal Requirements.** Tenant shall at all times use, keep and maintain the Demised Premises in compliance with all applicable laws, ordinances, statutes, rules, regulations, orders, directions and requirements of all federal, state, county and municipal governments currently in existence or hereafter enacted or rendered and of all other governmental agencies or authorities having or claiming jurisdiction over the Demised Premises or the business activities conducted thereon or therein and of all of their respective departments, bureaus, agencies or officers, and of any insurance underwriting board or insurance inspection bureau having or claiming such jurisdiction or any other body exercising similar functions (collectively, "**Legal Requirements**"). In no event shall the imposition or enforcement of the Legal Requirements excuse or relieve Tenant's obligation to pay Rent. Notwithstanding the generality of and without limiting the foregoing, Tenant shall, at its sole expense, maintain the Demised Premises in full compliance with (i) all Legal Requirements related to or governing accessibility for the disabled or handicapped, including, but not limited to, any applicable provisions of The Architectural Barriers Act of 1968, The Rehabilitation Act of 1973, The Americans With Disabilities Act, the accessibility code(s), if any, of the States in which the Demised Premises are located, and all regulations and guidelines promulgated under any all of the foregoing, as the same may be amended from time to time. The Company shall not be obligated to either issue the Shares (or any benefit in lieu of the Shares) or permit the resale of any Shares if such issuance or resale would violate any such requirements. 12. Limitation on Rights; Nature of Grant. By entering into this Agreement and accepting the Award, you acknowledge, understand and agree that: a. the Plan is established voluntarily by the Company, it is discretionary in nature and it may be modified, suspended or terminated by the Company at any time, (collectively to the "**Accessibility Laws**"), (ii) extent permitted by the Plan; b. the grant of the Award is a one-time benefit and does not create any contractual or other right to receive future grants of awards or benefits in lieu of awards, even if awards have been granted in the past; c. all **Legal Requirements** determinations with respect to any future grants, of awards will be at the sole discretion of the Company; d. your participation in the Plan is voluntary; e. the Award and the Shares subject to the Award are not intended to replace any pension rights or compensation; f. unless provided for in a separate agreement between Grantee and the Company, the Award and the Shares subject to the Award, and the income and value of same, are not part of normal or expected compensation for purposes of calculating any benefits, severance, resignation, termination, redundancy, dismissal, end of service payments, bonuses, long-service awards, pension or retirement or welfare benefits or similar payments; g. the future value of the Common Stock subject to the Award is unknown, indeterminable and cannot be predicted with certainty; h. neither the Plan, the Award nor the issuance of the Shares shall create a right to employment or be interpreted to form an employment contract with the Employer, the Company, or any subsidiary and shall not interfere with the ability of the Company, any subsidiary or the Employer, as applicable, to terminate

your employment at any time; and i. unless otherwise provided in the Plan or by the Company in its discretion, the Award and the benefit evidenced by this Agreement do not create any entitlement to have the Award or any such benefits transferred to, or assumed by, another company nor to be exchanged, cashed out or substituted for,

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in connection with any corporate transaction affecting the Shares. 13. No Advice Regarding Grant. The Company is not providing any tax, legal or financial advice, nor is the Company making any recommendations regarding your participation in the Plan, or your acquisition or sale of the underlying Shares. You are hereby advised to consult with your own personal tax, legal and financial advisors regarding your participation in the Plan before taking any action related to the Plan. 14. Employee Data Privacy. By entering into this Agreement and accepting the Award: a. you explicitly and unambiguously consent to the collection, use and transfer, in electronic or governing other form, of any of your personal data as described in this Agreement and any other restricted stock unit grant materials by and among, as applicable, the use Employer, the Company and its Subsidiaries for the exclusive purpose of energy or natural resources on implementing, administering and managing your participation in the Demised Premises, Plan; b. you understand that the Company and the Employer may, for the exclusive purpose of implementing, administering and managing the Plan, hold certain personal information about you, including but not limited to any energy usage your name, home address and telephone number, date of birth, social insurance number or benchmarking reporting requirements, other identification number, salary, nationality, job title, and details of all awards or entitlements to Common Stock granted to you under the Plan or otherwise (“Data”); c. you understand that Data will be transferred to, in electronic or other form, and stored by, a broker or stock plan service provider selected by the Company, to assist the Company with the implementation, administration and management of the Plan. You understand that the recipients of the Data may be located in the United States or elsewhere, and that the recipients’ country may have different data privacy laws and protections than your country. You authorize the Company, the broker or stock plan services provider, and any water usage, recycling other possible recipients that may assist the Company (presently or in the future) with implementing, administering and sustainability requirements, managing the Plan to receive, possess, use, retain and (iii) all Legal Requirements related to or resulting from climate change prevention, including but not limited to energy efficiency mandates, water conservation mandates, restriction on sales or use of certain fuels, mandates for alternative fuels, permitting obligations, restrictions on or a duty to inventory and report greenhouse gas emissions, requirements to purchase carbon credits, and construction, operational transfer the Data, in electronic or other measures form, for the sole purpose of implementing, administering and managing your participation in the Plan; d. you understand that Data will be held only as long as is necessary to mitigate risks of drought, fire, flood, rising sea levels, storm surge risks, implement, administer and manage your participation in the Plan; e. you understand that you are providing the consents herein on a purely voluntary basis, and that if you do not consent, or so called “extreme weather” risks. Landlord shall have no obligation if you later seek to keep revoke your consent, your employment and maintain the Demised Premises in compliance career with the Legal Requirements, including Employer will not be adversely affected, and the Accessibility Laws, only adverse consequence of refusing or withdrawing your consent is that the Company would not be able to grant you restricted stock units or other equity awards or administer or maintain such awards, and Tenant shall defend and indemnify Landlord for any claims of non-compliance with Legal Requirements made by third parties, including when such claims are brought you therefore understand that refusing or withdrawing your consent may affect your ability to participate in the form of a class action (“ThirdParty Non-Compliance Claims”), unless such claims are based solely upon actions of Landlord. If a Third-Party Non-Compliance claim is brought in the form of a class action lawsuit then Tenant’s defense requirements shall be met by payment of a percentage of the costs Plan; and legal fees incurred by Landlord in defending said action.

#### 4.4 Energy Efficiency, Waste Management and Green Building Practices.

(a) Sustainability Requirements. Landlord’s sustainability practices address whole-building operations and maintenance issues, including chemical use, indoor air quality, energy efficiency, water efficiency, recycling programs, exterior maintenance programs, and standards for green building energy, water, indoor air quality and lighting. Landlord encourages Tenant to conserve water and reduce carbon emissions, energy costs and any energy waste in Tenant’s use of the Demised Premises.

(b) Energy-Efficiency Measures. Tenant agrees to comply with any applicable Legal Requirements in its use of energy at the Demised Premises. In addition, within forty-five

(45) days of request from Landlord made not more than once in any calendar year Tenant shall provide Landlord with energy usage data for the Demised Premises in such forms as Landlord f. you understand that, you may, reasonably request provided such data is reasonably available to Tenant, including Tenant's utility invoices and statements regarding water and other utility usage.

(c) **Recycling and Waste Management.** Tenant covenants and agrees to comply with all present and future Legal Requirements regarding the collection, sorting, separation and recycling of garbage, trash, rubbish and other refuse.

#### 4.5 **Environmental Compliance, Defense and Indemnity – Tenant Obligations.**

(a) **Definitions.** The following terms shall have the following meanings:

(i) **"Environmental Requirements"** shall mean without limitation any and all Legal Requirements currently in existence or hereafter enacted or rendered which pertain to, regulate, or impose liability or standards of conduct concerning protection of the environment or human health, including but not limited to all federal, state, and local government laws (including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by Superfund Amendments and Reauthorization Act of 1986 ("**CERCLA**"), Federal Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 ("**RCRA**"), any state or local act, law, or code, and any applicable common law), rules, and regulations (including 40 Code of Federal Regulations, Part 280 and state and local rules and regulations).

(ii) **"Hazardous Materials"** shall mean any and all toxic, hazardous, or other substances (including chemicals, materials or pollutants) of any kind or nature, which are regulated, governed, restricted or prohibited by Environmental Requirements, and shall include (without limitation), (A) all oil, gasoline and petroleum based substances, including "petroleum product", (B) any "hazardous waste" as defined by RCRA and regulations promulgated thereunder;

(C) any "hazardous substance" as defined by CERCLA and regulations promulgated thereunder;

(D) asbestos; (E) polychlorinated biphenyls; (F) any substance prohibited by Environmental Requirements; and (G) any other substance which requires special handling or notification of any federal, state, county or local governmental authority in its collection, storage, treatment, release or disposal to comply with Environmental Requirements

(iii) **"Landlord Release"** shall mean a Release caused solely by the grossly negligent, reckless or intentional acts of Landlord or its invitees, licensees, or contractors while on or about the Demised Premises during the Term. The term "grossly negligent", "reckless"

and "intentional acts" of Landlord as used in this subsection or elsewhere in this Lease shall not include gross negligence, recklessness or strict liability imputed or imposed on Landlord as a matter of law by reason of Landlord's ownership interest in the Demised Premises or Landlord's failure to act with respect to any matter which is Tenant's obligation under this Lease.

(iv) **"Pre-Existing Environmental Condition"** shall mean the presence of: (aa) Hazardous Materials in soil, groundwater or surface water on or about the Demised Premises which first existed or first occurred prior to the Effective Date; or (bb) any other environmental condition in the soil, groundwater or surface water on or about the Demised Premises, which first existed or first occurred prior to the Effective Date.

(v) **"Release"** shall mean any active or passive spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment any Hazardous Materials on, over, under, from or affecting the Demised Premises or the air, soil, water vegetation, buildings, personal property, persons or animals thereon, whether occurring before or during the Term of this Lease. **"Release"** also includes any threatened Release.

(vi) **"Storage Tank System"** shall mean a complex of one or more underground or aboveground storage tanks and their associated underground, above ground, and/or connected piping and related fuel dispensing, pumping, mechanical, control and detection equipment, as more particularly located on the Demised Premises and includes any such tanks, piping or equipment, including upgrades thereto, installed on the Demised Premises after the Effective Date. Tenant shall not permit any material changes to be made to the Storage Tank System without obtaining Landlord's prior written consent. Tenant may remove the Storage Tank System upon providing notice to Landlord. Tenant is and shall remain and be the owner and operator of the Storage Tank System on the Demised Premises, and, accordingly, Tenant is further deemed to be such for purposes of compliance with and liabilities arising from all applicable laws relating to such Storage Tank System.

(b) **Environmental Compliance.** Tenant shall comply with all Environmental Requirements relating to the use, storage, transportation, dispensing, sale or Release of Hazardous Materials at the Demised Premises prior to or during the Term. Without limiting the foregoing, Tenant shall comply with all Environmental Requirements relating to the Storage Tank System, their construction, operation, maintenance, calibration and alarm systems, and promptly shall implement any and all upgrade requirements and replacement requirements promulgated by any government agency having jurisdiction at the earliest possible time, but in any event, no later than any applicable deadline announced or promulgated by the government agency. Tenant shall not use, store, transport, dispense or sell Hazardous Materials at the Demised Premises, or surrounding areas, except as reasonably necessary for a permitted use of the Demised Premises. Tenant shall not Release, nor shall Tenant permit any employee, contractor, agent, invitee, licensee, customer or sublessee to Release, any Hazardous Materials on or into the Demised Premises, into the air or the surrounding land, surface water or ground water. Any fuel spills immediately shall be remediated using absorbent or other appropriate materials. Water shall not be used to clean gasoline or diesel from the surfaces of the Demised Premises. All reporting, investigation and/or remediation requirements under any Environmental Requirement with respect to any and all Releases of Hazardous Materials at, on, from or near the Demised Premises are the responsibility

of Tenant. Tenant promptly shall abate and remediate any Release in compliance with all Environmental Requirements. All reporting requirements related to the use of Hazardous Materials at the Demised Premises shall be the responsibility of Tenant.

(c) **Tenant's Remediation Obligations.** Tenant shall promptly abate and remediate, to the extent required by Environmental Requirements, any and all Hazardous Materials located at, on, under or emanating from the Demised Premises in violation of Environmental Requirements, whether first occurring prior to or during the Term of this Lease, including but not limited to any Pre-Existing Environmental Condition, with the exception of Hazardous Materials on the Demised Premises resulting solely from a Landlord Release. Tenant's responsibilities shall include, without limitation, at Tenant's sole cost and expense, permitting, reporting, assessment, testing, investigation, treatment, removal, remediation, transportation and disposal of Hazardous Materials at, on or under the Demised Premises in accordance with all Environmental Requirements. The obligations of Tenant shall include, without limitation, the obligation to pay all costs incurred in connection with any investigation or site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state, or local governmental agency or political subdivision under applicable Environmental Requirements.

While Landlord is not required to incur any costs, fees or expenses for environmental compliance, testing, investigation, assessment, reporting, remediation or cleanup relating to Hazardous Materials at, on or under the Demised Premises or relating to the operation of the Storage Tank System (including environmental consulting and remediation fees and attorneys' fees and costs). However, if Tenant (i) fails to perform any remediation required hereunder and required by applicable Environmental Requirements, (ii) Tenant fails to operate the Storage Tank System in compliance with the Environmental Requirements, or (iii) fails to timely respond to any notice of violation or any request for either information or action from any governmental authority with respect to the operation of the Storage Tank System on the Demised Premises, then Landlord upon fifteen (15) days' written notice to Tenant (or such lesser period of time in the event of an emergency as reasonably determined by Landlord), Landlord may exercise self-help as Landlord reasonably determines is necessary or useful to address such non-compliance and in addition to any other rights and remedies Landlord may have hereunder, Landlord shall be entitled to recover from Tenant any costs, fees or expenses for environmental compliance, testing, investigation, assessment, reporting, remediation or cleanup relating to Hazardous Materials at, on or under the Demised Premises relating to the repair or operation of or the pumping of fuel from the Storage Tank System (including environmental consulting and remediation fees and attorneys' fees and costs). Tenant shall promptly reimburse Landlord for said costs, expenses or fees within ten (10) days after written demand accompanied by third party invoices for such costs.

(d) **Hazardous Material Tenant's Payment, Defense and Indemnity Obligations.**

(i) Tenant's obligations hereunder for all Hazardous Materials located at, on, under or emanating from the Demised Premises, whether first occurring before or during the Term, shall include Tenant's obligation to pay and resolve at Tenant's sole costs and expense any and all: (i) claims made by third parties, including but not limited to government agencies, for damages, costs, expenditures for injury to any persons or injury to property, including to the surrounding air, land, surface water, and ground water, resulting from Hazardous Materials at, on or under the Demised Premises or emanating from the Demised Premises in violation of applicable

Environmental Requirements; (ii) damages for injury to the buildings, fixtures, appurtenances, equipment and other personal property of Landlord, if any, to the extent caused by Hazardous Materials at, on or under the Demised Premises or emanating from the Demised Premises in violation of applicable Environmental Requirements; (iii) fines, costs, fees, assessments, taxes, demands, orders, directives or any other requirements imposed under any Environmental Requirements with respect to Hazardous Materials at, on or under the Demised Premises or emanating from the Demised Premises; and (iv) damages, costs and expenditures for injury to natural resources to the extent caused by Hazardous Materials at, on or under the Demised Premises or emanating from the Demised Premises in violation of applicable Environmental Requirements.

(ii) Tenant shall indemnify, defend, and hold Landlord harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including, without limitation, diminution in value of the Demised Premises for operation as a retail store, damages arising from any adverse impact on marketing of space of the Demised Premises for operation as a retail store, and sums paid in settlement of claims, reasonable attorneys' fees, consultation fees, and expert fees) which arise during or after the Term of this Lease (i) as a result of the existence of Hazardous Materials on the Demised Premises or emanating from the Demised Premises in violation of Environmental Requirements or (ii) as a result of the operation of the Storage Tank System in violation of Environmental Requirements, whether first occurring prior to or during the Term, no matter how occurring, except as specifically excluded in the following sentence in this subsection. There shall be excluded from Tenant's defense and indemnity obligations under this subsection any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses that both (i) arise as a result of a Landlord Release, and (ii) are not covered by any insurance Tenant was required to carry under this Lease or by insurance that Tenant carried above and beyond what is required under this Lease. Tenant's defense and indemnity obligation shall include but shall not be limited to defending and indemnifying Landlord for any claim made by the governmental agency that the Storage Tank System has been operated in violation of Environmental Requirements or that Tenant has failed to meet any applicable reporting and record keeping requirements.

(e) Tenant Records and Notification Obligation. On or prior to February 1 of each calendar year during the Term, Tenant shall provide to Landlord the information as to the Storage Tank System set forth on Exhibit "F" attached hereto and made a part hereof. Tenant immediately shall notify Landlord of any of the following: (i) Tenant's receipt of any correspondence or communication from any person or entity regarding any alleged violations in connection with the application of Environmental Requirements to the Demised Premises or Tenant's operation of the Demised Premises; (ii) Tenant's receipt of any correspondence, communication or notifications of Tenant's alleged non-compliance with either the Federal or State Emergency Planning and Community Right to Know Acts; (iii) any change in Tenant's operations on the Demised Premises that will enlarge or has the potential to enlarge Tenant's obligations or liabilities under the Environmental Requirements; and (iv) any Releases or suspected Releases of any and all Hazardous Materials at, from or near the Demised Premises, including without limitation, any automated warnings or alarms of possible leaks or spills in connection with the Storage Tank System upon discovery by Tenant or notification to Tenant of the same. Tenant shall provide Landlord with copies of all reports, studies, complaints, claims, directives, citations, demands, inquiries, notices of violation, or orders relating to Hazardous Materials at or emanating

from or to the Demised Premises, at any time, or request a list with the names and addresses of any alleged non-compliance with Environmental Requirements at the Demised Premises, reasonably promptly (and in no event later than fifteen (15) days) after such documents are provided to or generated by Tenant. Landlord shall have the right to require Tenant to provide to Landlord copies of Tenant's file with respect to environmental matters on the Demised Premises. Upon such request, Tenant shall provide a copy of all correspondence, reports and other written material in Tenant's environmental file for the Demised Premises.

(f) Landlord's Right of Entry. At Landlord's expense and discretion, Landlord, or its representatives or consultants, shall have the right to enter upon the Demised Premises and make any inspection, tests, borings, measurements, investigation or assessment Landlord deems necessary in the exercise of its reasonable judgment in order to determine the presence of Hazardous Materials and/or determine whether the Demised Premises is in compliance with applicable Environmental Requirements, including but not limited to any inspection potential recipients of the Storage Tank System by Landlord or environmental consultants engaged by Landlord. Any entry on the Demised Premises by Landlord shall be

performed in accordance with the requirements of Article XII of this Lease. Nothing herein shall be deemed to require Landlord to conduct any such testing, measurement, investigation or assessment. Landlord shall give Tenant a minimum of fifteen (15) days written notice prior to conducting any such inspection, tests, borings, measurements, investigation or assessment, except under urgent or emergency conditions Landlord shall only be obligated to give such notice as is reasonable given the emergency circumstances. However, if Tenant or Landlord has received (i) a notice of violation, a notice of non-compliance with any Environmental Requirements from any governmental agency or from any other person or entity, (ii) a notice of a fine or other penalties being imposed on Tenant, Landlord or the Demised Premises from any governmental agency, or (iii) a Data, request or demand to correct any deficiency in the operation or use of the Storage Tank System by any governmental agency, then Landlord shall only be obligated to give Tenant three (3) days' written notice prior to conducting any such inspection, tests, borings, measurements, investigation or assessment. Landlord's right of entry and inspection shall include the right to inspect and obtain a copy of (at no cost to Landlord) Tenant's records required to be maintained pursuant to Environmental Requirements whether located at the Demised Premises or at Tenant's offices.

**(g) Resolution of Environmental Matters at Expiration or Termination of Tenancy.**

**(i) Tenancy Close-Out Environmental Assessment and Report.** Not later than the earlier of (aa) thirty (30) days prior access to the expiration Data, request additional information about the storage and processing of Data, require any necessary amendments to Data or refuse or withdraw the Lease or (bb) ninety (90) days after termination of its tenancy at the Demised Premises, whichever may apply, Tenant shall submit to Landlord (I) a copy of all of Tenant's records relating to obligations under this Section 4.5, and (II) all records relating to the determination of the integrity and tightness of all Storage Tank Systems on the Demised Premises. Landlord shall have the option to order a report of consents herein, in any environmental assessment pursuant to ASTM and/or prevailing industry standards, conducted case without cost, by an independent, qualified, and adequately insured consultant firm, to (1) identify and assess the presence of Hazardous Materials on, in, or at the Demised Premises, and, where information indicates migration of Hazardous Materials off site and it is practical to do so, off site of the Demised Premises; and (2) determine any needed remedial actions needed or pending regulatory obligations performance or resolution of which is required to comply with Environmental

Requirements or restore the Demised Premises as set forth in this Section 4.5. Landlord shall have the ability to rely upon the report and update and supplement such report as needed through the date of the end of the tenancy to reflect any change in conditions or new information pertaining to the methodology or findings of the report.

**(ii) Remedial and Corrective Actions; Closure of Storage Tank System.** Not later than the later of: (aa) one hundred eighty (180) days prior to the expiration of the Term, (bb) ninety (90) days after the earlier termination of this Lease, or (cc) such longer time as is approved contacting in writing by Landlord or by applicable governmental authorities with the concurrent written consent of Landlord, Tenant shall provide Landlord with written evidence and assurances that, as of the date of the end of its tenancy at the Demised Premises, the Demised Premises and any Storage Tank System left at the Demised Premises comply with all Environmental Requirements and, where applicable, any required regulatory closures have been obtained. Within thirty (30) days after the expiration of the Term or earlier termination of this Lease, Tenant shall remove any equipment or Storage Tank System. Tenant shall remove all required equipment or Storage Tank System in accordance with all Environmental Requirements, and if Tenant fails to do so within thirty (30) days of the expiration of the Term or earlier termination of this Lease, Landlord, in addition to any other remedies, shall be entitled to remove such equipment or Storage Tank System, assess whether there are any Releases of Hazardous Materials that occurred prior to or during the Term of this Lease that violate any applicable Environmental Requirements, remediate any such Releases in accordance with all Environmental Requirements, and obtain regulatory closure from the appropriate governmental authorities, all at Tenant's sole expense, which Tenant hereby promises and covenants to pay promptly.

Prior to the expiration of the Lease, Tenant shall have filed with the applicable governmental authority an acceptable Corrective Action Plan, as such term is or may be defined by applicable Environmental Requirements, to remove or remediate Hazardous Materials present at, on, under or released from any Demised Premise so that the Demised Premise meets all then-applicable Environmental Requirements.

**(h) Survival.** The provisions of this Section 4.5 shall survive expiration or termination of the Lease but nothing herein shall obligate Tenant for any Hazardous Materials first existing on the Demised Premises after the date of expiration or termination of this Lease.

**4.6 Mold and Other Biocontaminants.** Tenant shall, during the Term of this Lease and any renewals thereof, (i) provide prompt written notification of the presence of biocontaminants, such as mold on the Demised Premises in violation of any Environmental Requirements; (ii) promptly undertake appropriate assessment, remedial and preventative actions sufficient to meet any Environmental Requirements regarding the prevention and removal of mold or other bio- contaminants on the Demised Premises. The provisions of this Section 4.6 shall survive expiration or termination of the Lease but nothing herein shall obligate Tenant for any mold or other biocontaminants first existing on the Demised Premises after the date of expiration or termination of this Lease.

**4.7 Continuous Operations.** Tenant shall have no obligation to continuously operate its business at the Demised Premises; provided, however, Tenant shall not be permitted to cease operations or “go dark” if the same would violate any Legal Requirements or Title Restrictions or

trigger a change in zoning status at the Demised Premises. Notwithstanding anything in this Lease to the contrary, Tenant shall not cause or permit the Demised Property located at 1320 S. Stemmons Freeway, Lewisville, TX to be closed for business or otherwise not operating for a period of time in excess of four (4) consecutive months without the written consent of the Landlord, which consent Landlord shall not unreasonably withhold or delay.

**4.8 Compliance With Title Restrictions, Etc.** Tenant, at its sole cost and expense, shall comply with all restrictions, agreements, easements, covenants, plats, including, but not limited to, all matters of record encumbering, affecting or restricting the Demised Premises (collectively, the “Title Restrictions”). Tenant shall comply with and perform all obligations set forth in the Title Restrictions, whether performable prior to or during the Term, including, without limitation, all insurance requirements, regardless of whether any such requirements exceed the requirements otherwise set forth in Article VII below. Further, in addition to Tenant’s payment obligations under this Lease, Tenant shall pay all sums charged, levied or assessed under all Title Restrictions promptly as the same become due and shall furnish Landlord evidence of payment thereof, whether incurred or assessed prior to or during the Term. If any Improvement, now or hereafter constructed, shall (i) encroach upon any setback or any property, street or right-of-way adjoining the Demised Premises, (ii) violate the provisions of any restrictive covenant or zoning laws affecting the Demised Premises, (iii) hinder or obstruct any easement or right-of-way to which the Demised Premises is subject, or (iv) impair the rights of others in, to or under any of the foregoing, Tenant shall, promptly after receiving notice or otherwise acquiring knowledge thereof, either (A) obtain from all necessary parties waivers or settlements of all claims, liabilities and damages resulting from each encroachment, violation, hindrance, obstruction or impairment, whether the same shall affect Landlord, Tenant or both, or (B) take such action as shall be necessary to remove all such encroachments, hindrances or obstructions and to end all such violations or impairments, including, if necessary and if approved by Landlord, making alterations. Landlord shall have no obligation to keep and maintain the Demised Premises in compliance with any Title Restrictions, and shall have no obligation to make any payments under any Title Restrictions.

If Tenant shall be in default under any of the provisions of this Section 4.8, in addition to all of the remedies provided in Article XVIII, Landlord may after thirty (30) days written notice given to Tenant and failure of Tenant to cure during said period, but without notice in the event of an emergency or during the continuance of an Event of Default, do whatever is necessary to cure such default as may be appropriate under the circumstances for the account of and at the expense of Tenant.your human resources representative. **15. Severability.** In the event of an emergency, Landlord shall make reasonable efforts to notify Tenant of the situation by phone or other available communication before taking any action to cure such default. All reasonable sums so paid by Landlord and all reasonable costs and expenses (including attorneys’ fees and expenses) so incurred, together with interest thereon at the Default Rate from the date of payment or incurring the expense, shall constitute Additional Rent payable by Tenant under this Lease and shall be paid by Tenant to Landlord on demand.

## ARTICLE V TAXES AND ASSESSMENTS

**5.1 Real Estate Taxes and Assessments.** Tenant shall pay all Real Estate Taxes (as hereinafter defined) that (i) are imposed or relate to the time period prior to the Term, (ii) are

imposed or relate to the Term, and (iii) are imposed or assessed after the Term that relate to the Term.

(a) As used herein, “**Real Estate Taxes**” shall mean all taxes, assessments, tax increment financing charges or assessments, and all other governmental impositions and charges of every kind and nature whatsoever, extraordinary, special and ordinary, and each and every installment thereof which are charged, laid, levied, assessed, or imposed upon, or arise in connection with, the use, occupancy or possession of the Demised Premises or any part thereof, including, without limitation, ad valorem real and personal property taxes, non-ad valorem taxes, tax increment financing payments or any similar payments, special taxing district taxes or charges, infrastructure improvement or construction charges or assessments, and all taxes charged, laid, levied, assessed or imposed in lieu of or in addition to any of the foregoing by virtue of all present or future laws, ordinances, requirements, orders, directions, rules or regulations of federal, state, county and municipal governments and of all other governmental authorities whatsoever.

(b) On or before the later of (i) ten (10) days after Tenant's receipt of a copy of the bill for Real Estate Taxes or (ii) ten (10) days prior to the date such bill is due and payable without interest or penalty, Tenant shall pay directly to the applicable taxing or assessing authority, all Real Estate Taxes. Tenant may elect to pay any assessment over the longest period allowed by law, provided, however, Tenant shall pay any penalty or interest imposed as a result of such election. Tenant shall furnish written evidence to Landlord of the payment of Real Estate Taxes within ten (10) days after payment thereof. However, upon any failure of Tenant under any provision of this Lease to make any payment on the due date thereof (even if Tenant cures said failure during any applicable cure period), then Landlord may, upon notice to Tenant, elect to change the method of the payment of Real Estate Taxes to require Tenant to pay all Real Estate Taxes directly to Landlord on a monthly basis for the remainder of the Term. More particularly, upon Landlord's election, Tenant shall pay the Real Estate Taxes in equal monthly installments in advance, together with its payment of Base Rent, in such amounts as are reasonably estimated and billed by Landlord based upon the total Real Estate Taxes for the preceding year (the “**Estimated Taxes**”). Landlord may, once per calendar year, revise its estimate and may adjust such monthly payment accordingly. Within ninety (90) days of Landlord receiving all of the actual tax bills for such calendar year, Landlord will deliver a statement (the “**Statement**”) to Tenant which will (i) specify the actual amount of Real Estate Taxes due on the Demised Premises for such calendar year, (ii) include a recalculation of Real Estate Taxes for such calendar year based on the amount of the actual taxes for such year (the “**Actual Taxes**”); (iii) include a copy of the tax bill or bills; and (iv) set forth the Estimated Taxes for the next calendar year. If the Statement shows that the Actual Taxes Tenant owed for the prior calendar year were less than the Estimated Taxes paid by Tenant for such calendar year, Landlord shall return the difference (“**Overpayment**”). If the Statement shows that the Actual Taxes Tenant owed for the prior calendar year were more than the Estimated Taxes paid by Tenant for such calendar year, Tenant shall return the difference (“**Underpayment**”). The Overpayment or Underpayment shall be paid within thirty (30) days of delivery of the Statement to Tenant. Upon written request from Tenant, Landlord shall deliver to Tenant evidence of the payment of the Real Estate Taxes for the calendar year no later than thirty (30) days after the date Real Estate Taxes would be delinquent.

(c) Tenant shall have the right to participate in all negotiations of the Real Estate Taxes and shall also have the right to contest the validity or the amount of any Real Estate

Taxes by such appellate or other proceedings as may be appropriate in the jurisdiction, and may, if applicable, defer payment of such obligations if payment would operate as a bar to such contest, and, if applicable, pay same under protest, or take such other steps as Tenant may deem appropriate, provided, however, that Tenant indemnifies Landlord from any expense (including reasonable attorneys' fees) or liability arising out of such contest, pursues such contest in good faith and with due diligence, posts any bond or security required by law in connection with such contest, gives Landlord written notice of its intention to contest, and takes no action which shall cause or allow the institution of any foreclosure proceedings or similar action against the Demised Premises. Landlord shall, at Tenant's expense, cooperate in the institution and prosecution of any such proceedings initiated by Tenant and shall execute any documents which Landlord may reasonably be required to execute and shall make any appearances which Landlord may reasonably be required to make in connection with such proceedings.

(d) Should Landlord institute proceedings to contest the validity or the amount of any Real Estate Taxes, Tenant shall cooperate and shall make any appearances which Tenant may reasonably be required to make in such proceedings but shall not be obligated to incur any expense in connection therewith; provided, however, that Landlord pursues such contest in good faith and with due diligence and Landlord shall take no

action which shall cause or allow the institution of any foreclosure proceedings or similar action against the Demised Premises which might result in the termination of this Lease. Landlord may only exercise its rights to contest the validity or the amount of any Real Estate Taxes pursuant to this Section 5.1(d) in the event Tenant chooses not to contest the validity or the amount of any Real Estate Taxes pursuant to its rights under Section 5.1(c).

(e) Should any of the proceedings referred to in the preceding two paragraphs

(c) and (d) of this Section 5.1 result in reducing the total annual Real Estate Taxes, Tenant shall be entitled to receive all refunds by the taxing authorities attributable to the Demised Premises for any period for which Tenant has paid Real Estate Taxes after deducting therefrom payment of all of Landlord's and Tenant's expenses incurred in any such proceeding in which a refund Agreement is paid. If no refund shall be secured in any such proceeding, the party instituting the proceeding shall bear the entire cost, or if Landlord institutes the proceeding at Tenant's request, Tenant shall bear the entire cost.

(f) Except for Real Estate Taxes, nothing in this Section 5.1 shall require Tenant to pay or reimburse Landlord for the payment of (i) any income, profit, inheritance, estate, succession, or gift taxes which are or may be imposed upon Landlord, its successors or assigns, by whatever authority imposed or however designated, or (ii) any tax, assessment, charge or levy imposed or levied upon or assessed against any property of Landlord other than the Demised Premises or any income to, or business activity of, Landlord not associated with the Demised Premises.

(g) Tenant shall pay and discharge, when due, all taxes assessed during the Term of this Lease against any leasehold interest or the FF&E and any other personal property of any kind owned by or placed in the Demised Premises by Tenant. Tenant shall pay and discharge any and all taxes assessed or imposed on the entry into this Lease by Landlord and Tenant and/or the conveyance of the leasehold interest by Landlord to Tenant. Furthermore, Tenant shall pay any taxes, fees or assessments imposed as a result of the recording of any memorandum of lease

evidencing the leasehold estate, if any. In addition to the Rent and any other sums or amounts required deemed to be paid by Tenant to Landlord pursuant to invalid or unenforceable, in whole or in part, the remaining provisions of this Lease, Tenant shall also pay to Landlord, simultaneously with such payment of such Rent or other sums or amounts, the amount of any applicable sales, use or excise tax on any such Rent or other sums or amounts so paid by Tenant to Landlord, whether the same be levied, imposed or assessed by the States in which the Demised Premises are located or any other federal, state, county or municipal governmental entity or agency. Any such sales, use or excise taxes shall be paid by Tenant to Landlord at the same time that each of the amounts with respect to which such taxes are payable are paid by Tenant to Landlord.

Landlord's failure to deliver any tax bill or invoice in any time required herein shall not relieve Tenant of the ultimate responsibility for Tenant to pay any and all said Real Estate Taxes, except for any penalties or interest that result from said late delivery by Landlord to Tenant.

## ARTICLE VI UTILITIES

Tenant shall be liable for and shall pay directly all charges, rents and fees (together with any applicable taxes or assessments thereon) when due for water, gas, electricity, air conditioning, heat, septic, sewer, refuse collection, telephone and any other utility charges or similar items in connection with the use or occupancy of the Demised Premises before and/or during the Term of this Lease. Landlord shall not be responsible or liable in any way whatsoever for the impairment, interruption, stoppage, or other interference with any utility services to the Demised Premises not caused by the acts of Landlord, its agents, employees, contractors, invitees or licensees on the Demised Premises. In any event no interruption, termination or cessation of utility services to the Demised Premises shall relieve Tenant of its duties and obligations pursuant to this Lease, including, without limitation, its obligation to pay all Rent as and when the same shall be due hereunder.

## ARTICLE VII INSURANCE

7.1 Insurance by Tenant. From and after the Effective Date and continuing throughout the Term of this Lease, Tenant shall, at its sole cost and expense, maintain nevertheless remain in full force and effect the following types and amounts of insurance coverage:

(a) Special form insurance on the Improvements, including all permitted alterations, changes, additions and replacements thereof and thereto, including without limitation, insurance against loss being impaired or damage caused by fire, windstorm and other hazards and perils generally included in the special cause of loss form including boiler and machinery/equipment breakdown, all in an amount which reasonably assures there will be sufficient proceeds to replace the Improvements in the event of a loss against which such insurance is issued. Such insurance shall

(I) contain an agreed amount endorsement waiving any co-insurance provision with respect to the Improvements, (II) provide for no deductible in excess of ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) per occurrence per each Demised Property (subject to adjustment as set forth below), and (III) contain ordinance and law endorsement that includes coverage for the undamaged portion of the building (in the amount not less than the replacement

cost of the building; and at least ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) of limits for demolition and increased costs of construction). Notwithstanding the foregoing, so long as the combined trailing Consolidated EBITDA (as defined in Exhibit "H" attached hereto) of Tenant and Guarantor exceeds FIFTY MILLION AND NO/100 DOLLARS (\$50,000,000.00), Tenant may adjust the \$100,000.00 deductible set forth in the preceding sentence to an amount as follows: (i) for the Demised Premises located in Texas and Georgia, the deductible may be increased to an amount not to exceed two percent (2%) of the insurable value, and (ii) for the Demised Premises located in Florida, the deductible may be increased to an amount not to exceed five percent (5%) of the insurable value. All insurance required hereunder, and all other insurance maintained by Tenant on the Improvements in excess of or in addition to that required hereunder, shall be carried in favor of Landlord and Tenant, as their respective interests may appear. In addition, the policy shall include a "Lender's Loss Payable Provisions" endorsement (ISO Form CP 12 18 06 95 or equivalent) naming Landlord as "Lender's Loss Payee" thereunder. Should full replacement cost not be available at a reasonable cost due to this location being considered a high hazard wind area, the minimum wind limit will be determined for the Demised Premises by using the latest version of RMS US windstorm model. The limit selected will not be less than the ground up estimated loss with a 250 return period.

(b) Commercial General Liability insurance providing coverage against liability for property damage, bodily injury, and personal injury having limits of not less than TWO MILLION AND NO/100 DOLLARS (\$2,000,000.00) per occurrence with a general aggregate of not less than TWO MILLION AND NO/100 DOLLARS (\$2,000,000.00), and if more than one location is insured under such policy, a per location aggregate is required. Such insurance shall cover at least the following hazards: (i) premises and operations; (ii) products and completed operations; (iii) independent contractors; (iv) contractual liability for all written and oral contracts; and (v) contractual liability covering the indemnities contained in this Lease to the extent the same is available. Such insurance, and any and all other liability insurance maintained by Tenant in excess of or in addition to that required hereunder, shall name Landlord as an additional insured on a primary and non-contributory basis and contain an endorsement providing a waiver of subrogation in favor of Landlord.

(c) Umbrella or Excess Liability which will follow form General Liability, Automobile Liability, Employers' Liability, and Liquor Liability (if applicable), with limits in a minimum amount of not less than TEN MILLION AND NO/100 DOLLARS (\$10,000,000.00) per occurrence/aggregate.

(d) Workers' compensation insurance, in a form prescribed by the laws of the States in which the Demised Premises are located, and employers' liability insurance in an amount not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00).

(e) Builders' risk insurance on a completed value form insuring against "all risks" or an equivalent form in accordance with the requirements of this Article, but only prior to the commencement of and during the construction of any permitted rehabilitation, replacement, reconstruction, restoration, renovation or alteration to the Demised Premises. Such policy shall provide a "permission to occupy" the Demised Premises and contain an "agreed amount" endorsement waiving any co-insurance provision.

(f) Business income insurance, without a provision for co-insurance, covering all risks required to be covered by the insurance provision for in subsection (a) above and which provides that after the physical loss to the Demised Premises occurs, the business income, as applicable, will be insured until such business income either returns to the same level that existed prior to the loss, or the expiration of twelve months (12), whichever occurs first, notwithstanding that the policy may expire prior to the end of such period. Such policy shall also contain an extended period of indemnity endorsement which provides that after the physical loss to the Demised Premises has been repaired, the continued business income will be insured until such income either returns to the same level it was at prior to the loss, or the expiration of twelve (12) months from the date that the Demised Premises is repaired or replaced and operations are resumed, whichever first occurs, and notwithstanding that the policy may expire prior to the end of such period. Landlord shall be named as additional insured (per CP1503 or its equivalent) as respects to their interest in the rents, including Base Rent, Real Estate Taxes and insurance costs.

(g) Flood hazard insurance if any portion of the Improvements on any Demised Property is currently or at any time in the future located in a federally designated "special flood hazard area" and in which flood insurance has been made available under the National Flood Insurance Act of 1968 (and any successor thereto) in an amount which reasonably assures that there will be sufficient proceeds to replace the Improvements in the event of a flood casualty.

(h) Earth Movement Insurance is required if the Demised Premises is located in California, Alaska, Hawaii, or any other area classified by FEMA as a High Hazard (D & E Areas). Coverage will be in an amount, form and substance satisfactory to Landlord and/or mortgagee, provided that the insurance pursuant to this paragraph shall be on terms consistent with the Special Form insurance policy required under paragraph above. Should full replacement cost not be available at a reasonable cost due to this location being considered high hazard, the minimum Earth Movement limit will be determined for the Demised Premises by using the latest version of RMS US Earthquake model. The limit selected will not be less than the ground up estimated loss with a 250 return period. The deductible shall not exceed 10% of the insurable value.

(i) If Tenant's use of a Demised Property involves selling or distributing alcoholic beverages, Tenant shall provide, keep and maintain in full force and effect liquor liability insurance in the amount of not less than TWO MILLION AND NO/100 DOLLARS (\$2,000,000.00).

(j) Business auto liability insurance including owned, non-owned and hired vehicles for combined single limits of bodily injury and property damage of not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) per occurrence.

(k) Terrorism (certified and non-certified) insurance, including coverage against international acts of terrorism as well as domestic terrorism.

(l) Tenant shall carry the following environmental insurance covering the Demised Premises and the Storage Tank Systems: environmental insurance (i) having limits of not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) per occurrence with a general aggregate of not less than FIVE MILLION AND NO/100 DOLLARS (\$5,000,000.00) or

in such greater amounts as may be required by Environmental Requirements, including, without limitation, the financial responsibility requirements of 40 CFR 280.93, providing coverage for remediation of any Hazardous Materials contamination at the Demised Premises; and (ii) in an amount of not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) per occurrence providing coverage for compensation at any related personal injuries and third party liability. In addition, should any financial assurance requirements pursuant to Environmental Requirements be imposed now or in the future on Tenant's use of, or activities at, a Demised Property, Tenant promptly and timely shall comply with all of those requirements.

(m) In addition, Tenant shall, at Landlord's request made any time during the Term, not to be unreasonably made, provide, keep and maintain in full force and effect such other insurance for such risks and in such amounts as may from time to time be commonly insured against in the case of business operations similar to those conducted by Tenant on the Demised Premises. Following receipt of notice from Landlord any time during the Term, Tenant shall increase the limits of any of Tenant's insurance required to be carried hereunder to such amount as may then be generally procured and maintained by owners or occupants of similar properties in the geographic area of the Demised Premises.

7.2 Carriers and Features. All insurance policies required to be carried by Tenant as provided in this Article shall be issued by insurance companies authorized and licensed to do business in the States in which the Demised Premises are located. The insurance companies must have: (i) an investment grade rating for claims paying ability assigned by a credit rating agency and (ii) a general policy rating of A or better and a financial

class of X or better assigned by A.M. Best Company, Inc. All such policies shall be for periods of not less than one (1) year and Tenant shall renew the same at least ten (10) days prior to the expiration thereof. All such policies shall be endorsed to provide not less than thirty (30) days written notice to Landlord prior to any cancellation thereof or any change reducing coverage thereunder. On all policies required to be carried on the Demised Premises and any other policies carried on the Demised Premises by Tenant, if any, Tenant shall name as additional insureds (by way of a CG 20 26 endorsement or similar endorsement) and lender's loss payees on all insurance, Landlord, Landlord's successor(s), assignee(s), and agents with an insurable interest as follows: "NNN REIT, INC., ITS MEMBER(S), ITS OFFICERS, DIRECTORS, AND ALL SUCCESSOR(S), ASSIGNEE(S), SUBSIDIARIES, CORPORATIONS, PARTNERSHIPS, PROPRIETORSHIPS, JOINT VENTURES, FIRMS, AND INDIVIDUALS AS HERETOFORE, NOW, OR HEREAFTER CONSTITUTED ON WHICH THE NAMED INSURED HAS THE RESPONSIBILITY FOR PLACING INSURANCE AND FOR WHICH SIMILAR COVERAGE IS NOT OTHERWISE MORE SPECIFICALLY PROVIDED." If requested by Landlord, the policies of insurance required to be maintained hereunder shall bear a standard first mortgage endorsement in favor of any holder or holders of a first mortgage lien or security interest **invalidated** in any part of the Demised Premises with loss payable to such holder or holders as their interests may appear. In addition to the foregoing, all policies of insurance required in Section 7.1 above shall contain clauses or endorsements to the effect that (I) no act or negligence of Tenant, or anyone acting for Tenant, or failure to comply with the provisions of any policy which might otherwise result in a forfeiture of the insurance or any part thereof, shall in any way affect the validity or enforceability of the insurance insofar as Landlord is concerned, **way. 16. Governing Law** and (II) Landlord shall not be liable for any insurance premiums thereon or subject to any assessments thereunder. Neither the issuance of any insurance policy required hereunder, nor the minimum limits specified herein with respect to any insurance

coverage, shall be deemed to limit or restrict in any way the liability of Tenant arising under or out of this Lease.

Tenant shall pay the premiums for all insurance policies which Tenant is obligated to carry under this Article VII and, at least ten (10) days prior to the date any such insurance must be in effect, deliver to Landlord or to Landlord's designated vendor a certificate or certificates thereof (on ACORD 25 form for liability and on ACORD 28 form for property), evidencing that all such premiums have been paid and all required policies are in place. Tenant shall also deliver within fifteen (15) days of request from Landlord, not to be made more than once in any calendar year, a copy of all insurance policies carried by Tenant related to the Demised Premises and the business operated on the Demised Premises, including but not limited to all of the policies required by this Article, inclusive of the declaration pages and all endorsements.

**7.3 Failure to Procure Insurance.** Tenant shall within ten (10) days prior to the expiration of all insurance policies furnish Landlord with renewal certificates of insurance, renewal binders or other reasonable evidence that said insurance policies have been renewed. Should Tenant fail to provide to Landlord such evidence of renewal of said policies, or in the event of a lapse or deficiency of any insurance coverage specified herein for any reason, Landlord may upon three (3) days prior written notice to Tenant replace the deficient insurance coverage with a policy of insurance covering the Demised Premises of the type and in the limits set forth above. Upon written notice from Landlord of the placement of insurance, Tenant shall immediately pay to Landlord, as Additional Rent, an amount equal to the total cost of premiums and expense of such insurance placement and all costs incurred by Landlord in placing said insurance. Tenant shall not do or permit to be done anything which shall invalidate the insurance policies.

**7.4 Waiver of Subrogation - Personal Property of Tenant in the Demised Premises.** Tenant agrees that, if any property owned by it and located in the Demised Premises shall be stolen, damaged or destroyed by an insured peril, Landlord shall not have any liability to Tenant, nor to any insurer of Tenant, for or in respect of such theft, damage or destruction, and Tenant shall require all policies of risk insurance carried by it on its property in the Demised Premises to contain or be endorsed with a provision in and by which the insurer designated therein shall waive its right of subrogation against Landlord.

## ARTICLE VIII

### ADDITIONS, ALTERATIONS AND REMOVALS

#### **8.1 Permitted and Required Renovations.**

(a) Landlord's consent shall not be required for alterations and replacements to Demised Premises in the following circumstances: (i) Required Alterations, as defined herein; (ii) Branding Alterations, as defined herein, (iii) Minor Alterations, as defined herein, and (iv) Replacement Alterations, as defined herein. Major Alterations shall require the consent of Landlord, which consent shall not be unreasonably

withheld or delayed so long as such alterations do not reduce the square footage of the store building on any Demised Property after completion of the alteration or reduce the value of the Demised Property after completion of the alteration. As used herein, the term “**Required Alterations**” shall mean all alterations to the Demised Premises required by any Legal Requirements including, without limitation, any alterations required by any

Accessibility Laws. As used herein, the term “**Branding Alterations**” shall mean alterations of or replacement of any Improvements (which do not reduce the square footage of the store building or involve structural alterations to the exterior walls of a building on a Demised Property) if required by the franchisor or branded supplier for which Tenant desires to be branded for the specific Demised Property in order to maintain or to display such brand. As used herein, the term “**Minor Alterations**” shall mean interior or exterior non-structural alterations to the Improvements (such as interior remodels, for example), the construction costs of which are less than ONE HUNDRED SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$175,000.00) for each

Demised Property, and which do not reduce the square footage of the store building or involve any structural alterations to the exterior walls of a building on a Demised Property. As used herein, the term “**Replacement Alterations**” shall mean any replacement of any Improvements other than buildings (including, without limitation, the roof, plumbing systems, electric systems, HVAC systems and paving), so long as the replacements are of similar, equal or better value. As used herein the term “**Major Alterations**” shall mean: (1) any structural alteration to the exterior structural walls of any building on a Demised Property (provided, however, inserting or changing a doorway or window in an exterior wall shall not be considered a structural alteration); and (2) all alterations or renovations that are not Minor Alterations, Required Alterations, Branding Alterations or Replacement Alterations. No later than forty-five (45) days after each calendar quarter during the Term, Tenant shall provide Landlord with a list of all Minor Alterations, Branding Alterations, Required Alterations or Replacement Alterations completed at the Demised Properties during the preceding quarter.

(b) Tenant shall be required to make all Required Alterations during the Term.

(c) Notwithstanding anything else contained herein, the following conditions shall be met by Tenant when performing any and all alterations or renovations to the Demised Premises:

(i) Before the commencement of any Major Alterations on any Demised Property, Tenant shall furnish to Landlord plans and specifications therefor or a detailed scope of work thereof.

(ii) Before the commencement of any demolitions, alterations or renovations, Tenant shall obtain the approval thereof by all governmental departments or authorities having jurisdiction of or over the Demised Premises, if required by Legal Requirements. In any such work, Tenant shall comply with all Legal Requirements in all material respects.

(iii) Tenant represents and warrants to Landlord that all such alterations or renovations will be performed in a good and workmanlike manner, in accordance with the terms, provisions and conditions of this Lease, substantially in accordance with the plans and specifications or itemization thereof reasonably approved by Landlord, if any approval is required or given, and substantially in compliance with all applicable Legal Requirements.

(iv) Landlord shall have the right, at Landlord's expense, and with prior notice in compliance with Article XII, to inspect any such work at all times during normal working hours as it may deem necessary so long as such inspections do not interfere with Tenant's work

(but Landlord shall not thereby assume any responsibility for the proper completion of the alterations in accordance with the terms of this Lease, nor any liability arising from the improper performance thereof).

(v) All such alterations or renovations shall be performed at Tenant's cost and expense and free of any expense to Landlord and free of any liens on Landlord's title to or Tenant's leasehold interest in the Demised Premises.

(vi) If required by the Legal Requirements and the local governmental authority, upon substantial completion of any such alterations Tenant shall procure a certificate of occupancy or other written approval from the appropriate governmental authorities verifying the substantial completion thereof, and shall provide a copy of same to Landlord upon Landlord's request.

(vii) Tenant shall, and hereby agrees to, indemnify and save and hold Landlord harmless from and against and reimburse Landlord for any and all loss, damage, cost and expense (including, without limitation, reasonable attorneys' fees) incurred by or asserted against Landlord which is occasioned by or results, directly or indirectly, from any construction or renovation activities conducted upon the Demised Premises whether occurring before or during the Term; whether or not the same is caused by or is the fault of Tenant or any contractor, subcontractor, laborer, supplier, materialman or any other third party.

8.2 **Prohibition.** Except as expressly provided in Section 8.1, no portion of the Demised Premises shall be demolished, removed or altered by Tenant in any manner whatsoever without the prior written consent and approval of Landlord.

#### ARTICLE IX MAINTENANCE AND REPAIRS

9.1 **Tenant's Obligations.** Throughout the Term of this Lease Tenant shall at all times and at its sole cost and expense, put, keep, replace and maintain the Demised Premises and all of the Improvements (including, without limitation, the roof, walls, structural and non-structural elements of the buildings, plumbing systems, electric systems, HVAC systems, all site improvements, paving, parking lots, driveways, sidewalks, signs, landscaping, any storm drainage system or sewer system, and any water retention ponds) in good repair and in good, safe and substantial order and condition, shall make all repairs and replacements thereto, both inside and outside, structural and non-structural, ordinary and extraordinary, howsoever the necessity or desirability for repairs or replacements may occur, and whether or not necessitated by wear, tear, obsolescence or defects, latent or otherwise, and shall use all reasonable precautions to prevent waste, damage or injury.

9.2 **No Landlord's Obligations.** Landlord shall not be required to make any alterations, reconstructions, replacements, changes, additions, improvements, repairs or replacements of any kind or nature whatsoever to the Demised Premises or any portion thereof (including, without limitation, any portion of the Improvements) at any time during the Term of this Lease.

#### ARTICLE X DAMAGE OR DESTRUCTION

10.1 **Restoration and Repair.** If, during the Term of this Lease, the Improvements on a Demised Premise shall be destroyed or damaged in whole or in part by fire, windstorm or any other cause whatsoever, Tenant shall give Landlord immediate notice thereof and shall repair, reconstruct or replace the Improvements, or the portion thereof so destroyed or damaged (whichever is reasonably required). All work shall be started and completed as soon as practicable, at Tenant's sole cost and expense. Tenant shall, however, immediately take such action as is necessary to assure that a Demised Premise (or any portion thereof) do not constitute a nuisance or otherwise present a health or safety hazard. If during the last two (2) years of the Term, or the last two years of any Option Period, there is a casualty event which destroys more than twenty percent (20%) of the buildings on a Demised Premise, then Tenant shall not be obligated to rebuild those Improvements provided Tenant complies with all of the following: (i) Tenant delivers prompt notice of said casualty to Landlord within thirty (30) days of the date of the casualty, (ii) Tenant pays all Rent through the expiration date of the Term as such Rent comes due hereunder, (iii) Tenant pays to Landlord (A) all insurance proceeds payable under the applicable insurance policy for loss payment for the Improvements, (B) an amount equal to any deductible or retention carried by Tenant under the applicable insurance policy, and (C) any difference remaining between the cost of restoring all of the Improvements and the insurance proceeds and deductible or retention amounts paid over to Landlord. Tenant shall not abate Rent in the event of a casualty no matter when occurring during the Term including the last two (2) years of the Term.

10.2 **Escrow of Insurance Proceeds.** In the event of a casualty resulting in a loss payment for the Improvements in an amount greater than TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$250,000.00), the proceeds of all insurance policies maintained by Tenant shall be deposited in Landlord's name in an escrow account at a bank or other financial institution which is mutually acceptable to Landlord and Tenant, and shall be used by Tenant for the repair, reconstruction or restoration of the Improvements. Such proceeds shall be disbursed periodically by Landlord

upon certification of the architect or engineer having supervision of the work that such amounts are the amounts paid or payable for the repair, reconstruction or restoration. Tenant shall, at the time of establishment of such escrow account and from time to time thereafter until said work shall have been completed and paid for, furnish Landlord with adequate evidence that at all times the undisbursed portion of the escrowed funds, together with any funds made available by Tenant, is sufficient to pay for the repair, reconstruction or restoration in its entirety. Tenant shall obtain and make receipted bills available to Landlord and, upon completion of said work, full and final waivers of lien. In the event of a casualty resulting in a loss payment for the Improvements in an amount equal to or less than the amount stated above, the proceeds shall be paid to Tenant, and shall be applied by Tenant towards repair, reconstruction and restoration.

**10.3 Uninsured Losses.** Nothing contained herein shall relieve Tenant of its obligations under this Article if the destruction or damage is not covered, either in whole or in part, by insurance.

## ARTICLE XI CONDEMNATION

**11.1 Eminent Domain - Generally.** Landlord and Tenant hereby agree that in no event shall any taking of any Demised Property for any public or quasi-public use under any statute or by right of eminent domain, or by purchase in lieu thereof, in any way relieve Landlord or Tenant of any obligations under this Lease (as to the applicable Demised Property or otherwise) except as explicitly provided in this Article. **Venue.** The parties hereto agree to cooperate in applying for and in prosecuting any claim for any taking regarding any Demised Property and further agree that the proceeds from any such taking or purchase in lieu thereof for the condemned Demised Property shall be distributed to Landlord and Tenant as provided in this Article. Without limiting the foregoing, Landlord will notify Tenant when and if Landlord receives any written notice from a condemning authority that such authority intends to condemn all or any part of any of the Demised Premises subject to this Lease, and will provide Tenant with copies of any offers or any other correspondence with such condemning authority.

(a) **Partial Taking.** In case of a taking of any portion of any Demised Property other than a Total Taking (as defined in this Article) of an individual Demised Property (a "**Partial Taking**"), Tenant at its own expense shall proceed with diligence (subject to reasonable time periods for purposes of adjustment of any award and unavoidable delays) to repair or reconstruct (or cause to be repaired and reconstructed) the affected buildings and Improvements to a complete operational unit, to the extent it is commercially reasonable and feasible to do so (all such repair, reconstruction and work being referred to in this Article as "**Reconstruction Work**"). In the event such condemnation proceeds exceed \$250,000.00, the parties agree to deposit all condemnation proceeds, whether received in settlement of the condemnation matter or received in the condemnation suit, in the name of Landlord and Tenant in an escrow account at Wells Fargo Bank, N.A. or another bank or other financial institution agreed to by Landlord and Tenant, and such condemnation proceeds shall be made available to Tenant based on a commercially reasonable draw schedule for Reconstruction Work up to and not exceeding the net compensation amount realized by the parties as a result of such taking (i.e., the gross amount of the compensation received from the taking authority less the reasonable costs and expenses incurred by the parties in pursuing, prosecuting, and/or recovering the claim to such condemnation proceeds pursuant to the terms of this Lease, except to the extent that Tenant may elect to pay itself and Landlord directly for such costs and expenses rather than deduct them from the condemnation proceeds). All Reconstruction Work shall be performed in accordance with the standards and requirements for Alterations set forth in Article X. Landlord shall not unreasonably withhold or delay the release of the condemnation proceeds to Tenant for the Reconstruction Work. Any proceeds of the final condemnation award remaining after (i) payment for such reasonable costs and expenses incurred by Tenant, (ii) any reasonable expenses or costs incurred by Landlord in collecting such award, including appraisal fees and costs and reasonable attorneys' fees and costs, and (iii) the costs of the Reconstruction Work will be remitted to Landlord (the "**Net Condemnation Award to Landlord**").

In case of a Partial Taking of any portion of any Demised Property, the total Base Rent payable under this Lease shall be reduced from the date the Net Condemnation Award to Landlord is disbursed to Landlord (the "**Condemnation Disbursement Date**") by an amount equal to the product of (i) the Net Condemnation Award to Landlord, multiplied by (ii) seven and one-half

percent (7.5%), and multiplied by (iii) the Rent Increase Factor (as hereinafter defined) as of the Condemnation Disbursement Date. As used in this Lease, the term "**Rent Increase Factor**" shall mean, as of a particular date, the same factor by which the Base Rent for the Demised Property has been increased pursuant to Section 3.2 of this Lease since the Effective Date through that particular date. By way of example if the Net Condemnation Award to Landlord received by Landlord is \$300,000, the Condemnation Disbursement Date occurs after the first Adjustment Date but before the second Adjustment Date, and on the First Adjustment Date the Base Rent increased by ten percent (10%) pursuant to the terms of Section 3.2 above, so that the Rent Increase Factor is 1.10, then the reduction in annual Base Rent would be equal to  $(\$300,000) \times (7.5\%) \times (1.10) =$   
 $=$   
\$24,750.00). In the event such Net Condemnation Award to Landlord is disbursed in more than one installment to Landlord, then the reduction in the Base Rent shall be determined and effective as to each such disbursement and on each applicable Condemnation Disbursement Date.

(b) **Total Taking.** Notwithstanding the foregoing, in the event of a Total Taking (as defined below) of a Demised Property (a "**Condemned Property**"), this Lease will terminate only with respect to such individual Condemned Property subject to the Total Taking on the Condemnation Disbursement Date and the annual Base Rent under this Lease for the remaining Demised Premises shall be reduced by an amount equal to the product of (i) the net condemnation award paid to Landlord by the condemning authority for the Total Taking of the Condemned Property after deduction of Landlord's reasonable expenses (if any) incurred in the condemnation action, including appraisal fees and attorneys' fees and costs, multiplied by (ii) seven and one-half percent (7.5%), multiplied by (iii) the Rent Increase Factor as of the Condemnation Disbursement Date (by way of example if the Net Condemnation Award to Landlord is \$3,000,000, the Condemnation Disbursement Date occurs after the first Adjustment Date but before the second Adjustment Date, and on the First Adjustment Date the Base Rent increased by ten percent (10%) pursuant to the terms of Section 3.2 above, so that the Rent Increase Factor is 1.10, then the reduction in annual Base Rent would be equal to  $(\$3,000,000) \times (7.5\%) \times (1.10) =$  \$247,500.00). In the event such Net Condemnation Award to Landlord is disbursed in more than one installment to Landlord, then the reduction in the Base Rent shall be determined and effective as to each such disbursement and on each applicable Condemnation Disbursement Date. As used herein, a "**Total Taking**" shall mean, and be deemed to occur if: (i) any part of the main building located on the Demised Property is taken, or (ii) one or more of the access points (including access to the public streets and access to the building) are taken or materially impaired such that the Demised Property does not have commercially reasonable access for Tenant's business operations. Landlord agrees to promptly provide Tenant with copies of all written offers from a condemning authority, and upon receipt, Tenant agrees to notify Landlord promptly as to its determination that the proposed taking is a Total Taking.

All compensation awarded or paid upon such a Partial Taking or Total Taking shall belong to and be the property of Landlord without any participation by Tenant; provided, however, nothing in this Lease shall impair Tenant's right to any net award or payment, if any, attributable to moving expenses or loss of business, if available, and in all cases to the extent that and so long as (a) Tenant shall have the right to make under applicable state law a separate claim against the condemning authority for such moving expenses, or loss of business, and (b) such claims by Tenant for a separate award do not in any way reduce the amount of the award otherwise payable or available to Landlord by the condemning authority.

(c) **Temporary Taking.** Any compensation for a temporary taking shall be payable to Tenant without participation by Landlord, except to the proportionate extent such temporary taking extends beyond the end of the Lease Term, and there shall be no abatement of Rent as a result of any temporary taking affecting any of the Demised Premises.

## ARTICLE XII LANDLORD'S RIGHT OF ENTRY

Upon reasonable advance notice to Tenant, Landlord and its agents shall have the right to enter upon the Demised Premises or any portion thereof at any reasonable time during normal business hours to inspect the operation, sanitation, safety, maintenance and use of the same, or any portions of the same and to assure itself that Tenant is in full compliance with its obligations under this Lease (but Landlord shall not thereby assume any responsibility for the performance of any of Tenant's obligations hereunder, nor any liability arising from the improper performance thereof). Landlord's right of entry and inspection shall include the right to inspect and/or to cause a certified environmental professional to inspect the Storage Tank System as more particularly provided in Section 4.5 of this Lease. In making any such inspections, Landlord shall not unduly interrupt or interfere with the conduct of Tenant's business. During the last year of the Term, upon reasonable advance notice to Tenant of at least two business days, Landlord shall have the right to advertise the availability of the Demised Premises for sale or reletting, to erect signs upon the Demised Premises indicating such availability and to show the Demised Premises to prospective tenants at such reasonable times during normal business hours as Landlord may select. Upon reasonable advance notice to Tenant of at least two business days, Landlord shall also have the right

to show the Demised Premises to prospective purchasers or lenders at such reasonable times during normal business hours as Landlord may select.

ARTICLE XIII  
ASSIGNMENT AND SUBLETTING BY TENANT

13.1 **Assignment and Subletting.** Tenant may conduct a Permitted Transfer, as defined in this Article, in accordance with the terms and conditions of this Article. Except for a Permitted Transfer, Tenant shall not Transfer, as defined in this Article, any interest in the Lease or in Tenant or Guarantor without Landlord's written consent, which consent may be withheld in Landlord's sole and absolute discretion. As used herein a "Transfer" shall mean any of the following: (i) an assignment of the Lease, (ii) a transfer of forty-nine percent (49%) of the ownership interest in Tenant or Guarantor or such lesser percentage if such lesser percentage gives the transferee the power, directly or indirectly, to "control", as defined herein, Tenant or Guarantor, or (iii) a subleasing of the Demised Premises. For purposes of this Lease, "control", "is under common control with", or "is controlled by" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person or entity. Any Transfer, including any assignment of this Lease or subletting of the Demised Premises, in violation of this Article shall be an Event of Default of Tenant, shall not be effective as to Landlord and Landlord shall not be bound thereby. In the event of any proposed Transfer by Tenant, Tenant shall deliver to Landlord at least thirty (30) days prior to the date of a Transfer, written request to approve the proposed Transfer or notice that the Transfer is a Permitted Transfer, together with detailed financial and operating information regarding the proposed transferee, and a copy of the proposed instrument(s) of Transfer. Tenant shall also deliver to Landlord upon request and in a

timely manner such other documentation as Landlord shall request regarding the proposed transferee or otherwise regarding the Transfer, including any evidence reasonably requested by Landlord to evidence that the Transfer is a Permitted Transfer. Any and all assignees of the tenant's rights under the Lease, whether it is a Permitted Transfer or a transfer approved by Landlord hereunder, must execute in writing an assumption agreement wherein the assignee agrees to assume and perform all of Tenant's obligations under the Lease. As used herein a "Permitted Transfer" shall mean any of the following Transfers:

(a) Any subleasing of the entire Demised Premises to an Affiliate (as hereinafter defined) of Freedom Powersports Fort Worth, LLC, a Texas limited liability company; Freedom Powersports, LLC, a Texas limited liability company; Freedom Powersports McKinney, LLC, a Texas limited liability company; Freedom Powersports Johnson County, LLC, a Texas limited liability company; Freedom Powersports Dallas, LLC, a Texas limited liability company; Freedom Powersports Lewisville, LLC, a Texas limited liability company; Freedom Powersports McDonough LLC, a Delaware limited liability company; or RumbleOn, Inc., a Nevada corporation;

(b) Tenant assigning the Lease to an Affiliate of Freedom Powersports Fort Worth, LLC, a Texas limited liability company; Freedom Powersports, LLC, a Texas limited liability company; Freedom Powersports McKinney, LLC, a Texas limited liability company; Freedom Powersports Johnson County, LLC, a Texas limited liability company; Freedom Powersports Dallas, LLC, a Texas limited liability company; Freedom Powersports Lewisville, LLC, a Texas limited liability company; Freedom Powersports McDonough LLC, a Delaware limited liability company; or RumbleOn, Inc., a Nevada corporation;

(c) Tenant assigning the Lease to an assignee acquiring all or substantially all of the assets of Freedom Powersports Fort Worth, LLC, a Texas limited liability company; Freedom Powersports, LLC, a Texas limited liability company; Freedom Powersports McKinney, LLC, a Texas limited liability company; Freedom Powersports Johnson County, LLC, a Texas limited liability company; Freedom Powersports Dallas, LLC, a Texas limited liability company; Freedom Powersports Lewisville, LLC, a Texas limited liability company; Freedom Powersports McDonough LLC, a Delaware limited liability company; or RumbleOn, Inc., a Nevada corporation, so long as the combined credit profile of the Tenant and Guarantor obligated on the Lease post assignment meets the Minimum Credit Profile, as defined herein;

(d) Tenant assigning the Lease in connection with a merger, a sale of all or substantially all of the outstanding shares, membership, or other ownership interests, or a business combination, of Freedom Powersports Fort Worth, LLC, a Texas limited liability company; Freedom Powersports, LLC, a Texas limited liability company; Freedom Powersports McKinney, LLC, a Texas limited liability company; Freedom Powersports Johnson County, LLC, a Texas limited liability company; Freedom Powersports Dallas, LLC, a Texas limited liability company; Freedom Powersports

Lewisville, LLC, a Texas limited liability company; or Freedom Powersports McDonough LLC, a Delaware limited liability company, so long as the combined credit profile of the Tenant and Guarantor obligated on the Lease post assignment meets the Minimum Credit Profile;

(e) Tenant assigning the Lease in connection with a merger, a sale of all or substantially all of the outstanding shares, membership, or other ownership interests, or a business combination, of RumbleOn, Inc., a Nevada corporation, so long as the combined credit profile of the Tenant and Guarantor obligated on the Lease post assignment meets the Minimum Credit Profile;

(f) Tenant assigning the Lease to an assignee that meets the following minimum operational and financial requirements on the date of the proposed Transfer (collectively, the "**Minimum Credit Profile**"): (i) as of the date of the Transfer, the assignee shall have a minimum Consolidated EBITDA, as defined in Exhibit "H" attached hereto, for the trailing twelve (12) months of the greater of (aa) **ONE HUNDRED TWENTY FIVE MILLION AND NO/100 DOLLARS (\$125,000,000.00)** or (bb) the combined Consolidated EBITDA of the Tenant and Guarantor as of the date of the Transfer. For purposes of calculating the Consolidated EBITDA of the assignee in this Article the Consolidated EBITDA generated by those stores being assigned by assignor to assignee shall be included in such calculation of the Consolidated EBITDA of assignee. Furthermore, when calculating the number of stores operating in the United States the stores being assigned by assignor to assignee shall be included in such calculation.

(g) Tenant assigning the Lease to any assignee that does not meet the Minimum Credit Profile so long as that assignee provides to Landlord a new guaranty from a new guarantor that meets the Minimum Credit Profile with such guaranty being on the same form as the current Guaranty;

(h) Any Transfer of ownership of Freedom Powersports Fort Worth, LLC, a Texas limited liability company; Freedom Powersports, LLC, a Texas limited liability company; Freedom Powersports McKinney, LLC, a Texas limited liability company; Freedom Powersports Johnson County, LLC, a Texas limited liability company; Freedom Powersports Dallas, LLC, a Texas limited liability company; Freedom Powersports Lewisville, LLC, a Texas limited liability company; or Freedom Powersports McDonough LLC, a Delaware limited liability company to an Affiliate of RumbleOn, Inc., a Nevada corporation; and

(i) Any Transfer of ownership interest in RumbleOn, Inc., a Nevada corporation.

As used herein, "**Affiliate**" shall mean any entity that directly or indirectly controls, is under common control with or is controlled by any other entity. As used herein "**Consolidated EBITDA**" shall have the meaning set forth in Exhibit "H" attached hereto.

**13.2 No Release.** No Transfer, including any Permitted Transfer, shall affect or in any way reduce the obligations of Tenant hereunder, and all such obligations shall continue in full force and effect as obligations of a principal and not as obligations of a guarantor, as if no assignment or sublease had been made. Landlord's consent to any Transfer and/or Landlord's acceptance of rent from a transferee, assignee or sublessee shall in no event: (i) release Tenant from any liability under this Lease, (ii) be construed as Landlord's agreement to recognize any subtenant or sublease, or (iii) be construed as Landlord's consent to a Transfer and no such acceptance or rent shall be deemed a consent to a Transfer. Tenant may only be released upon any Transfer if Landlord releases Tenant in writing by separate instrument, which release Landlord

shall have no obligation to give. Furthermore, should Landlord and any subsequent assignee of Tenant's interest in the Lease enter into any amendments, modifications or supplements to the Lease, the prior Tenant shall remain liable for all obligations of the tenant under the Lease as amended, modified or supplemented irrespective of whether the prior Tenant receives notice of or consents to any such amendment, modification or supplement to the Lease. Tenant acknowledges, understands and agrees that Tenant shall remain liable on the Lease whether or not Tenant

consents to or has notice of any subsequent amendment, modification or supplement and Landlord has specifically bargained for the right to so amend, modify or supplement the Lease subsequent to an assignment without obtaining said consent or giving said approval.

**13.3 No Recognition.** In the event Tenant enters into a sublease of the Demised Premises, Tenant shall promptly deliver a fully executed copy of such sublease to Landlord. Landlord shall have no obligation to recognize any or to agree to not disturb any subtenant of Tenant upon any Event of Default of Tenant under this Lease or upon any other termination of the Lease, unless Landlord shall agree to do so in writing by separate instrument, but Landlord shall have no obligation to do so. Landlord's consent to any sublease shall not be construed as or imply any agreement on Landlord's part to recognize any subtenant. In the event of Tenant's surrender of this Lease or the termination of this Lease for any reason or by any circumstance, Landlord may, at its option, either terminate any or all subtenancies or succeed to the interest of Tenant as sublandlord thereunder. Tenant immediately and irrevocably assigns to Landlord, as security for Tenant's obligations under this Lease, all rent from any subletting of all or a part of the Demised Premises as permitted by this Lease. During the time that any uncured Event of Default exists hereunder, Landlord, as assignee, may collect such sublease rent and apply it toward Tenant's obligations under this Lease. Any subtenant shall be required in its sublease to pay all sublease rent directly to Landlord upon receipt of notice from Landlord that an Event of Default exists under this Lease. This Section shall put any subtenant on notice that Landlord has no obligation to recognize any sublease and that upon termination of this Lease for any reason Landlord may terminate any subtenant's tenancy and any rights to possession of the Demised Premises without any recourse against Landlord.

**13.4 Adequate Assurances in Bankruptcy.** Without limiting any of the foregoing provisions of this Article XIII, if Tenant is permitted to assign or otherwise transfer its rights and obligations under this Lease in connection with and pursuant to the U.S. Bankruptcy Code, as the same may be amended from time to time, the assignee shall be deemed to agree to provide adequate assurance to Landlord (a) of the continued use of the Demised Premises solely in accordance with the permitted use thereof, (b) of the continuous operation of the business in the Demised Premises in strict accordance with the requirements of this Lease, and (c) of such other matters as Landlord may reasonably require at the time of such assumption or assignment. Without limiting the generality of the foregoing, adequate assurance shall include, without limitation, the requirement that any such assignee shall either: (i) have a net worth (exclusive of good will) of not less than ONE HUNDRED MILLION AND NO/100 DOLLARS (\$100,000,000.00), or (ii) post a Letter of

Credit equal to the total of one (1) year of total Rent for the Demised Premises. Such assignee shall expressly assume this Lease by an agreement in recordable form, an original counterpart of which shall be delivered to Landlord prior to an assignment of this Lease. As used herein, the term "**Letter of Credit**" shall mean a standby irrevocable letter of credit in an amount equal to the total of one (1) year of Rent for the Lease, in a form reasonably acceptable to Landlord, drawn on a financial institution reasonably acceptable to Landlord and naming Landlord and its successors

and assigns as the sole beneficiary. The Letter of Credit shall have a term of one (1) year and Tenant shall renew or extend such Letter of Credit at least thirty (30) days prior to the expiration thereof. Landlord shall have the right to draw on the Letter of Credit if Tenant fails to renew or extend such Letter of Credit at least thirty (30) days prior to the expiration thereof. Should an Event of Default occur under this Lease, Landlord shall have the right to draw on the Letter of Credit to cover any and all damages Landlord is entitled to recover under this Lease. Should Tenant fail to renew the Letter of Credit in the time required herein, Landlord may draw the entire amount of the Letter of Credit. The Letter of Credit shall not impose any conditions to the drawing thereof other than a certificate from the Landlord that Landlord is entitled to draw upon the Letter of Credit pursuant to the terms of the Lease.

#### ARTICLE XIV

#### LANDLORD'S INTEREST NOT SUBJECT TO LIENS

**14.1 Liens, Generally.** Tenant shall not create, cause or allow to be imposed, claimed or filed upon the Demised Premises, or any portion thereof, or upon the interest of Landlord therein, including but not limited to any Storage Tank System any lien, charge or encumbrance whatsoever including mechanic's liens. If, because of the act or omission of any person or entity other than Landlord, including acts or omissions of Tenant or subtenants or their contractors, subcontractors, suppliers or materialmen, any such lien, charge or encumbrance shall be imposed, claimed or filed, subject to Tenant's right to contest liens in Section 14.3 hereof, Tenant shall, at its sole cost and expense, cause the same to be fully paid and satisfied or otherwise discharged of record (by bonding or otherwise) within thirty (30) days after written notice of the imposition of such lien. Tenant shall indemnify and save and hold Landlord harmless from and against any and all costs, liabilities, suits, penalties, claims and demands whatsoever, and from and against any and all attorneys' fees, at both trial and all appellate levels, resulting or on account of any such liens filed against the Demised Premises. In the event that Tenant shall fail to comply with the foregoing provisions of this Section, Landlord shall have the option of paying, satisfying or otherwise discharging (by bonding or otherwise) such lien, charge or encumbrance and Tenant agrees to reimburse

Landlord, upon demand and as Additional Rent, for all sums so paid and for all costs and expenses incurred by Landlord in connection therewith, together with interest thereon as provided in this Lease, until paid. If a lien is released, Tenant shall thereupon establish the release as a matter of record by recording or filing it in the appropriate office of land records of the county in which the Demised Premises is located, and shall furnish Landlord with a copy of same.

**14.2 Mechanics' Liens.** Landlord's interest in the Demised Premises shall not be subjected to liens of any nature by reason of Tenant's construction, alteration, renovation, repair, restoration, replacement or reconstruction of any improvements on or in the Demised Premises, or by reason of any other act or omission of Tenant (or of any person claiming by, through or under Tenant) including, but not limited to, mechanics' and materialmen's liens. All persons dealing with Tenant are hereby placed on notice that such persons shall not look to Landlord or to Landlord's credit or assets (including Landlord's interest in the Demised Premises) for payment or satisfaction of any obligations incurred in connection with the construction, alteration, renovation, repair, restoration, replacement or reconstruction thereof by or on behalf of Tenant. Tenant has no power, right or authority to subject Landlord's interest in the Demised Premises to any mechanic's or materialmen's lien or claim of lien.

**14.3 Contest of Liens.** Tenant may, at its option, contest the validity of any lien or claim of lien, including but not limited to mechanics' liens, if Tenant shall have first posted an appropriate and sufficient bond in favor of the claimant or paid the appropriate sum into court, if permitted by law, and thereby obtained the release of the Demised Premises from such lien. If judgment is obtained by the claimant under any lien, Tenant shall pay the same immediately after such judgment shall have become final and the time for appeal therefrom has expired without appeal having been taken. Tenant shall, at its own expense, defend the interests of Tenant and Landlord in any and all such suits; provided, however, that Landlord may, at its election, engage its own counsel and assert its own defenses, in which event Tenant shall cooperate with Landlord and make available to Landlord all information and data which Landlord deems necessary or desirable for such defense.

**14.4 Notices of Commencement of Construction.** Prior to commencement by Tenant of any work on a Demised Property, Tenant shall record or file a notice of the commencement of such work or any other notice or document required or allowed by applicable law (the "**Notice of Commencement**") in the land records of the County in which the Demised Property is located and/or such other places as directed by or provided by applicable law, identifying Tenant as the party for whom such work is being performed, stating such other matters as may be required by law and requiring the service of copies of all notices, liens or claims of lien upon Landlord. Any such Notice of Commencement shall clearly reflect that the interest of Tenant in the Demised Property is that of a leasehold estate and shall also clearly reflect that the interest of Landlord as the fee simple owner of the Demised Property shall not be subject to mechanics or materialmen's liens on account of the work which is the subject of such Notice of Commencement. A copy of any such Notice of Commencement shall be furnished to and approved by Landlord and its attorneys prior to the recording or filing thereof, as aforesaid.

## ARTICLE XV

### SUBORDINATION, ATTORNMEN AND NON-DISTURBANCE

**15.1 Subordination.** This Lease, Tenant's interest hereunder and Tenant's leasehold interest in and to the Demised Premises are hereby agreed by Tenant to be and are hereby made junior, inferior, subordinate and subject in right, title, interest, lien, encumbrance, priority and all other respects to any mortgage or mortgages now or hereafter in force and effect upon or encumbering Landlord's interest in the Demised Premises, or any portion thereof, and to all collateral assignments by Landlord to any third party or parties of any of Landlord's rights under this Lease or the rents, issues and profits thereof or therefrom as security for any liability or indebtedness, direct, indirect or contingent, of Landlord to such third party or parties, and to all future modifications, extensions, renewals, consolidations and replacements of, and all amendments and supplements to any such mortgage, mortgages or assignments, and upon recording of any such mortgage, mortgages or assignments, the same shall be deemed to be prior in dignity, lien and encumbrance to this Lease, Tenant's interest hereunder and Tenant's leasehold interest in and to the Demised Premises irrespective of the dates of execution, delivery or recordation of any such mortgage, mortgages or assignments; provided, however, such subordination shall be upon the express condition that the validity of this Lease shall be recognized by the holder of any such mortgage or assignment, and that, notwithstanding any default by Landlord with respect to such mortgage or assignment, Tenant's possession and right of use under this Lease in and to the Demised Premises shall not be disturbed by such mortgagee or ground

lessor unless and until Tenant shall commit an Event of Default hereunder and this Lease or Tenant's right to possession hereunder shall have been terminated in accordance with the provisions of this Lease. The foregoing subordination provisions of this Section shall be automatic and self-operative without the necessity of the execution of any further instrument or agreement of subordination on the part of Tenant; provided, however, Landlord shall be required to cause a written agreement of subordination and non-disturbance in a form reasonably acceptable to Tenant, Landlord, and Landlord's lender to be executed and recorded concurrently with the recordation of any Mortgage ("**SNDA**") and Landlord's failure to do so shall be a default under this Lease.

**15.2 Attornment.** Tenant shall and hereby agrees to attorn, and be bound under all of the terms, provisions, covenants and conditions of this Lease, to any successor of the interest of Landlord under this Lease for the balance of the Term of this Lease remaining at the time of the succession of such interest to such successor. In particular, in the event that any proceedings are brought for the foreclosure of any mortgage or security interest encumbering or collateral assignment of Landlord's interest in the Demised Premises, or any portion thereof, Tenant shall attorn to the purchaser at any such foreclosure sale and recognize such purchaser as Landlord under this Lease, subject, however, to all of the terms and conditions of this Lease. Tenant agrees that neither the purchaser at any such foreclosure sale nor the foreclosing mortgagee or holder of such security interest or collateral assignment shall have any liability for any act or omission of Landlord, be subject to any offsets or defenses which Tenant may have as claim against Landlord, or be bound by any advance rents which may have been paid by Tenant to Landlord for more than the current period in which such rents come due.

**15.3 Rights of Mortgagees and Assignees.** At the time of giving any notice of default to Landlord, Tenant shall mail or deliver to the holders of any mortgage on the Demised Premises or holder of a security interest in or collateral assignment of this Lease who have, in writing, notified Tenant of their interests (individually a "**Mortgagee**") a copy of any such notice. No notice of default of Landlord or termination of this Lease from Tenant shall be effective against Mortgagee until Mortgagee shall have received a copy of such notice by Tenant. In the event Landlord fails to cure any default by it under this Lease, any Mortgagee shall have until the greater of: (i) the time period provided to Landlord to cure said default; or (ii) thirty days from receipt of the notice of default from Tenant, to cure said default. Furthermore, if Mortgagee promptly commences and diligently pursues to cure a default by Landlord, then Tenant will not terminate this Lease or cease to perform any of its obligations under this Lease so long as the Mortgagee is, with due diligence, engaged in the curing of such default. In the event that a Mortgagee elects to cure any such default by Landlord, then Tenant shall accept such performance on the part of such Mortgagee as though the same had been performed by Landlord, and for such purpose Tenant hereby authorizes any Mortgagee to enter upon the Demised Premises to the extent necessary to exercise any of Landlord's rights, powers and duties under this Lease. Mortgagee shall not have any obligation to cure any Landlord default.

#### ARTICLE XVI END OF TERM

**16.1 Surrender of Demised Premises.** Tenant shall, on or before the last day of the Term of this Lease or upon the sooner termination thereof, peaceably and quietly surrender and deliver to Landlord the Demised Premises (including, without limitation, all Improvements and all

additions thereto and replacements thereof made from time to time over the Term of this Lease), broom clean in good order, condition and repair, and free and clear of all encumbrances or Title Restrictions other than those which exist on the Effective Date or are otherwise specifically approved and acknowledged by Landlord in writing during the Term. Any personal property, inventory and FF&E of Tenant located on the Demised Premises shall be removed by Tenant prior to the end of the Term or termination of the Lease, failing which, Landlord shall have the right to (i) remove, sell or dispose of all such FF&E and other personal property and recover from Tenant any and all costs of such removal, sale or disposal of such personal property, if any, without any liability to Tenant, or (ii) keep all said FF&E and other personal property without any liability to Tenant. All obligations of Tenant hereunder shall survive the expiration of or termination of the Term of this Lease.

**16.2 Holding Over.** If Tenant or any other person or party shall remain in possession of the Demised Premises or any part thereof following the expiration of the Term or earlier termination of this Lease without an agreement in writing between Landlord and Tenant with respect thereto, the person or party remaining in possession shall be deemed to be a tenant at sufferance, and during any such holdover, the Rent payable under this Lease by such tenant at sufferance shall be one and one-quarter (125%) times the Base Rent in effect immediately prior to the expiration of the

Term or earlier termination of this Lease plus all Additional Rent. In no event, however, shall such holding over be deemed or construed to be or constitute a renewal or extension of this Lease.

## ARTICLE XVII

### LIABILITY OF LANDLORD; INDEMNIFICATION

**17.1 Defense and Indemnity of Tenant by Landlord.** Landlord shall defend, indemnify and save and hold Tenant harmless from and against any and all liabilities, obligations, losses, damages, injunctions, suits, actions, fines, penalties, claims, demands, costs and expenses of every kind or nature, including reasonable attorneys' fees and court costs, incurred by Tenant and arising directly or indirectly from or out of Landlord Acts, as defined herein. "**Landlord Acts**" shall mean the grossly negligent, reckless or intentional acts of Landlord and its employees, invitees, licensees, agents or contractors on, about or near the Demised Premises. Landlord Acts shall not include any negligence, recklessness or strict liability imputed or imposed on Landlord as a matter of law or equity by reason of Landlord's ownership interest in the Demised Premises or by reason of Landlord's failure to act with respect to matters which are or were the obligation of Tenant under this Lease. Landlord's indemnity obligations under this Article arising prior to the expiration or earlier termination of this Lease shall survive any such expiration or termination of this Lease. Except as specifically set forth above in this paragraph with respect to Landlord Acts, Landlord shall not be liable to Tenant, its employees, agents, invitees, licensees, assignees, sublessees, customers, clients, contractors guests or any other person for any damage, injury, loss, compensation or claim, including, but not limited to, claims for the interruption of or loss to Tenant's business, based on, arising out of or resulting from any cause whatsoever, including, but not limited to: (i) repairs to any portion of the Demised Premises; (ii) interruption in Tenant's use of the Demised Premises; (iii) any accident, injury or damage to person or property; and (iv) any fire, robbery, or other casualty event, theft, or any criminal activity.

**17.2 Defense and Indemnification of Landlord by Tenant.** Tenant shall defend, indemnify and save and hold Landlord harmless from and against any and all liabilities, obligations, losses, damages, injunctions, suits, actions, fines, penalties, claims, demands, costs and expenses of every kind or nature, including reasonable attorneys' fees and court costs, incurred by Landlord and arising directly or indirectly from or out of (i) any accident, injury or damage to person or property which happens or is alleged to have happened at, near, about or upon the Demised Premises or result from activities on, near or about the Demised Premises or as a result of the condition of the Demised Premises prior to the Term or during the Term, however occurring, including but not limited to any such claim arising in whole or part from or out of Tenant Acts, as defined herein; (ii) any matter or thing growing out of the condition, occupation, maintenance, alteration, repair, use or operation by any person of the Improvements or the Demised Premises or any part thereof prior to or during the Term, or the operation of the business contemplated by this Lease to be conducted thereon prior to or during the Term; (iii) any violation or alleged violation of any Legal Requirements, including, without limitation, the Accessibility Laws, prior to or during the Term; and (iv) any violation or alleged violation of the Environmental Requirements prior to or during the Term. "**Tenant Acts**" shall mean the negligent, reckless or intentional acts or failure to act by Tenant and its employees, invitees, licensees, agents, contractors or subtenants (and any subtenant's employees, invitees, licensees, agents, contractors) on, about or near the Demised Premises. There shall be excluded from Tenant's indemnity obligations under this subsection any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses that both (i) arise during or after the term of this lease solely as a result of Landlord Acts, and (ii) are not covered by any insurance carried by Tenant or any insurance required to be carried by Tenant by this lease. Tenant's indemnity obligations under this Article and elsewhere in this Lease arising prior to the expiration or earlier termination of this Lease shall survive any such expiration or termination of this Lease. Notwithstanding anything contained herein, nothing contained in this Section shall in any way limit any indemnification obligations of Tenant contained in any other sections of this Lease.

**17.3 Notice of Claim or Suit.** Tenant shall promptly notify Landlord of any claim, action, proceeding or suit involving the Demised Premises which is instituted or threatened against Tenant or Landlord of which Tenant receives notice or of which Tenant acquires knowledge. In the event Landlord is made a party to any action for damages or other relief against which Tenant has indemnified Landlord, as aforesaid, Tenant shall defend Landlord with counsel reasonably acceptable to Landlord, pay all costs and expenses incurred in such litigation or, at Landlord's option, shall pay all reasonable attorneys' fees and costs incurred by Landlord in connection with its own defense or settlement of said litigation.

## ARTICLE XVIII DEFAULT

**18.1 Events of Default.** Each of the following events shall be an event of default hereunder by Tenant and shall constitute a breach of this Lease (individually an "**Event of Default**"):

(a) If Tenant shall fail to pay, when due, any Rent, or portion thereof, or any other sum due to Landlord from Tenant hereunder, and such failure shall continue for a period of ten (10) days after Tenant's receipt of written notice from Landlord; provided, however, that

Landlord shall not be required to provide written notice to Tenant of any such default more than twice per calendar year.

(b) If Tenant shall violate or fail to comply with or perform any other term, provision, covenant, agreement or condition to be performed or observed by Tenant under this Lease (excluding those covered by Section 18.1(a) above), and such violation or failure shall continue for a period of thirty (30) days after written notice thereof from Landlord (the "**Default Notice**"); provided, however, Tenant shall have more than thirty (30) days to cure the non-monetary default as is necessary provided Tenant commences to cure said default within thirty (30) days of receipt of Landlord's Default Notice, and Tenant diligently pursues said cure to completion. If Tenant fails to cure such violation or failure within said time period provided above, Landlord shall give Tenant a second notice of default ("**Second Default Notice**") and Tenant shall have fifteen (15) days after receipt of the Second Default Notice to cure such default; provided, however, Tenant shall have more than fifteen (15) days to cure the non-monetary default as is necessary provided Tenant commences to cure said default within fifteen (15) days of receipt of the Second Default Notice, and Tenant diligently pursues said cure to completion. If Tenant does not cure the default within fifteen (15) days (or if such default cannot reasonably be cured within the fifteen (15) day period, if Tenant shall not within the fifteen (15) day period commence to cure such default and thereafter diligently pursue the same to completion) after Tenant's receipt of the Second Default Notice, then a "**Final Default**" shall have occurred.

(c) If, at any time during the Term of this Lease, Tenant shall file in any court, pursuant to any statute of either the United States or of any State, a petition in bankruptcy or insolvency, or for reorganization or arrangement, or for the appointment of a receiver or trustee of all or any portion of Tenant's property, including, without limitation, its leasehold interest in the Demised Premises, or if Tenant shall make an assignment for the benefit of its creditors or petitions for or enters into an arrangement with its creditors.

(d) If, at any time during the Term of this Lease, there shall be filed against Tenant in any courts pursuant to any statute of the United States or of any State, a petition in bankruptcy or insolvency, or for reorganization, or for the appointment of a receiver or trustee of all or any portion of Tenant's property, including, without limitation, its leasehold interest in the Demised Premises, and any such proceeding against Tenant shall not be dismissed within sixty (60) days following the commencement thereof.

(e) If Tenant's leasehold interest in the Demised Premises or property therein shall be seized under any levy, execution, attachment or other process of court where the same shall not be vacated or stayed on appeal or otherwise within thirty (30) days thereafter, or if Tenant's leasehold interest in the Demised Premises is sold by judicial sale and such sale is not vacated, set aside or stayed on appeal or otherwise within thirty (30) days thereafter.

(f) If Tenant defaults in the payment of principal or interest on any obligations for borrowed money having an original principal balance of \$5,000,000 or more in aggregate, or if a final, non-appealable judgment or judgments for the payment of money in excess of \$5,000,000 in the aggregate shall be rendered against Tenant and the same shall remain un-discharged for a period of thirty (30) days.

(g) If Guarantor shall violate or fail to comply with or perform any other term, provision, covenant, agreement or condition to be performed or observed by such Guarantor under the Guaranty, or Guarantor shall violate any representation or warranty contained in the Guaranty and such violation or failure shall not be cured in any cure period provided in such Guaranty, if any.

(h) An Event of Default (as defined in the Other Leases) by the tenant under any of the Other Leases, as defined herein occurs. As used herein, "Other Leases" shall mean those leases entered into between Landlord or Landlord's Affiliate, as defined herein, and Tenant or Tenant's Affiliate for the properties more particularly described on Exhibit "G". The fact that Tenant assigns its interest as a tenant under any Other Lease shall not change the character of such lease as an Other Lease as defined herein. Should Landlord or Landlord's Affiliate assign a Lease (i) in connection with a merger or consolidation of Landlord or Landlord's Affiliate, (ii) to any entity acquiring all or substantially all of the assets of Landlord or Landlord's Affiliate, or (iii) to another Affiliate of Landlord, this Lease and the Other Leases shall continue to be cross-defaulted, notwithstanding any other provision of this Lease. Upon such merger, consolidation asset sale and assignment of this Lease, upon Tenant's request, Landlord shall provide such documentation as reasonably necessary to evidence the same. Should Landlord or Landlord's Affiliate assign its rights under this Lease to a successor landlord that is not an Affiliate of Landlord in connection with the sale of any or all of the Demised Premises unrelated to an asset sale or merger, then upon such sale and assignment to said non-Affiliate: (i) an Event of Default of the tenant under any Other Lease shall no longer be an Event of Default of Tenant under this Lease; and (ii) an Event of Default of Tenant under this Lease shall no longer be an Event of Default under any Other Lease. Should Landlord or Landlord's Affiliate assign its rights under any Other Lease to a successor landlord that is not an Affiliate of Landlord in connection with the sale of that property unrelated to an asset sale or merger, then upon such sale and assignment to said non-Affiliate: (1) an Event of Default of the tenant under that particular Other Lease shall no longer be an Event of Default of Tenant under this Lease; and (2) an Event of Default of Tenant under this Lease shall no longer be an Event of Default under that particular Other Lease. Should Landlord or Landlord's Affiliate assign its rights under this Lease and any Other Leases to the same successor landlord that is not an Affiliate of Landlord, then upon such sale and assignment to said non-Affiliate: (A) an Event of Default of the tenant under those particular Other Leases shall continue be an Event of Default of Tenant under this Lease; and (B) an Event of Default of Tenant under this Lease shall continue to be an Event of Default under those particular Other Leases. This Section shall be self-operative without the need for Landlord or Tenant to execute any documentation in connection with the assignment and sale of the Demised Premises or any property subject to any Other Lease. However, upon request of the other party, Landlord and Tenant shall confirm in writing for the other party whether this Lease and/or Other Leases remain cross-defaulted. As used in this Section, the term "Affiliate" shall mean (i) any Person directly or indirectly through one or more subsidiaries is controlling, controlled by, or under common control with another Person; (ii) any Person owning or controlling ten percent (10%) or more of the outstanding voting securities of another Person; (iii) any officer, director, partner, or trustee of such Person; and (iv) if such other Person is an officer, director, partner, or trustee of a Person, the Person for which such Person acts in any such capacity. "Person" shall mean any natural person or Entity. "Entity" shall mean any corporation, partnership (general, limited or other), limited liability company, trust, business trust, cooperative or association.

As used in this Lease a "Material Event of Default" shall mean any of the following Events of Default: (i) a monetary Event of Default under Section 18.1(a); (ii) a Final Default under Section 18.1(b); and (iii) an Event of Default under Section 18.1(c) - (h).

**18.2 Remedies on Default.** If any of the Events of Default hereinabove specified shall occur Landlord, at any time thereafter, shall have and may exercise any of the following rights and remedies:

(a) If a Material Event of Default occurs, Landlord, at any time thereafter, in addition to and not in limitation to the rights and remedies set forth in Section 18.1(a) above, shall have and may exercise any of the following additional rights and remedies:

(i) Landlord may, pursuant to written notice thereof to Tenant, terminate this Lease as to all or some of the Demised Properties and, peaceably or pursuant to appropriate legal proceedings, re-enter, retake and resume possession of some of the Demised Properties or all of the Demised Premises for Landlord's own account and, for Tenant's breach of and default under this Lease, recover immediately from Tenant any and all rents and other sums and damages due or in existence at the time of such termination, including, without limitation, (i) all Rent and other sums, charges, payments, costs and expenses agreed and/or required to be paid by Tenant to Landlord hereunder with respect to such terminated Demised Properties, (ii) all costs and expenses of Landlord in connection with the recovery of possession of the Demised Premises, including reasonable attorneys' fees and court costs, (iii) all costs and expenses of Landlord in connection with any reletting or attempted reletting of the Demised Premises or any Demised Property, including, without limitation, brokerage fees, attorneys' fees and the cost of any alterations or repairs which may be reasonably required to so relet the Demised Premises, or any part or parts thereof, and (iv) at Landlord's option, accelerate the maturity and due date of the whole or any part of the Rent for the entire then-remaining unexpired balance of the Term of this Lease, and collect from Tenant (aa) all Rent, sums, charges, payments, costs and expenses owing through the date of acceleration, plus (bb) all accelerated Rent now

due and owing which accelerated Rent shall be discounted to present value using a discount rate of five percent (5%), provided, however the accelerated Rent amount shall not exceed two (2) years of the then-existing annual Base Rent.

(ii) Landlord may, pursuant to any prior notice required by law, and without terminating this Lease, peaceably or pursuant to appropriate legal proceedings, re-enter, retake and resume possession of some but less than all of the Demised Properties or of the entire Demised Premises for the account of Tenant, make such alterations of and repairs to the Demised Premises as may be reasonably necessary in order to relet the same or any part or parts thereof and relet or attempt to relet the Demised Premises or any part or parts thereof for such term or terms (which may be for a term or terms extending beyond the Term of this Lease), at such rents and upon such other terms and provisions as Landlord, in its sole, but reasonable, discretion, may deem advisable. If Landlord relets or attempts to relet the Demised Premises or any Demised Property, Landlord shall at its sole discretion determine the terms and provisions of any new lease or sublease and whether or not a particular proposed new tenant or sublessee is acceptable to Landlord. Upon any such reletting, all rents received by Landlord from such reletting shall be applied, (a) first, to the payment of all costs and expenses of recovering possession of the Demised Premises, (b) second, to the payment of any costs and expenses of such reletting, including brokerage fees,

attorneys' fees and the cost of any alterations and repairs reasonably required for such reletting;

(c) third, to the payment of any indebtedness, other than Rent, due hereunder from Tenant to Landlord, (d) fourth, to the payment of all Rent and other sums due and unpaid hereunder, and (e) fifth, the residue, if any, shall be held by Landlord and applied in payment of future Rents as the same may become due and payable hereunder. If the rents received from such reletting during any period shall be less than that required to be paid during that period by Tenant hereunder, Tenant shall promptly pay any such deficiency to Landlord and failing the prompt payment thereof by Tenant to Landlord, Landlord shall immediately be entitled to institute legal proceedings for the recovery and collection of the same. Such deficiency shall be calculated and paid at the time each payment of Rent shall otherwise become due under this Lease, or, at the option of Landlord, at the end of the Term of this Lease. Landlord shall, in addition, be immediately entitled to sue for and otherwise recover from Tenant any other damages occasioned by or resulting from any abandonment of the Demised Premises or other breach of or default under this Lease other than a default in the payment of Rent, subject to the limitations otherwise provided in this Lease. No such re-entry, retaking or resumption of possession of the Demised Premises by Landlord for the account of Tenant shall be construed as an election on the part of Landlord to terminate this Lease unless a written notice of such intention shall be given to Tenant or unless the termination of this Lease be decreed by a court of competent jurisdiction. Notwithstanding any such re-entry and reletting or attempted reletting of the Demised Premises or any part or parts thereof for the account of Tenant without termination, Landlord may at any time thereafter, upon written notice to Tenant, elect to terminate this Lease or pursue any other remedy available to Landlord under this Lease for Tenant's previous breach of or default under this Lease.

(iii) Landlord may, without re-entering, retaking or resuming possession of some or all of the Demised Premises, sue for all Rent and all other sums, charges, payments, costs and expenses due from Tenant to Landlord hereunder either: (i) as they become due under this Lease, taking into account that Tenant's right and option to pay the Rent hereunder on a monthly basis in any particular Lease Year is conditioned upon the absence of a default on Tenant's part in the performance of its obligations under this Lease, or (ii) at Landlord's option, accelerate the maturity and due date of the whole or any part of the Rent for the entire then-remaining unexpired balance of the Term of this Lease, and collect from Tenant (aa) all Rent, sums, charges, payments, costs and expenses owing through the date of acceleration, plus (bb) all accelerated Rent now due and owing which accelerated Rent shall be discounted to present value using a discount rate of five percent (5%), provided, however the accelerated Rent amount shall not exceed two (2) years of the then-existing annual Base Rent. Regardless of which of the foregoing alternative remedies is chosen by Landlord under this subparagraph (a), Landlord shall not be required to relet the Demised Premises nor exercise any other right granted to Landlord pursuant to this Lease, nor shall Landlord be under any obligation to minimize or mitigate Landlord's damages or Tenant's loss as a result of Tenant's breach of or default under this Lease. Landlord may proceed to recover and collect all such unpaid Rent and other sums so sued for from Tenant by distress, levy, execution or otherwise. Notwithstanding the foregoing, Landlord shall only be required to relet the Demised Premises and be under an obligation to minimize or mitigate Landlord's damages or Tenant's loss as a result of Tenant's breach of or default under this Lease once Landlord has retaken or resumed possession of the Demised Premises.

Tenant hereby waives and surrenders, for itself and all those claiming under it, including creditors of all kinds, (i) any right and privilege which it or any of them may have under any

present or future law to redeem the Demised Premises or to have a continuance of this Lease after termination of this Lease or of Tenant's right of occupancy or possession pursuant to any court order or any provision hereof, and (ii) the benefits of any present or future law which exempts property from liability for debt or for distress for rent.

If Landlord elects to terminate this Lease on account of any Event of Default on the part of Tenant, then Landlord may: (i) terminate any sublease, license, concession, or other consensual arrangement for possession entered into by Tenant and affecting the Demised Premises, or (ii) choose to succeed to Tenant's interest in such arrangement. No payment by a subtenant with respect to a sublease shall entitle such subtenant to possession of the Demised Premises after termination of this Lease and Landlord's election to terminate the sublease. If Landlord elects to succeed to Tenant's interest in such arrangement, then Tenant shall, as of the date of notice given by Landlord to Tenant of such election, have no further right to, or interest in, any rent or other consideration receivable under that arrangement.

In addition to the remedies hereinabove specified and enumerated, Landlord shall have the remedies set forth in Article XIX with respect to the FF&E, and Landlord shall have and may exercise the right to invoke any other remedies allowed at law or in equity as if the remedies of re-entry, unlawful detainer proceedings and other remedies were not herein provided. Accordingly, the mention in this Lease of any particular remedy, or Landlord's exercise thereof shall not preclude Landlord from having or exercising any other remedy set forth in this lease or available at law or in equity. Nothing herein contained shall be construed as precluding Landlord from having or exercising such lawful remedies as may be and become necessary in order to preserve the Landlord's right or the interest of Landlord in the Demised Premises and in this Lease, even before the expiration of any notice periods provided for in this Lease, if under the particular circumstances then existing the allowance of such notice periods will prejudice or will endanger the rights and estate of Landlord in this Lease and in the Demised Premises.

**18.3 Landlord May Cure Tenant Default.** If Tenant shall fail to perform any term, provisions, covenant or condition on its part to be performed hereunder, Landlord may, after notice to Tenant and a reasonable time to perform after such notice (or without notice if, in Landlord's reasonable opinion, an emergency exists) perform the same for the account and at the expense of Tenant. If, at any time and by reason of such failure to perform, Landlord is compelled to pay, or elects to pay, any sum of money or do any act which will require the payment of any sum of money, or is compelled to incur any expense in the enforcement of its rights hereunder or otherwise, such sum or sums, together with interest thereon at the Default Rate, shall be deemed Additional Rent hereunder and shall be repaid to Landlord by Tenant promptly when billed therefor, and Landlord shall have all the same rights and remedies in respect thereof as Landlord has in respect of the rents herein reserved.

**18.4 Rights Cumulative.** The rights and remedies provided and available to Landlord in this Lease are distinct, separate and cumulative remedies, and no one of them, whether or not exercised by Landlord, shall be deemed to be in exclusion of any other.

**18.5 Landlord Default.** The following events shall be an event of default hereunder by Landlord and shall constitute a breach of this Lease (individually a "**Landlord Default**"): if Landlord shall violate or fail to comply with or perform any other term, provision, covenant,

agreement or condition to be performed or observed by Landlord under this Lease, and such violation or failure shall continue for a period of thirty (30) days after written notice thereof from Tenant; provided, however, if such violation cannot be cured within the thirty (30) day cure period and Landlord commences to cure said violation within the thirty (30) day cure period and diligently pursues the cure of the violation to completion then Landlord shall have such time as is reasonably necessary to cure the violation. In the event of a Landlord Default hereunder Tenant shall have the right to cure such default on behalf of Landlord and bring suit against Landlord, and upon obtaining a final, non-appealable judgment, recover against Landlord's interest in the Demised Premises. In no event shall Tenant have the right to terminate in whole or in part this Lease as a result of any Landlord Default nor shall have Tenant have any right to offset or withhold Rent. Further notwithstanding the foregoing or any other provisions of this Lease, in no event shall Tenant be entitled to recover punitive, incidental, consequential, indirect, special or exemplary damages against Landlord for a Landlord Default.

**18.6 Leasehold Mortgages.**

(a) **Leasehold Mortgages.** Tenant may at any time execute and deliver one or more mortgages or deeds of trust (such mortgage or deed of trust being hereinafter called a "**Leasehold Mortgage**") of Tenant's leasehold estate and rights hereunder without the consent of Landlord; provided, however, that Tenant shall be and remain liable hereunder for the payment of all Rent and for the performance of all the covenants and conditions of this Lease. If either Tenant or the mortgagee under any such Leasehold Mortgage shall send Landlord a notice informing Landlord of the existence of such Leasehold Mortgage and the address of the mortgagee thereunder for the service of notices, such mortgagee shall be deemed to be a Leasehold Mortgagee as such term is used in this Lease. Landlord shall be under no obligation under this Section to any mortgagee, grantee or corporate trustee under a Leasehold Mortgage of whom Landlord has not received such notice. Landlord shall provide any Leasehold Mortgagee which has notified Landlord of its existence as set forth above with written notice of any default at the time Landlord provides notice of default to Tenant. Leasehold Mortgagee may cure Tenant defaults within the time periods permitted Tenant under this Lease.

(b) **Exercise of Remedies.** If any Leasehold Mortgagee or a person designated by such Leasehold Mortgagee shall either become the owner of the interest of Tenant hereunder upon the exercise of any remedy provided for in the Leasehold Mortgage, or shall enter into a new lease with Landlord as provided below, such Leasehold Mortgagee or such person shall have the right to assign to any person such interest or such new lease only in accordance with Section 13.1 hereinabove.

(c) **Limited Liability.** It is expressly understood and agreed by Landlord that a Leasehold Mortgagee has the right to cure Tenant defaults under this Lease but shall not have an obligation to do so. No Leasehold Mortgagee shall become personally liable for the performance or observation of any covenants or conditions to be performed or observed by Tenant unless and until such Leasehold Mortgagee becomes the owner of Tenant's interest hereunder upon the exercise of any remedy provided for in any Leasehold Mortgage or enters into a new lease with Landlord pursuant to the terms above. Thereafter, such Leasehold Mortgagee shall be liable for the performance and observance of such covenants and conditions only so long as such Leasehold Mortgagee owns such interest or is lessee under such new lease.

## ARTICLE XIX TENANT'S PROPERTY

### 19.1 Intentionally Deleted.

## ARTICLE XX NOTICES

Any notice or request required or permitted to be given under this Lease shall be in writing and shall be deemed given if delivered by (a) United States registered or certified mail, postage prepaid, return receipt requested, or (b) national overnight courier service, and addressed as follows:

If to Landlord: NNN REIT, LP

450 S. Orange Avenue, Suite 900  
Orlando, Florida 32801  
Attention: Senior Vice President - Asset Management

With copy to: NNN REIT, LP

450 S. Orange Avenue, Suite 900  
Orlando, Florida 32801 Attention: General Counsel

If to Tenant: Freedom Powersports Fort Worth, LLC 901 W. Walnut Hill Lane, Suite 110A Irving, Texas 75038

Attention: Blake Lawson

Freedom Powersports, LLC  
901 W. Walnut Hill Lane, Suite 110A Irving, Texas 75038  
Attention: Blake Lawson

Freedom Powersports McKinney, LLC 901 W. Walnut Hill Lane, Suite 110A Irving, Texas 75038  
Attention: Blake Lawson

Freedom Powersports Johnson County, LLC 901 W. Walnut Hill Lane, Suite 110A Irving, Texas  
75038  
Attention: Blake Lawson

Freedom Powersports Dallas, LLC 901 W. Walnut Hill Lane, Suite 110A Irving, Texas 75038

Attention: Blake Lawson

Freedom Powersports Lewisville, LLC 901 W. Walnut Hill Lane, Suite 110A Irving, Texas 75038  
Attention: Blake Lawson

Freedom Powersports McDonough LLC 901 W. Walnut Hill Lane, Suite 110A Irving, Texas 75038  
Attention: Blake Lawson

With copy to: Powell Coleman & Arnold, LLP  
8080 N. Central Expressway, Suite 1380  
Dallas, Texas 75206 Attention: Bruce R. Coleman

or such other addresses as may be designated by either party by written notice to the other. Except as otherwise provided in this Lease, every notice, demand, request or other communication hereunder shall be deemed to have been given or served upon actual receipt thereof. Accordingly, a notice shall not be effective until actually received. Notwithstanding the foregoing, any notice mailed to the last designated address of any person or party to which a notice may be or is required to be delivered pursuant to this Lease shall not be deemed ineffective if actual delivery cannot be made due to a change of address of the person or party to which the notice is directed or the failure or refusal of such person or party to accept delivery of the notice.

#### ARTICLE XXI MISCELLANEOUS

**21.1 Characterization of Lease.** Landlord and Tenant acknowledge and agree that both parties intend that (i) this Lease shall be and constitute what is generally referred to in the real estate industry as a "triple net" or "absolute net" lease, such that Tenant shall be obligated hereunder to pay all costs and expenses incurred with respect to, and associated with, the Demised Premises and the business operated thereon and therein, including, without limitation, all taxes and assessments, utility charges, insurance costs, maintenance costs and repair, replacement and restoration expenses (all as more particularly herein provided) together with any and all other assessments, charges, costs and expenses of any kind or nature whatsoever related to, or associated with, the Demised Premises and the business operated thereon and therein; provided, however, that Landlord shall nonetheless be obligated to pay any debt service on any mortgage encumbering Landlord's fee simple interest in the Demised Premises, and Landlord's personal income taxes with respect to the rents received by Landlord under this Lease; except as expressly hereinabove provided, Landlord shall bear no cost or expense of any type or nature with respect to, or associated with, the Demised Premises, (ii) in no event shall Tenant withhold, reduce or suspend the payment of Rent under this Lease for any reason whatsoever, whether or not such reason or event is seen or unforeseen, as the uninterrupted rental income to Landlord is of critical importance to Landlord hereunder, (iii) this Lease is a "true lease" and not a financing lease, capital lease, mortgage,

equitable mortgage, deed of trust, trust agreement, security agreement or other financing or trust arrangement, and the economic realities of this Lease are those of a true lease, (iv) the business relationship created by this Lease and any related documents is solely that of a long-term commercial lease between Landlord and Tenant and has been entered into by both parties in reliance upon the economic and legal bargains

contained herein, and (v) Tenant and Landlord each waive any claim or defense based upon the characterization of this Lease as anything other than as a "true lease". Tenant and Landlord each stipulate and agree (a) except as may be required by applicable laws or a governmental authority (it being understood that Tenant and Landlord each agree that under current U.S. federal income tax law, this Lease is a "true lease" and not part of a loan or financing), not to assert or take, or omit to take, any action if such action or omission (including, without limitation, reporting positions in its income tax return) would be inconsistent with the agreements and understandings set forth in this Section 21.1, and (b) that, in the event that its separate existence from another individual, partnership, corporation, limited liability company, trust or other form of entity ("**Person**") is disregarded for U.S. federal income tax purposes, it shall not permit such Person to assert or take any action, or omit to take any action if such omission would be, inconsistent with the agreements and understandings set forth in this Section (determined as though such Person had been a party hereto).

**21.2 Estoppel Certificates.** Tenant shall from time to time, within fifteen (15) days after request by Landlord and without charge, give a Tenant Estoppel Certificate in the form attached hereto as **Exhibit "B"** and containing such other matters as may be reasonably requested by Landlord to any person, firm or corporation specified by Landlord.

**21.3 Brokerage.** Landlord and Tenant hereby represent and warrant to each other that they have not engaged, employed or utilized the services of any business or real estate brokers, salesmen, agents or finders in the initiation, negotiation or consummation of the business and real estate transaction reflected in this Lease. On the basis of such representation and warranty, each party shall and hereby agrees to indemnify and save and hold the other party harmless from and against the payment of any commissions or fees to or claims for commissions or fees by any real estate or business broker, salesman, agent or finder resulting from or arising out of any actions taken or agreements made by them with respect to the business and real estate transaction reflected in this Lease.

**21.4 No Partnership or Joint Venture.** Landlord shall not, by virtue of this Lease, in any way or for any purpose, be deemed to be a partner of Tenant in the conduct of Tenant's business upon, within or from the Demised Premises or otherwise, or a joint venturer or a member of a joint enterprise with Tenant.

**21.5 Entire Agreement.** This Lease contains the entire agreement between the parties with respect to the Demised Premises and, except as otherwise provided herein, can only be changed, modified, amended or terminated by an instrument in writing executed by an executive officer of Landlord and an authorized officer of Tenant. It is mutually acknowledged and agreed by Landlord and Tenant that there are no verbal agreements, representations, warranties or other understandings affecting the same; and that Tenant hereby waives, as a material part of the consideration hereof, all claims against Landlord for rescission, damages or any other form of relief by reason of any alleged covenant, warranty, representation, agreement or understanding not contained in this Lease. This Lease shall not be changed, amended or modified except by a written

instrument executed by Landlord and Tenant. This Lease may not be amended by electronic mail or by any oral agreement.

**21.6 Waiver.** No release, discharge or waiver of any provision hereof shall be enforceable against or binding upon Landlord or Tenant unless in writing and executed by Landlord or Tenant, as the case may be. Neither the failure of Landlord or Tenant to insist upon a strict performance of any of the terms, provisions, covenants, agreements and conditions hereof, nor the acceptance of any Rent by Landlord with knowledge of a breach of this Lease by Tenant in the performance of its obligations hereunder, shall be deemed a waiver of any rights or remedies that Landlord or Tenant may have or a waiver of any subsequent breach or default in any of such terms, provisions, covenants, agreements and conditions.

**21.7 Time.** Time is of the essence in every particular of this Lease, including, without limitation, obligations for the payment of money.

**21.8 Costs and Attorneys' Fees; Consent.** If either party shall default hereunder and the other party engages counsel to enforce its rights hereunder, whether or not suit is commenced or judgment is entered, the non-defaulting party shall be entitled to recover its reasonable costs and reasonable attorneys' fees incurred in enforcing its rights, specifically including reasonable attorneys' fees incurred in connection with any appeals (whether or not taxable as such by law). Such fees and costs shall include all legal fees and costs incurred for the negotiation of a settlement, enforcement of rights or otherwise. Landlord shall also be entitled to recover its reasonable attorneys' fees and costs incurred in any bankruptcy action filed by or against Tenant, including, without limitation, those incurred in seeking relief from the automatic stay, in dealing with the assumption or rejection of this Lease, in any adversary proceeding, in the preparation and filing of any proof of claim, and in getting seated on and in serving on any creditor's committee or sub-committees in said bankruptcy proceeding. Tenant shall pay Landlord's reasonable attorneys' fees and other costs

incurred in connection with any act which Tenant proposes to do and which requires Landlord's consent (whether or not consent is ultimately given). Landlord shall have no liability for damage resulting from, nor may Tenant terminate this Lease as a result of, Landlord's failure to give its consent.

**21.9 Limitation on Liability of Landlord.** In the event Tenant is awarded a money judgment against Landlord, Tenant's sole recourse for satisfaction of such judgment shall be limited to execution against the Demised Premises. In the event of the transfer and assignment by Landlord of its interest in this Lease to an assignee, whether by written agreement or by operation of law, Landlord/assignor shall thereby be released from any further obligations hereunder and Tenant shall look solely to the assignee for the performance of Landlord's obligations under this Lease.

**21.10 Records and Financial Statements.** Tenant shall keep and maintain at all times during the Term complete and accurate books and records adequate to reflect clearly and correctly Tenant's and Guarantor's financial performance. Tenant shall furnish to Landlord within ninety (90) days from the end of Tenant's fiscal year (i) Tenant's and Guarantor's annual financial statements (audited, if available, otherwise certified by Tenant) for the prior fiscal year then ended prepared in accordance with generally accepted accounting principles, including a balance sheet,

income statement, cash flow statement, statement of changes in financial condition, all notes to the financial statements, and all other related schedules including a schedule showing all rental expense, and (ii) annual income statement for the Demised Premises and annual sales data from the Demised Premises for the prior fiscal year then ended, prepared in accordance with generally accepted accounting principles. Tenant shall furnish to Landlord within forty-five (45) days from the end of each fiscal quarter Tenant's quarterly income statement for the Demised Premises and quarterly sales data from the Demised Premises prepared in accordance with generally accepted accounting principles for the prior fiscal quarter then ended, in the form attached as Exhibit "D". Notwithstanding the foregoing, so long as Guarantor is a publicly traded company and such financial information is available in the public domain, Guarantor does not have to provide such records to reflect Guarantor's financial performance under this Section 21.10.

**21.11 Captions and Headings.** The captions and headings in this Lease have been inserted herein only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of, or otherwise affect, the provisions of this Lease.

**21.12 Severability.** If any provision of this Lease shall be deemed to be invalid, it shall be considered deleted therefrom and shall not invalidate the remaining provisions of this Lease.

**21.13 Drafting.** This Lease shall not be construed more strictly against one party than the other because it may have been drafted by one of the parties or its counsel, each having contributed substantially and materially to the negotiation and drafting hereof.

**21.14 Successors and Assigns.** The agreements, terms, provisions, covenants and conditions contained in this Lease shall be binding upon and inure to the benefit of Landlord and Tenant and, to the extent permitted herein, their respective successors and assigns.

**21.15 Applicable Law, Venue and Jurisdiction.** This Lease shall be governed by and construed in accordance with the laws of the State of Nevada, without regard to conflict of laws principles. Each party agrees to exclusive personal jurisdiction and venue in which the Demised Premises is located. Tenant and Landlord agree that state courts in Clark County, Nevada, for any dispute arising out of this Lease shall be subject to the jurisdiction of the state and federal courts. The Company may, in its sole discretion, decide to deliver any documents related to the Plan by electronic means or to request your consent to participate in the county Plan by electronic means. You hereby consent to receive such documents by electronic delivery and, state where the Demised Premises is located. For that purpose, Tenant and Landlord hereby submit if requested, to the jurisdiction of and consent to venue participate in the state Plan through an on-line or electronic system established and federal courts in the county and state where the Demised Premises is located. Tenant and Landlord further agree to accept service of process out of any of the aforesaid courts in any such dispute by registered or certified mail addressed to Tenant or Landlord. Nothing herein contained, however, shall prevent Landlord from bringing any action or exercising any rights against (i) Tenant, (ii) any security, (iii) Guarantor, or (iv) the assets of Tenant or Guarantor, within any other state or jurisdiction.

**21.16 Recordation of Memorandum of Lease and Payment of Taxes and Fees.** At either party's option, a short form memorandum of this Lease, in the form attached hereto as Exhibit "C" shall be recorded or filed among the appropriate land records of the County in which the Demised

Premises is located, and Tenant shall pay the recording costs and any fees or taxes associated therewith. Furthermore, should any taxes or charges be owed upon the entry into this Lease, the granting of the leasehold estate, or the recording of the memorandum of lease, Tenant shall be obligated to pay all of said taxes and charges. In the event of a discrepancy between the provisions of this Lease and such short form memorandum thereof, the provisions of this Lease shall prevail.

**21.17 Waiver of Jury Trial.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, TENANT AND LANDLORD HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER OF THEM OR THEIR HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS OR ASSIGNS MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS LEASE OR ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT TO LANDLORD'S ACCEPTING THIS LEASE.

**21.18 Counterparts.** This Lease may be executed in counterparts by the parties hereto and each shall be considered an original, but all such counterparts shall be construed together and constitute one Lease between the parties hereto. Any signature on a copy of this Lease or any document necessary or convenient thereto sent by electronic transmission or facsimile shall be binding upon transmission and the electronic or facsimile copy may be utilized for the purposes of this Lease.

**21.19 Maintenance Records and Contracts.** Tenant shall keep and maintain at all times complete and accurate books and records regarding the maintenance and repair of the Demised Premises, and upon the request of Landlord not to be made more than two times in any calendar year, Tenant shall furnish to Landlord within thirty (30) days of such request, copies of all maintenance and repair records for the Demised Premises in Tenant's possession, including any maintenance or service contracts.

**21.20 Specially Designated Nationals and Blocked Persons.**

(a) Tenant represents and warrants to Landlord that: (A) Tenant and each Person owning an interest in Tenant is (i) not currently identified on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Assets Control of Company or a third party designated by the Department of the Treasury ("OFAC") and/or on any other similar list maintained by OFAC Company.

slide6

18. Code Section 409A. It is intended that all compensation payable pursuant to this Agreement are exempt from or, alternatively, comply with Section 409A (and any authorizing statute, executive order or regulation (collectively, the “List”), and (ii) not currently a Person with whom a citizen of the United States is prohibited to engage in transactions by any trade embargo, economic sanction, or other prohibition of United States law, regulation, or Executive Order of the President of the United States, (B) none of the funds or other assets of Tenant constitute property of, or are beneficially owned, directly or indirectly, by, any Embargoed Person, (C) no Embargoed Person has any interest of any nature whatsoever in Tenant (whether directly or indirectly), (D) none of the funds of Tenant have been derived from any unlawful activity with the result that the investment in Tenant is prohibited by law or that this Lease is in violation of law, and (E) Tenant has implemented procedures, and will consistently apply those procedures, to ensure the foregoing representations and warranties remain true and correct at all times. The term “Embargoed Person” means any Person or government subject to trade restrictions legally binding guidance promulgated under U.S. law, Section 409A, including, without limitation, the International Emergency Economic Powers Act, 50 U.S.C. §1701 et seq., the Trading with the Enemy Act, 50 U.S.C. App. 1 et seq. Final Treasury Regulations (“Code Section 409A”), and any Executive Orders this Agreement will be interpreted, administered and operated accordingly. The Company reserves the right, to the extent the Company deems necessary or regulations promulgated thereunder with the result that the investment advisable in Tenant is prohibited by law its sole discretion, to unilaterally amend or Tenant is in violation of law. The term “Person” means any natural person, corporation, company, partnership, trust or other business entity.

(b) Tenant covenants and agrees (A) to comply with all requirements of law relating to money laundering, anti-terrorism, trade embargos and economic sanctions, now or hereafter in effect, (B) to immediately notify Landlord in writing if any of the representations, warranties or covenants set forth in modify this Section are no longer true or have been breached or if Tenant has a reasonable basis to believe that they may no longer be true or have been breached,

(C) not to use funds from any "Prohibited Person" (as such term is defined in the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism) to make any payment due to Landlord under this Lease and (D) at the request of Landlord, to provide such information Agreement as may be requested by Landlord necessary to determine Tenant's compliance ensure that all payments provided for under this Agreement are made in a manner that qualifies for exemption from or complies with Code Section 409A; provided, however, that the terms hereof.

(c) Notwithstanding anything herein Company makes no representation that the grant, vesting, or settlement of the Award will be exempt from or comply with Code Section 409A and makes no undertaking to preclude Code Section 409A from applying to the contrary, Tenant shall not permit the Demised Premises grant, vesting or any portion thereof to be used or occupied by any Person on the List or by any Embargoed Person (on a permanent, temporary or transient basis), and any such use or occupancy settlement of the Demised Premises by any such Person shall be a material default of Award granted pursuant to this Lease.

**21.21 Guaranty.** Simultaneously with the execution of this Lease by Tenant, the Tenant has caused the Guarantor to execute the Unconditional and Continuing Guaranty of this Lease in the form attached hereto as Exhibit "E" from RumbleOn, Inc., a Nevada corporation ("Guarantor").

**21.22 Landlord's Right of Assignment.** This Lease shall be fully assignable by the Landlord or its successors and/or assigns, in whole or in part, subject to the terms of this Section, provided that Landlord shall give Tenant prompt written notice of such assignment, and no such assignment will be binding upon Tenant and Tenant shall be entitled to continue making its payments under this Lease to Landlord, unless and until three (3) business days after Tenant receives such written notice of assignment, a copy of the instrument of assignment, and the current address of assignee for notice and the payment of Rent under this Lease. Agreement. In the event that any provision of this Agreement is inconsistent with Code Section 409A or such guidance, then the applicable provisions of Code Section 409A shall supersede such inconsistent provision. Notwithstanding the foregoing, in no event will any of Company, its parent, or their respective subsidiaries, affiliates, or officers, directors, employees, or agents have any liability for failure of the form of this Agreement to be exempt from or comply with Code Section 409A and none of the foregoing guarantees that the form of this Agreement is exempt from or complies with Code Section 409A. For all purposes under Code Section 409A, Grantee's right to receive any payments pursuant to this Agreement shall be treated as a right to receive a separate and distinct payment, and any payments to be made in installments shall be deemed to be a series of separate payments. Whenever a payment under this Agreement specifies a payment period with reference to a number of days, the actual date of payment within the specified period shall be within the sole discretion of Company. A termination of employment under this Agreement shall mean a "separation from service" under Code Section 409A. Notwithstanding any provisions of the Agreement to the contrary, to the extent the that Code Section 409A would cause an adverse tax consequence to Grantee, a Change in Control shall not be deemed to occur for purposes of this Agreement unless the Change in Control meets the definition ascribed to the phrase "Change in the Ownership or Effective Control of a Corporation or in the Ownership of a Substantial Portion of the Assets of a Corporation" under Treasury Department Regulation 1.409A-3(i)(5), as revised from time to time Landlord desires in either subsequent regulations or other guidance. 19. Compliance with Applicable Laws. The issuance and transfer of shares of Class B Common Stock will be subject to partially assign compliance by the Company and Grantee with all applicable requirements of federal and state securities laws and with all applicable requirements of any stock exchange on which the Class B Common Stock may be listed. No shares of Class B Common Stock will be issued or transferred unless and until any then applicable requirements of state and federal laws and regulatory agencies have been fully complied with to the satisfaction of the Company and its interest counsel. 20. Imposition of Other Requirements. The Company reserves the right to impose other requirements on your participation in the Lease with respect to one or more Plan, on the Award and on any Shares issued in settlement of the Demised Premises but less than all of Award, to the Demised Premises, then (a) Landlord will determine extent the Base Rent allocated Company determines it is necessary or advisable for legal or administrative reasons, and to require you to sign any Demised Property additional agreements or undertakings that may be necessary to be covered accomplish the foregoing. 21. Waiver. You acknowledge that a waiver by the partial assignment (the "Allocated Base Rent Amount"), and Landlord shall inform Tenant in writing Company of the total Allocated Base Rent Amount as to each Demised Property to be covered by the partial assignment, as well as the remaining Base Rent payable under this Lease, which determination shall be made in Landlord's sole and absolute discretion so long as the total Allocated Base Rent Amount as to each Demised Property to be covered by the partial assignment together with the remaining Base Rent payable under this Lease equals the Base Rent payable under this Lease prior to breach of any such assignment; (b) Landlord, at its cost and expense, shall prepare an individual lease agreement (or individual lease agreements, in Landlord's discretion) in the same form as this Lease (each, an "Individual Lease Agreement") mutatis mutandis

to reflect such assignment; (c) upon the assignment by Landlord, this Lease shall be amended to exclude any such Demised Property from the Lease, and the Base Rent hereunder shall be reduced by the total Allocated Base Rent Amount for the assigned Demised Property; and (d) the Base Rent payable under the Individual Lease Agreement(s) will equal the Allocated Base Rent Amount for each of the Demised Property subject to the Individual Lease Agreement(s). In such event, upon the request of Landlord, Tenant will execute any such new Individual Lease Agreement(s) within ten (10) business days after Landlord has delivered to Tenant: (i) electronic versions (in Word format) of each the Individual Lease

Agreement(s), so that Tenant may electronically compare them to this Lease and verify the only changes to the terms of the Individual Lease Agreement(s) as are allowed by this Lease, and (ii) execution originals of the Individual Lease Agreement(s) that have been executed by the named landlord thereunder. If Tenant fails to deliver such new Individual Lease Agreement(s) within such ten (10) business day period, then Landlord shall deliver a subsequent written request of such new Individual Lease Agreement(s) (the “**New Individual Lease Agreement(s) Second Request**”) and Tenant shall be required to deliver such new Individual Lease Agreement(s) within two (2) business days after the New Individual Lease Agreement(s) Second Request. Tenant agrees to cooperate reasonably with Landlord in connection with any such sale or assignment. Without limiting the foregoing, Tenant acknowledges that any Individual Lease Agreement(s) can be a “master lease” agreement covering multiple Demised Premises and that, any such Individual Lease Agreement(s) can be cross-defaulted with this Lease so long as Landlord or an entity affiliated with Landlord is the landlord under such Individual Lease Agreement(s).

**21.23 Incorporation of Recitals.** The recitals set forth on the first page provision of this Lease are hereby incorporated by this reference.

**21.24 Intentionally Deleted.**

**21.25 Force Majeure.** If either party Agreement shall without fault of such party, not operate or be delayed or prevented from the performance construed as a waiver of any act required hereunder (other than the payment other provision of Rent this Agreement, or of any subsequent breach by you or any other monetary sum) Participant. **22. Clawback Policy.** The Company has adopted a Compensation Clawback Policy as of November 30, 2023 (the “Clawback Policy”). If Grantee is a Covered Employee (as defined in the Clawback Policy), then Grantee acknowledges that Grantee is fully bound by, reason of acts of God, strikes, lockouts, labor troubles, war, terrorism, inability to procure materials, or any other event that was not foreseen by Tenant and Landlord and such party gives the other party written notice of such event within ten (10) days after such event (a “**Force Majeure Event**”), the financial inability of the party excepted, performance of such act shall be excused for the period of delay, and the period for the performance of any such act shall be extended by a period equal to the period of such delay; provided, however, that nothing in this Section shall excuse Tenant from the prompt payment of any Rent or any other monetary sum. In the event of a Force Majeure Event such party shall proceed with all diligence to complete the performance of the act upon the cessation of the Force Majeure Event.

**21.26 Master Lease Characterization.** Landlord and Tenant intend that this Lease constitutes a single master lease of all, but not less than all, of the Demised Properties and that Landlord and Tenant have executed and delivered this Lease with the understanding that this Lease constitutes a unitary, unseverable instrument pertaining subject to all but not less than all, of the Demised Properties, and that neither this Lease nor the duties, obligations or rights of Tenant may be allocated or otherwise divided among the Demised Properties by Tenant. Except as expressly provided in this Lease, the Rent payable hereunder is payable for the Demised Premises as a single, indivisible, integrated and unitary economic unit and that but for such integration, the Rent payable under this Lease would have been computed on a different basis.

Landlord and Tenant intend that this Lease is a “true lease” and not a financing lease, capital lease, mortgage, equitable mortgage, deed of trust, trust agreement, security agreement or other financing or trust arrangement, and the economic realities of this Lease are those of a true lease. Landlord and Tenant intend that the business relationship created by this Lease and any related documents is solely that of a long-term commercial lease between Landlord and Tenant.

Each of the parties (1) waives any claim or defense based upon the characterization of this Lease as anything other than a "true lease" or that asserts that this Lease is anything other than a "true lease," (2) stipulates and agrees not to challenge the validity, enforceability or characterization of the lease of the Demised Premises as a "true lease," (3) stipulates and agrees that nothing contained in this Lease creates or is intended to create a joint venture, partnership (either de jure or de facto), equitable mortgage, trust, financing device or arrangement, security interest or the like, and (4) shall support the intent of the parties that the lease of the Demised Premises pursuant to this Lease is a true lease and does not create a joint venture, partnership (either de jure or de facto), equitable mortgage, trust, financing device or arrangement, security interest or the like, if, and to the extent that, any challenge occurs.

The expressions of intent, the waivers, the representations and warranties, the covenants, the agreements and the stipulations set forth in this Section are a material inducement to each of Landlord and Tenant in entering into this Leases.

**21.27 Authority of Landlord and Tenant.** Landlord hereby represents and warrants to Tenant: (i) Landlord has the power and/or legal right to enter into and perform the provisions of this Lease; (ii) the execution, delivery and performance of this Lease has been duly authorized by all necessary corporate, stockholder, partner and/or other action; and (iii) the execution, delivery and performance of this Lease does not contravene (1) any existing law or any legal order applicable to Landlord, (2) any agreement or instrument to which Landlord is a party or to which it or any of its assets is subject, or (3) any provision of Landlord's certificate of incorporation, by-laws or other organizational documents. Tenant hereby represents and warrants to Landlord: (i) Tenant has the power and/or legal right to enter into and perform the provisions of this Lease; (ii) the execution, delivery and performance of this Lease has been duly authorized by all necessary corporate, stockholder, partner and/or other action; and (iii) the execution, delivery and performance of this Lease does not contravene (1) any existing law or any legal order applicable to Tenant, (2) any agreement or instrument to which Tenant is a party or to which it or any of its assets is subject, or (3) any provision of Tenant's certificate of incorporation, by-laws or other organizational documents.

**21.28 Security.** Tenant hereby acknowledges and agrees (i) that Tenant shall have sole responsibility for keeping the Demised Premises safe and secure and shall enact reasonable safety measures to protect the security of all persons who come onto the Demised Premises including commercially reasonable lighting of the exterior of the building and of the parking areas, and (ii) Landlord shall have no responsibility for keeping the Demised Premises safe and secure during the Term.

**21.29 Joint and Several Liability.** Whenever two (2) or more parties constitute Tenant, all such parties, as well as any Guarantors of Tenant's obligations under the Lease, shall be jointly and severally liable for performing Tenant's obligations hereunder.

**[SIGNATURES BEGIN ON FOLLOWING PAGE]**

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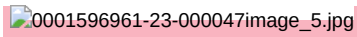
IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be duly executed on or as of the day and year first above written.

**"LANDLORD"**

**NNN REIT, LP,**  
a Delaware limited partnership

By: NNN GP Corp., a Delaware corporation, as General Partner

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0001596961-23-000047image\_5.jpg

By: /s/ Christopher P. Tessitore Name: Christopher P. Tessitore

Its: Executive Vice President

(CORPORATE SEAL)

Signature Page to Master Lease

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**"TENANT"**

**FREEDOM POWERSPORTS FORT WORTH,**

LLC, a Texas limited liability company

0001596961-23-000047image\_6.jpg By: /s/ Blake Lawson

Name: Blake Lawson

Its: Treasurer

**FREEDOM POWERSPORTS, LLC,**

a Texas limited liability company

0001596961-23-000047image\_7.jpg By: /s/ Blake Lawson

Name: Blake Lawson

Its: Treasurer

**FREEDOM POWERSPORTS MCKINNEY,**

LLC, a Texas limited liability company

By: /s/ Blake Lawson

Name: Blake Lawson

Its: Treasurer

**FREEDOM POWERSPORTS JOHNSON**

**COUNTY, LLC,** a Texas limited liability company

0001596961-23-000047image\_8.jpg By: /s/ Blake Lawson

Name: Blake Lawson

Its: Treasurer

**FREEDOM POWERSPORTS DALLAS, LLC,**

a Texas limited liability company

0001596961-23-000047image\_9.jpg By: /s/ Blake Lawson

Name: Blake Lawson

Its: Treasurer

Signature Page to Master Lease

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**FREEDOM POWERSPORTS LEWISVILLE,**

LLC, a Texas limited liability company

By: /s/ Blake Lawson

Name: Blake Lawson Its: Treasurer

**FREEDOM POWERSPORTS MCDONOUGH,**

LLC, a Delaware limited liability company

By: /s/ Blake Lawson

Name: Blake Lawson Its: Treasurer

*Signature Page to Master Lease*

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**EXHIBIT "A"**

**LEGAL DESCRIPTION OF THE REAL PROPERTIES**

**Burleson, TX**

Lot 14, in Block 3, of LAKEWOOD PHASE 4 OF MOUNTAIN VALLEY COUNTRY CLUB ESTATES, an addition to the City of Burleson, Johnson County, Texas, according to the map or plat thereof recorded in [Volume 8, Page 543](#), of the Plat Records of Johnson County, Texas.

**Dallas, TX**

Tract I:

BEING a 1.5440 acre tract of land situated in the A. G. COLLINS SURVEY, ABSTRACT NO. 329, Dallas County, Texas and being part of Lot 1B, in Block A/8051 of Kars Yes Addition, an addition to the City of Dallas, Dallas County, Texas, according to the plat thereof recorded in [Volume 96159, Page 3902](#), Deed Records, Dallas County, Texas and being more particularly described as follows:

BEGINNING at a "P.K." nail found for corner in the south right-of-way line of Interstate Highway No. 635 (L.B.J. Freeway)(a variable width R.O.W.) and being the northeast corner of a tract of land described as Parcel 4, Part 1, conveyed by deed to the State of Texas, recorded in Volume [200600093831](#), Deed Records, Dallas County, Texas (D.R.D.C.T.) and bearing N 89 deg. 46 min. 48 sec. E, a distance of 8.05 feet from a 5/8" iron rod found for corner at the intersection of the south right-of-way line of said Interstate Highway No. 635 with the east right-of-way line of Plano Road (a 100' R.O.W.) said reference point being the northwest corner of said Lot 1B;

THENCE N 89 deg. 46 min. 48 sec. E, along the south right-of-way line of said L.B.J. Freeway and the north line of said Lot 1B, a distance of 176.43 feet to a 1/2" iron rod found for corner and being the beginning of a curve to the right having a central angle of 14 deg. 11 min. 04 sec., a radius of 1041.74 feet and a chord which bears S 83 deg. 07 min. 40 sec. E, a distance of 257.24 feet;

THENCE southeasterly, continuing along the south right-of-way line of said L.B.J. Freeway and the north line of said Lot 1B and along said curve, an arc distance of 257.90 feet to an aluminum monument found for corner and being the north center of a tract of land described as Parcel 4, Part 2, conveyed by deed to the State of Texas, recorded in Volume [200600093831](#), D.R.D.C.T. and also being the beginning of a non-tangent curve to the right, having a central angle of 58 deg. 13 min. 42 sec., a radius of 21.71 feet and a chord which bears S 56 deg. 04 min. 22 sec. W, a distance of 21.13 feet;

THENCE southwesterly, along the said curve, an arc distance of 22.06 feet to an aluminum monument found for corner in the northwesterly right-of-way line of Estate Lane (a 60' R.O.W.) and being the southwest corner of said Parcel 4, Part 2 and also being in a non-tangent curve to the left having a central angle of 73 deg. 12 min. 08 sec., a radius of 245.00 feet and a chord which bears S 48 deg. 35 min. 07 sec. W, a distance of 292.16 feet;

THENCE southwesterly, along the northwesterly right-of-way line of said Estate Lane and along said curve, an arc distance of 313.02 feet to a 1/2" iron rod found for corner and being the southeast corner of said Lot 1B and also being the northeast corner of Lot 1C, Block A/8051, according to a Revision of part of Lot 1B and all of Lot 1A, Block A, Revised B.B. Owen Subdivision as recorded in [Volume 88011](#), [Page 2941](#), Map Records, Dallas County, Texas;

THENCE N 89 deg. 45 min. 59 sec. W, along the north line of said Lot 1C, a distance of 204.20 feet to a 1/2" iron rod found for corner in the east right-of-way line of said Plano Road and being the southwest corner of said Lot 1B and the northwest corner of said Lot 1C;

THENCE N 00 deg. 14 min. 00 sec. E, along the east line of said Plano Road and the west line of said Lot 1B, a distance of 107.80 feet to an aluminum monument found for corner and being the south corner of said Parcel 4, Part 1;

THENCE N 03 deg. 52 min. 21 sec. E, continuing along the east right-of-way line of said Plano Road, a distance of 126.82 feet the POINT OF BEGINNING and containing 66,391 sq. ft. or 1.5241 acres of land.

SAVE AND EXCEPT that portion taken in Condemnation Proceeding, Cause No. CC-18-01798-B, filed November 27, 2018, recorded under Clerk's File No. [201800310965](#), Real Property Records, Dallas County, Texas.

**Tract II:**

Non-Exclusive Easement Estate as created in the Reciprocal Easement for Private Right-of-Way dated August 18, 1986, by and between B. O. Bozeman and Manning Bozeman filed August 19, 1986, recorded in [Volume 86161](#), [Page 4615](#), Real Property Records, Dallas County, Texas.

**Tract III:**

Non-Exclusive Easement Estate created in Special Warranty Deed dated March 14, 1996, executed by Manning O. Bozeman, filed March 15, 1996, recorded in [Volume 96053](#), [Page 5007](#), Real Property Records, Dallas County, Texas.

**Ft. Worth, TX**

LOT 3, BLOCK 86, WESTERN HILLS ADDITION, SECTION SEVEN, AN ADDITION TO THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, ACCORDING TO PLAT RECORDED IN [VOLUME 388-51](#), [PAGE 69](#), DEED RECORDS OF TARRANT COUNTY, TEXAS, AND A PORTION OF A TRACT OF LAND RECORDED IN [VOLUME 4999](#), [PAGE 216](#), DEED RECORDS OF TARRANT COUNTY, TEXAS, SAID COMBINED TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A SET 1/2" STEEL ROD IN THE WEST RIGHT OF WAY LINE OF WEST NORMAN DALE DRIVE, AN 80 FEET WIDE PUBLIC STREET AT THE NORTHEAST CORNER OF SAID LOT 3, BLOCK 86, AND BEING IN A CURVE TO THE LEFT;

THENCE SOUTHEASTERLY ALONG SAID WEST RIGHT OF WAY LINE, THE EAST LINE OF SAID LOT 3, BLOCK 86 AND ALONG SAID CURVE TO THE LEFT HAVING A RADIUS OF 1879.69 FEET, THROUGH A CENTRAL ANGLE OF 11° 53' 16", AN ARC LENGTH OF 390.00 FEET TO A FOUND 5/8" STEEL ROD AT THE SOUTHEAST CORNER OF SAID LOT 3, BLOCK 86, AND THE NORTHEAST CORNER OF LOT 7R, BLOCK 86, WESTERN HILLS ADDITION, SECTION 7, AN ADDITION TO THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, ACCORDING TO PLAT RECORDED IN [VOLUME 388-208](#), [PAGE 72](#), DEED RECORDS OF TARRANT COUNTY, TEXAS;

THENCE SOUTH 81° 56' 00" WEST ALONG THE SOUTH LINE OF SAID LOT 3, BLOCK 86, AND THE NORTH LINE OF SAID LOT 7R, BLOCK 86, 467.07 FEET TO A SET 1/2" STEEL ROD AT THE SOUTHWEST CORNER OF SAID LOT 3, BLOCK 86, AND THE NORTHWEST CORNER OF SAID LOT 7R, BLOCK

86, IN THE EAST RIGHT OF WAY LINE OF INTERSTATE HIGHWAY 820 WEST, A PUBLIC STREET WITH A VARIABLE WIDTH;

THENCE NORTH 08° 04' 00" WEST ALONG SAID EAST RIGHT OF WAY LINE AND THE WEST LINE OF SAID LOT 3, BLOCK 86, 180.15 FEET TO A SET 1/2" STEEL ROD AT THE BEGINNING OF A CURVE TO THE LEFT;

THENCE NORTHERLY CONTINUING ALONG SAID EAST RIGHT OF WAY LINE, ALONG THE WEST LINE OF SAID LOT 3, BLOCK 86 AND ALONG SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 11,269.16 FEET, AT 65.10 FEET PASSING THE MOST WESTERLY NORTHWEST CORNER OF SAID LOT 3, BLOCK 86, IN ALL, THROUGH A CENTRAL ANGLE OF 00° 43' 31", AN ARC LENGTH OF 142.66 FEET TO A FOUND 5/8" STEEL ROD AT THE SOUTHWEST CORNER OF LOT 2-B, BLOCK 86, WESTERN HILLS ADDITION, SECTION 7, AN ADDITION TO THE CITY OF FORT WORTH, TARRANT COUNTY, TEXAS, ACCORDING TO PLAT RECORDED IN [VOLUME 388-169, PAGE 23](#), DEED RECORDS OF TARRANT COUNTY, TEXAS;

THENCE NORTH 73° 40' 11" EAST ALONG THE SOUTH LINE OF SAID LOT 2-B, PASSING THE MOST NORTHERLY NORTHWEST CORNER OF SAID LOT 3, BLOCK 86 AT 10.87 FEET, IN ALL 367.95 FEET TO THE POINT OF BEGINNING, AND CONTAINING 3.304 ACRES (143,963 SQUARE FEET) OF LAND, MORE OR LESS.

#### **Hudson Oaks, TX**

##### **TRACT 1:**

Lot 2, Freedom Powersports Addition, an Addition to the City of Hudson Oaks, Parker County, Texas, according to the plat as recorded in Plat [Cabinet D, Slide 379](#), Plat Records, Parker County, Texas.

##### **TRACT 2:**

Lot 4-D, of DIAMOND OAKS SUBDIVISION PHASE in, an Addition to the City of Hudson Oaks, Parker County, Texas, according to the Plat thereof recorded in [Cabinet A, Slide 785](#), Real Property Records of Parker County, Texas.

#### **Hurst, TX**

##### **TRACT 1:**

BEING a 1.705 acre tract of land situated in the City of Hurst, Tarrant County, Texas and being TRACT G of S. HAYWORTH ADDITION according to the plat recorded in [Volume 388-106, Slide 43](#) of the Official Public Records of Tarrant County, Texas and being more particularly described as follows;

BEGINNING at an "x" in concrete set for the northeast corner of said Tract G and being located in the west line of Interstate Highway 820 (variable width);

THENCE along the west line of said Interstate Highway 820, SOUTH 01° 58' 20" WEST a distance of 200.13 feet to a 5/8 inch iron rod set for the southeast corner of said Tract G;

THENCE departing said west line, SOUTH 88° 02' 20" WEST a distance of 367.77 feet to a 5/8 inch iron rod set for the southwest corner of said Tract G;

THENCE NORTH 00° 26' 35" WEST a distance of 199.73 feet to an "x" in concrete set for the northwest corner of said Tract G;

THENCE NORTH 88° 02' 20" EAST a distance of 376.21 feet to the POINT OF BEGINNING;

CONTAINING 1.705 acres or 74,271 square feet of land more or less all according to that survey prepared by A.J. Bedford Group, Inc.

##### **TRACT 2:**

Easement Estate as created in Easement Agreement by and between DW-Hurst, LLC and Whitehead 633, Ltd., dated June 21, 2007, filed July 24, 2007, and recorded in under Clerk's File No. [D207257183](#), Real Property Records, Tarrant County, Texas.

**Lewisville, TX**

**Tract 1**

Being Lot 1, Block A, Travis Boats Addition, an addition to the City of Lewisville, Denton County, Texas, according to the plat thereof recorded in [Cabinet L, Page 86](#), Plat Records, Denton County, Texas.

Save and except the following parcel of land:

10,060 square feet of land, more or less, in the William King Survey, Abstract No. 697, City of Lewisville, Denton County, Texas, and being part of a tract of land as described in deed to Soils Organic Solution, Inc., recorded in County Clerk's File No. 2003-0166891, Deed Records Denton County, Texas (D.R.D.C.T.), and being part of Lot 1, Block A, of Travis Boats, an addition to the City of Lewisville, as recorded in Cabinet L, Page 86, Plat Records Denton County, Texas, said 10,060 square feet of land being more particularly described as follows:

COMMENCING at a two inch pipe found at the southeast corner of said Lot 1, of Travis Boats addition, and being an inner ell corner of Lot 1, Block A, of Huffines Chevrolet, an addition to the City of Lewisville, as recorded in Cabinet E, Page 200, Plat Records Denton County, Texas;

THENCE South 89 degrees 17 minutes 34 seconds West along the north line of said Lot 1 of Huffines addition and the south line of Lot 1 of Travis Boat addition a distance of 605.26 feet to a PK nail set on the new northeasterly right-of-way line of Interstate Highway 35E, and being the POINT OF BEGINNING, having NAD 83(1993) Texas State Plane, North Central Zone (4202) surface coordinates of North 7060522.07, and East 2432205.54; \*\*

1) THENCE South 89 degrees 17 minutes 34 seconds West continuing along the north line of said Lot 1 of Huffines addition and the south line of Lot 1 of Travis Boat addition a distance of 52.70 feet to a two inch pipe found at the northwesterly corner of said Lot 1 of Huffines Chevrolet addition and the most southerly southwesterly corner of said Lot 1 of Travis Boat addition, and being on the existing northeasterly right-of-way line of Interstate Highway 35E, as established by deed to the State of Texas, as recorded in Volume 400, Page 127, (D.R.D.C.T.);

2) THENCE North 33 degrees 01 minutes 56 second West along the southwesterly line of said Lot 1 of Travis Boat addition and the existing northeasterly right-of-way line of Interstate Highway 35E a distance

198.09 feet to a point for corner at the most northerly southwesterly corner of said Lot 1 of Travis Boat addition, from which a 1/2 inch iron rod found bears North 04 degrees 45 minutes 11 seconds West, a distance of 1.25 feet;

3) THENCE North 01 degrees 38 minutes 33 second East along the west line of said Lot 1 of Travis Boat addition a distance of 64.24 feet to a 5/8 inch iron rod set with TxDOT 3-1/4 inch aluminum cap on the new northeasterly right-of-way line of Interstate Highway 35E, and being the beginning of a non-tangent curve to the right having a central angle of 00 degrees 44 minutes 39 seconds, a radius of 10,960.00 feet,

being subtended by a chord bearing South 35 degrees 17 minutes 49 seconds East, a distance of 142.35 feet; \*\*

4) THENCE continuing along the new northeasterly right-of-way line of Interstate Highway 35E and along said curve to the right an arc distance of 142.35 feet to an X cut set in concrete at the beginning of an Access Denial Line and being the beginning of a tangent curve to the right having a central angle of 00 degrees 38 minutes 42 seconds, a radius of 10,960.00 feet, being subtended by a chord bearing South 34 degrees 36 minutes 08 seconds East, a distance of 123.36 feet; \*\*

5) THENCE continuing along the new northeasterly right-of-way line of Interstate Highway 35E and Access Denial Line along said curve to the right an arc distance of 123.36 feet to an X cut set in concrete;

\*\*

6) THENCE South 28 degrees 43 minutes 53 seconds East, continuing along the new northeasterly right-of-way line of Interstate Highway 35E and Access Denial Line a distance of 13.58 feet to the POINT OF BEGINNING and containing 10,060 square feet (0.2310 acres) of land, more or less.

Basis of Bearing: Texas State Plane Coordinate System, N.A.D. 83, North Central Zone (4202). All coordinates shown hereon are surface coordinates using a combined surface adjustment factor of 1.000150630.

\*\* The monument described and set in this call, if destroyed during construction, may be replaced with a TxDOT Type II Right of Way Marker upon completion of the highway construction project under the supervision of a Registered Professional Land Surveyor, either employed or retained by TxDOT;

The above property being also described in survey as follows:

Description of a 3.970 acre tract of land situated in the W. King Survey, Abstract No. 69, Denton County, Texas and being a part of Lot 1, Block A, Travis Boats Addition, an addition to the City of Lewisville, Denton County, Texas according to the plat thereof recorded in Cabinet L, Page 86, Plat Records, Denton County,

Texas after Texas Department of Transportation right-of-way dedication, Parcel No. 2 as recorded in County Clerk's Instrument No. 2016-45566, Deed Records, Denton County, Texas; said 3.970 acre tract being all of that tract of land conveyed to FPS RE Lewisville, LLC by Special Warranty Deed recorded in County Clerk's Instrument No. 2016-47535, Deed Records, Denton County, Texas; said 3.970 acre tract being more particularly described by metes and bounds as follows;

BEGINNING, at a 1/2-inch iron rod found at the easternmost northeast corner of said 3.970 acre tract; said point also being the easternmost northeast corner of said Lot 1, Block A; said point also being the southeast corner of Lot 2, Block A of said Travis Boats Addition; said point also being on the west line of Lot 1, Block A, Huffines Chevrolet, an addition to the City of Lewisville, Denton County, Texas according to the plat thereof recorded in Cabinet E, Page 200, Plat Records, Denton County, Texas;

THENCE, with the common line of said Lot 1, Block A, Travis Boats Addition and Lot 1, Block A, Huffines Chevrolet the following metes and bounds;

South 02 degrees 30 minutes 20 seconds East (plat calls South 02 degrees 46 minutes 18 seconds East), a distance of 210.00 feet to a point at the southeast corner of said 3.970 acre tract; said point also being the southeast corner of said Lot 1, Block A, Travis Boats Addition;

South 89 degrees 19 minutes 40 seconds West (plat calls South 89 degrees 03 minutes 38 seconds West) a distance of 657.97 feet to a point at the southernmost southwest corner of said 3.970 acre tract; said point also being the southeast corner of said Texas Department of Transportation right-of-way dedication, Parcel No. 2 and also being the beginning of Access Denial; said point also being on the northeast right-of-way line of Interstate Highway 35E (South Stemmons Freeway) (300 feet wide);

THENCE, with the said northeast right-of-way line of Interstate Highway 35E, the following metes and bounds;

North 28 degrees 33 minutes 17 seconds West, leaving the north line of said Huffines Chevrolet, a distance of 13.59 feet to a "+" cut in concrete found at the beginning of a curve to the left having a radius of 10,960.00 feet;

Northwesterly, with said curve to the left, passing, at a distance of 123.48 feet a "+" cut in concrete found at the end of said Access Denial; continuing, through a central angle of 01 degrees 23 minutes 40 seconds, a total arc distance of 266.76 feet (chord bears North 34 degrees 47 minutes 45 seconds West, 266.75 feet) to a point (1/2-iron pipe found South 01 degree 43 minutes 42 seconds East, 2.28 feet) at the northernmost southwest corner of said 3.970 acre tract; said point also being the south corner of the remainder of a tract of land conveyed to Naoma Ruth Hurst by Case File No. IE-2003-246, Denton County Probate Court;

THENCE, North 01 degrees 43 minutes 10 seconds East (plat calls North 01 degrees 23 minutes 34 seconds East), a distance of 57.76 feet to a 1/2-inch iron rod found at the westernmost northwest corner of said 3.970 acre tract; said point also being the westernmost northwest corner of said Lot 1, Block A, Travis Boats Addition; said point also being the southwest corner of Lot 3, Block A, of said Travis Boats Addition;

THENCE, with the common line of said Lot 1, Block A and Lot 3, Block A, Travis Boats Addition, the following metes and bounds;

North 89 degrees 19 minutes 40 seconds East, leaving the east line of said Hurst tract, a distance of 294.39 feet (plat calls North 89 degrees 03 minutes 38 seconds East, 294.52 feet) to a point for angle corner;

North 44 degrees 11 minutes 40 seconds East (plat calls North 43 degrees 55 minutes 37 seconds East), a distance of 64.00 feet to a point for angle corner;

North 89 degrees 03 minutes 40 seconds East (plat calls North 88 degrees 47 minutes 37 seconds East), a distance of 30.00 feet to a point at the northernmost northeast corner of said 3.970 acre tract; said point also being the northernmost northeast corner of said Lot 1, Block A; said point also being southeast corner of said Lot 3, Block A; said point also being on the west line of said Lot 2, Block A;

THENCE, with the common line of said Lot 1, Block A and Lot 2, Block A, Travis Boats Addition, the following metes and bounds;

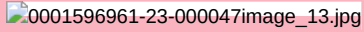
South 00 degrees 56 minutes 20 seconds East (plat calls South 01 degrees 12 minutes 23 seconds East), a distance of 126.15 feet to a 1/2-inch iron rod found at an interior corner of said 3.970 acre tract; said point also being an interior corner of said Lot 1, Block A; said point also being the southwest corner of said Lot 2, Block A;

North 89 degrees 19 minutes 40 seconds East (plat calls North 89 degrees 03 minutes 38 seconds East), a distance of 382.00 feet to the POINT OF BEGINNING;

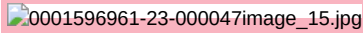
CONTAINING, 172,927 square feet or 3.970 acres of land, more or less. Tract 2 (Easement Estate)

A non-exclusive easement for vehicular access as created by Perpetual Easement Grand and Maintenance Agreement filed September 15, 1994, recorded under Clerk's File No. [94-R0071353](#), Real Property Records, Denton County, Texas.

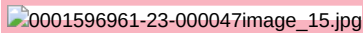
**McDonough, GA**



**Tract 2:**



**Also Described As:**



**McKinney, TX**

**TRACT 1:**

Being all of Lot 1R, Block A, of Freedom Powersports Addition, an addition to the City of McKinney, Collin County, Texas, according to the map or plat thereof recorded in [Volume 2021, Page 51](#), Map Records of Collin County, Texas.

**TRACT 2:**

Non-exclusive appurtenant access easement set forth in Amendment to Shared Access Easement, dated April 22, 2019, executed by and between TPEG FRE McKinney LLC and Lyle Land Company LLC, recorded on May 6, 2019, under Clerk's File Number, [20190506000501380](#), Real Property Records, Collin County, Texas.

**EXHIBIT "B"**

**TENANT ESTOPPEL CERTIFICATE**

THIS TENANT ESTOPPEL CERTIFICATE ("**Certificate**") is given this \*\*\* day of \*\*\*, 20\*\* by \*\*\* ("**Tenant**") in favor of \*\*\*, a \*\*\* ("**Beneficiary**").

**RECITALS:**

**A.** Pursuant to the terms and conditions of that certain Lease Agreement ("**Lease**") dated \*\*\*, NNN REIT, LP ("**Landlord**") leased to Tenant certain real property in \*\*\* County, \*\*\* ("**Premises**"), which Premises is more particularly described in the Lease.

**B.** Pursuant to the terms and conditions of the Lease, Clawback Policy and agrees to abide by the Beneficiary has requested terms of the Clawback Policy. To the extent that the Tenant execute Committee determines that all or any portion of the RSUs or the Shares issued on settlement thereof must be cancelled, forfeited, repaid, or otherwise recovered by the Company, Grantee shall promptly take whatever action is necessary to

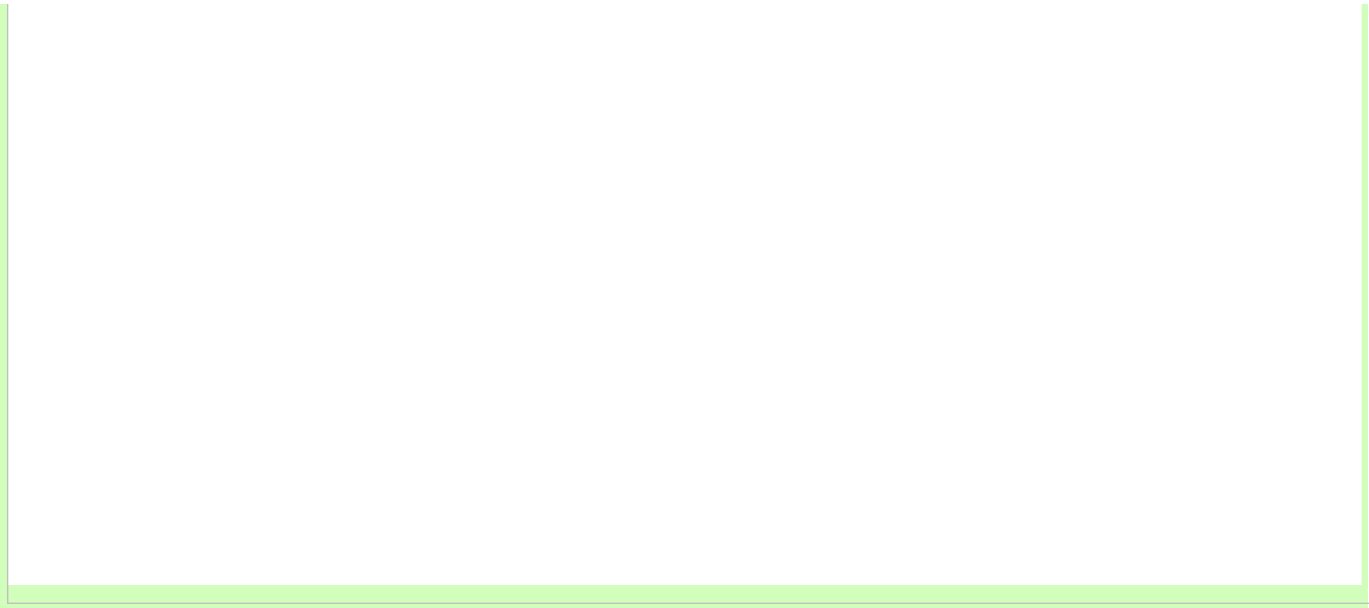
effectuate such cancellation, forfeiture, repayment, or recovery. 23. Execution of Agreement. By electronically or otherwise accepting this Agreement, you acknowledge your understanding and acceptance of the terms and conditions of the Award. The Company has no obligation to issue you Shares under this Agreement if you do not accept the Award. Further, any acceptance of Shares issued pursuant to this Agreement shall constitute your acceptance of the Award and your agreement with all terms and conditions of the Award, as set forth in the Plan and this Agreement. Signature Page to Follow

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 slide7

ACCEPTANCE AND ACKNOWLEDGMENT The parties accept and agree to the terms of the Restricted Stock Unit Award described in this Agreement and in the Plan, acknowledge receipt of a copy of this Agreement and the Plan and acknowledge that each has read them carefully and that each fully understands their contents. RUMBLEON, INC. GRANTEE By: \_\_\_\_\_ Name: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

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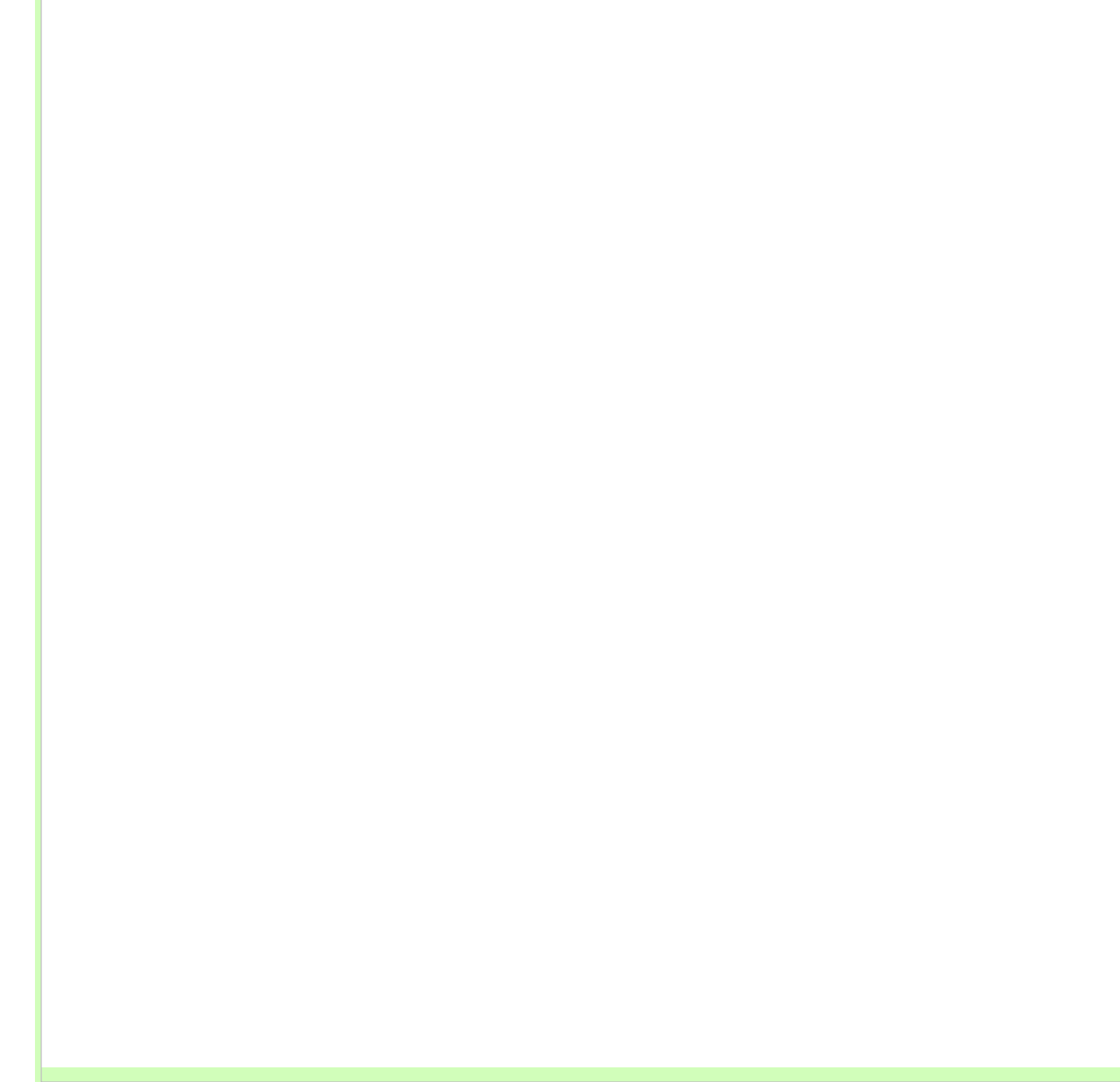


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PERFORMANCE RESTRICTED STOCK UNIT AWARD TO: You ("Grantee") have been granted this restricted stock unit ("RSU") award (the "Award") by RumbleOn, Inc. (the "Company") pursuant to the RumbleOn 2017 Stock Incentive Plan (as amended to date, the "Plan"). This Restricted Stock Unit Award Agreement (the "Agreement") confirms the understanding between the Company and you as of the Effective Date. The Award represents an unsecured and unfunded promise of the Company to Class B Common Stock of the Company in the future subject to the fulfillment of the vesting conditions set forth in the Agreement. The grant of the RSUs is made in consideration of the services to be rendered by Grantee to the Company. 1. Introduction. The terms of the Award are as set forth in Certificate Agreement and in the Plan. The Plan is incorporated into this Agreement by reference, which means that this Agreement is limited by and subject to the express terms and provisions of the Plan. You agree that you have been provided access to the Plan and that this Award shall be subject to the conditions set forth in the Plan, including future amendments thereto. In the event of a conflict between the terms of this Agreement and the terms of the Plan, the terms of the Plan shall control. Capitalized terms that are not defined in this Agreement have the meanings given to them in the Plan. The most important terms of the Award are summarized as follows: 2. Effective Date; 3. Grant ID; 4. Number of RSUs Subject to this Award; 5. Vesting Schedule; Subject to your continuous employment and the terms of this Agreement, including, without limitation, Sections 6, 7 and 9, the Award will vest according to the following schedule: Number of RSUs that Would Vest Minimum Closing Stock Price for 30 Consecutive Trading Days [1/3] \$12.00 [1/3] \$17.00 [1/3] \$22.00 6. Conversion of RSUs and issuance of Shares. Upon each vesting of the Award (each, a "Vest Date"), one share of Common Stock shall be issuable for each RSU that vests on such Vest Date (the "Shares"), subject to the terms and provisions of the Plan and this Agreement. Thereafter, the Company will transfer such Shares to you upon satisfaction of any required Tax-Related Items (as defined in Section 10). No fractional shares shall be issued under this Agreement. 7. Termination of Employment or Other Services. a. Termination. Except as otherwise provided for in a separate agreement between the Company and you that is in effect at the time of your termination, the terms of Section 6(f) of the Plan shall apply to the RSUs. b. For purposes of the Award, your employment will be considered terminated as of the date the Company determines you are no longer actively providing services to the Company or a subsidiary (regardless of the reason for such termination and whether or not later found to be invalid or in breach of employment laws in the jurisdiction where you are employed or the terms of your employment agreement, if any), and unless otherwise expressly provided in this Agreement or determined by the Company, your right to continue to vest in the Award, if any, will terminate as of such date and will not be extended by any notice period (e.g., your period of service would not include any contractual notice period or any period of "garden leave" or similar period mandated under employment laws, statutory laws, regulatory laws or common laws in the jurisdiction where you are employed or the terms of your employment agreement, if any). 8. Right to Shares. Unless otherwise provide in the Plan, you shall have no rights of that of a shareholder with



slide2



respect to the RSUs (including any voting rights or rights with respect to dividends paid on the Class B Common Stock) issuable under the Award until the Award is settled by the issuance of such Shares to you. a. Distribution. Provided that the vesting requirements have been met, the Company shall deliver the Shares to Grantee or direct the brokerage agent whom the Company is using to administer the distribution of Shares as soon as reasonably practical. Notwithstanding the foregoing, to the extent that the vesting of RSUs is accelerated pursuant to Section 7 hereof, the Shares shall be delivered within thirty (30) days following the satisfaction of such vesting requirement. b. Transferability. The RSUs may not be sold, assigned, pledged, exchanged, hypothecated or otherwise transferred, encumbered or disposed of unless the Plan so provides. 9. Non-Competition and Non-Solicitation. a. In consideration of the RSUs, Grantee agrees and covenants not to, during Grantee's employment with the Company or a subsidiary and for a period of twelve (12) months following Grantee's termination of employment with the Company or a subsidiary for any reason, directly or indirectly, in any capacity, on Grantee's own behalf or on behalf of any other person or entity (except on behalf of the Company or any subsidiary): i. Engage in the Competitive Business or be employed by or serve as an officer, director, partner, shareholder, member, owner, employer, employee, consultant, agent, independent contractor, advisor, or guarantor, for a Competitive Business (as defined in this Agreement), or ii. Induce, encourage, solicit or cause, or attempt to induce, encourage, solicit or cause clients to cease doing business with, or otherwise change or diminish the client's business with the Company or any subsidiary, or iii. Hire, attempt to hire, solicit, divert, induce, or otherwise cause, attempt to cause, or encourage employees or agents of the Company or any subsidiary to leave the Company's employ or such subsidiary's employ for any reason. b. Competitive Business means the ownership or operation of (i) any individual dealership or group of dealerships, operating at any retail location within 50 miles of any retail location operated by the Company or its subsidiary as of the termination of Grantee's employment with the Company or any subsidiary that sell or lease new or pre-owned motorcycles, three wheeled motorcycles/autocycles, snowmobiles, watercraft, ATVs, UTVs, side-by-sides, or other modes of transportation, for either on-road and off-highway use, ("Powersports Equipment") or offer the sale, leasing, rental, financing, servicing (including supply of parts) and ancillary activities relating to Powersports Equipment, (ii) any technology or e-commerce platform and/or any other internet-based platform, that sell or lease new or pre-owned Powersports Equipment or offer the sale, leasing, rental, financing, servicing (including supply of parts) and ancillary activities relating to Powersports Equipment; and (iii) any other business engaged in by the Company or any subsidiary during Grantee's employment therewith. c. If Grantee breaches any of the covenants set forth in Section 9(a) of this Agreement, (i) all unvested RSUs will terminate automatically and be immediately forfeited and (ii) Grantee consents and agrees that the Company will be entitled to seek, in addition to other available remedies, a temporary or permanent injunction or other equitable relief against such breach or threatened breach from any court of competent jurisdiction, without the necessity of showing any actual damages or that money damages would not afford an adequate remedy, and without the necessity of posting any bond or other security. The aforementioned equitable relief shall be in addition to, not in lieu of, legal remedies, monetary damages or other available forms of relief. 10. Taxes. a. Responsibility for Taxes. You acknowledge that, regardless of any action taken by the Company or, if different, your employer (the "Employer"), the ultimate liability for all income tax, social insurance payroll tax, fringe benefits tax, payment on account or other tax-related items related to



slide3

your participation in the Plan and legally applicable to you or deemed by the Company or the Employer in its discretion to be an appropriate charge to you even if legally applicable to the Company or the Employer (collectively, "Tax-Related Items") is and remains your responsibility and may exceed the amount (if any) withheld by the Company or the Employer. You further acknowledge that (i) neither the Company nor the Employer make any representation or undertaking regarding the treatment of any Tax-Related Items in connection with any aspect of the Award including without limitation, the grant, vesting, or settlement of the Award or the subsequent sale of Shares issued pursuant to the Award; and (ii) the Company and the Employer do not commit to and are under no obligation to structure the Award to reduce or eliminate your liability for Tax-Related Items or achieve any particular tax result. Further, if you are subject to Tax-Related Items in more than one jurisdiction between the Award Date and the date of any relevant taxable or tax withholding event, as applicable, you acknowledge that the Company or the Employer (or former employer, as applicable) may be required to withhold or account for Tax-Related Items in more than one jurisdiction. b. Payment of Tax-Related Items. Prior to any event in connection with the Award (e.g., vesting) that gives rise to a Tax-Related Items obligation, you must arrange for the satisfaction of such Tax-Related Items in a manner acceptable to the Company and the Employer. i. By Sale of Shares. Unless you choose to satisfy the Tax-Related Items by some other means in accordance with clause (ii) below, your acceptance of this Award constitutes your instruction and authorization to the Company and the Designated Broker to sell on your behalf a number of Shares from those Shares issued to you as the Company determines to be appropriate to generate cash proceeds sufficient to satisfy your obligation for Tax-Related Items. Such Shares will be sold on the day of the event giving rise to the Tax-Related Items (e.g., a Vest Date) or as soon thereafter as practicable. You will be responsible for all broker's fees and other costs of sale, and you agree to indemnify and hold the Company harmless from any losses, costs, damages, or expenses relating to any such sale. The number of Shares sold may be determined by considering any applicable withholding rates, including maximum applicable rates, and to the extent the proceeds of such sale exceed your obligation for Tax-Related Items, the Company agrees to pay such excess in cash to you through payroll or otherwise as soon as practicable and you acknowledge that you have no entitlement to the equivalent in Shares. You further acknowledge that the Company or its designee is under no obligation to arrange for such sale at any particular price, and that the proceeds of any such sale may not be sufficient to satisfy your obligation for Tax-Related Items. Accordingly, you agree to pay to the Company or any of its Subsidiaries including the Employer as soon as practicable, including through additional payroll withholding, any amount of the Tax-Related Items that is not satisfied by the sale of Shares described above. ii. (i) By Wire Transfer or Other Means. At any time not less than five business days before any obligation for Tax-Related Items arises (e.g., a Vest Date), you may elect to satisfy your obligation for Tax-Related Items by delivering to the Company an amount that the Company determines is sufficient to satisfy the Tax-Related Items by wire transfer to such account as the Company may direct, or such other means as the Company may establish or permit. If you have made an election to satisfy your obligation for Tax-Related Items by wire transfer or other means and, as determined by the Company, have not adequately funded the obligation for Tax-Related Items within five business days before a Vest Date for this Award or any other award of restricted stock units granted to you under the Plan, the Company reserves the right to satisfy your obligation for Tax-Related Items pursuant to the method described above in Section 10(b)(i). c. Right to Retain Shares or Cash. The Company may refuse to issue or deliver any Shares or the proceeds from the sale of Shares to you until the obligation for any Tax-Related Items due in connection with the Award has been satisfied. To the extent permitted by law, the Company has the right to retain, without notice, from Shares issuable under the Award, Shares having a value sufficient to satisfy the Tax-Related Items. Further, the Company or the Employer has the right to retain, without notice, from salary or other amounts payable to you, cash sufficient to satisfy the Tax-Related Items. If your obligation for Tax-Related Items is satisfied by the Company withholding in Shares, for tax purposes, you are deemed to have been issued the full number of Shares subject to the vested Award, notwithstanding that a number of the Shares is held back solely



slide4

for the purpose of paying the Tax-Related Items. You agree to pay to the Company or the Employer any amount of Tax-Related Items that the Company or the Employer may be required to withhold or account for as a result of your participation in the Plan that cannot be satisfied by the means described in this Section 10. 11. Registration. The Company currently has an effective registration statement on file with the U.S. Securities and Exchange Commission with respect to the Lease.

NOW, THEREFORE, in consideration of the above premises, the Tenant hereby makes the following statements for the benefit of the Assignee:

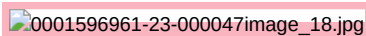
1. The copy of the Lease attached hereto and made a part hereof as Exhibit "A" is a true, correct and complete copy of the Lease, which Lease is in full force and effect as of the date hereof, and has not been modified or amended.
2. The Lease sets forth the entire agreement between the Landlord and the Tenant relating to the leasing of the Premises, and there are no other agreements, written or oral, relating to the leasing of the Premises.
3. There exists no uncured or outstanding defaults or events of default under the Lease, or events which, with the passage of time, and the giving of notice, or both, would be a default or event of default under the Lease.
4. No notice of termination has been given by Landlord or Tenant with respect to the Lease.
5. All payments of Rent due the Landlord under the Lease through and including the date hereof have been made, including the monthly installment of Base Rent (as defined in the Lease) for the period of \*\*\* to \*\*\* in the amount of \$\*\*\*.
6. As of the date hereof, the annual Base Rent under the Lease is \$\*\*\*.
7. There are no disputes between the Landlord and the Tenant with respect to any Rent due under the Lease or with respect to any provision of the Lease.

8. The Lease is and remains cross-defaulted with the Other Leases on those properties more particularly identified on Schedule A to this Certificate.

9. The Tenant represents and warrants that (a) Tenant is in occupancy of the Premises pursuant to the Lease, and (b) Tenant has no offsets, counterclaims or defenses with respect to its obligations under the Lease.

10. The Tenant understands and acknowledges that Beneficiary is relying upon the representations set forth in this Certificate, and Beneficiary and its successors and assigns may rely on this Certificate in connection with the assignment of the Lease to Beneficiary.

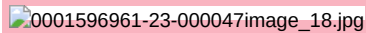
EXECUTED as of the day and year first set forth above.

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By: Name: Its:

, the Guarantor under that certain Unconditional and Continuing Guaranty dated \*\*\*, 20\*\*\* (the "Guaranty"), hereby signs this Estoppel Certificate to acknowledge to Beneficiary that the Guaranty remains in full force and effect, and shall remain in effect after any assignment of the Lease to Beneficiary or Beneficiary's successors and assigns.

**GUARANTOR:**

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By: Name: Its:

Schedule A Other Leases

EXHIBIT "C"

**MEMORANDUM OF LEASE**

THIS MEMORANDUM OF LEASE, entered into as of this day of \*\*\*, 20\*\*\*, by and between **NNN REIT, LP**, a Delaware limited partnership, whose address is 450 South Orange Avenue, Suite 900, Orlando, Florida 32801, as Landlord, and **Freedom Powersports Fort Worth, LLC**, a Texas limited liability company; **Freedom Powersports, LLC**, a Texas limited liability company; **Freedom Powersports McKinney, LLC**, a Texas limited liability company; **Freedom Powersports Johnson County, LLC**, a Texas limited liability company; **Freedom Powersports Dallas, LLC**, a Texas limited liability company; **Freedom Powersports Lewisville, LLC**, a Texas limited liability company; and **Freedom Powersports McDonough LLC**, a Delaware limited liability company, collectively, as Tenant.

WITNESSETH:

THAT, Landlord and Tenant have heretofore entered into a certain Lease Agreement dated \*\*\*, 20\*\*\* (the "**Lease**") covering certain premises consisting of, among other things, certain real property located in \*\*\* County, \*\*\* more particularly described on Exhibit "A" attached hereto upon which there is constructed and located certain improvements (together the "**Premises**"), and

WHEREAS, it is the desire of both Landlord and Tenant to memorialize the Lease and set forth certain pertinent data with respect thereto,

NOW THEREFORE, with respect to the Lease, Landlord and Tenant hereby acknowledge and agree as follows:

1. **Demise.** The Premises has been and is hereby demised, let and leased by Landlord to Tenant, and taken and accepted by Tenant from Landlord, all pursuant to and in accordance with the Lease.

2. **Term.** The Initial Term of the Lease is from \*\*\*, 20\*\*\*, until \*\*\*. Tenant has the right, privilege and option to renew and extend the Initial Term of the Lease for up to \*\*\* (\*\*\*) additional periods of five (5) years each, **Shares** subject to the provisions and conditions of the Lease.

3. **Possession.** Landlord **Award.** The Company intends to maintain this registration but has delivered possession of the Premises to Tenant and Tenant has accepted delivery and taken possession of the Premises from Landlord.

4. **No Recognition.** Landlord shall have no obligation to recognize any or to agree to not disturb any subtenant of Tenant upon any Event of Default of Tenant under this Lease or upon any other termination of the Lease, unless Landlord shall agree to do so in writing by separate instrument, but Landlord shall have no obligation to do so. Landlord's consent **If the registration ceases to any sublease shall be effective, you will not be construed as able to transfer or imply any agreement on Landlord's part sell Shares issued to recognize any subtenant.** In the event of Tenant's surrender of this Lease or the termination of this Lease for any reason or by any circumstance, Landlord may either terminate any or all subtenancies or succeed **you pursuant to the interest of Tenant as sublandlord thereunder. Tenant immediately Award unless exemptions from registration under applicable securities laws are available. Such exemptions from registration are very limited and irrevocably assigns to Landlord, as security for Tenant's obligations under this Lease, all rent from might be unavailable. You agree that any subletting of all or a part resale by you of the Premises as permitted by this Lease. During the time that any uncured Event of**

C-1

Default exists hereunder, Landlord, as assignee, may collect such sublease rent and apply it toward Tenant's obligations under this Lease. Any subtenant shall be required in its sublease to pay all sublease rent directly to Landlord upon receipt of notice from Landlord that an Event of Default exists under this Lease. **THIS SECTION SHALL PUT ANY SUBTENANT ON NOTICE THAT LANDLORD HAS NO OBLIGATION TO RECOGNIZE ANY SUBLEASE AND THAT UPON TERMINATION OF THIS LEASE FOR ANY REASON LANDLORD MAY TERMINATE ANY SUBTENANTS TENANCY AND ANY RIGHTS TO POSSESSION OF THE PREMISES, EVEN IF LANDLORD HAS ACCEPTED RENT PAYMENTS FROM SUBTENANT.**

5. **Liens on Landlord's Interest Prohibited.** BY THE TERMS OF THE LEASE, LANDLORD'S INTEREST IN THE PREMISES MAY NOT BE SUBJECTED TO LIENS OF ANY NATURE BY REASON OF TENANT'S CONSTRUCTION, ALTERATION, REPAIR, RESTORATION, REPLACEMENT OR RECONSTRUCTION OF ANY IMPROVEMENTS ON OR IN THE PREMISES, INCLUDING THOSE ARISING IN CONNECTION WITH OR AS AN INCIDENT TO THE RENOVATION OF THE IMPROVEMENTS LOCATED ON THE PREMISES, OR BY REASON OF ANY OTHER ACT OR OMISSION OF TENANT (OR OF ANY PERSON CLAIMING BY, THROUGH OR UNDER TENANT) INCLUDING, BUT NOT LIMITED TO, MECHANICS' AND MATERIALMEN'S LIENS. ACCORDINGLY, ALL PERSONS DEALING WITH TENANT ARE HEREBY PLACED ON NOTICE THAT SUCH PERSONS SHALL NOT LOOK TO LANDLORD OR TO LANDLORD'S CREDIT OR ASSETS (INCLUDING LANDLORD'S INTEREST IN THE PREMISES) FOR PAYMENT OR SATISFACTION OF ANY OBLIGATIONS INCURRED IN CONNECTION WITH THE CONSTRUCTION, ALTERATION, REPAIR, RESTORATION, RENOVATION, REPLACEMENT OR

RECONSTRUCTION THEREOF BY OR ON BEHALF OF TENANT. TENANT HAS NO POWER, RIGHT OR AUTHORITY TO SUBJECT LANDLORD'S INTEREST IN THE PREMISES TO ANY MECHANIC'S OR MATERIALMEN'S LIEN OR CLAIM OF LIEN.

6. Intentionally Omitted.

7. Subordination and Attornment. The Lease specifically provides that the Lease and Tenant's leasehold interest in and Shares issued pursuant to the Premises are junior, inferior, subordinate and subject Award shall comply in all respects to any mortgage or mortgages now or hereafter in force with the requirements of all applicable securities laws, rules and effect upon or encumbering the Premises or any portion thereof, as more particularly set forth in the Lease. Tenant shall, and has agreed to, attorn to any successor of the interest of Landlord under the Lease, regulations, including, the purchaser at any foreclosure sale occasioned by the foreclosure of any such mortgage or mortgages, for the balance of the Term of the Lease remaining at the time of the succession of such interest to such successor.

8. Inconsistent Provisions. The provisions of this Memorandum constitute only a general description of the content of the Lease with respect to matters set forth herein. Accordingly, third parties are advised that without limitation, the provisions of the Lease itself Securities Act, the Exchange Act and the respective rules and regulations promulgated thereunder, and any other law, rule or regulation including, without limitation, applicable securities law and exchange control regulations for your country of residence, as all may be amended from time to time. The Company shall not be controlling obligated to either issue the Shares (or any benefit in lieu of the Shares) or permit the resale of any Shares if such issuance or resale would violate any such requirements. 12. Limitation on Rights; Nature of Grant. By entering into this Agreement and accepting the Award, you acknowledge, understand and agree that: a. the Plan is established voluntarily by the Company, it is discretionary in nature and it may be modified, suspended or terminated by the Company at any time, to the extent permitted by the Plan; b. the grant of the Award is a one-time benefit and does not create any contractual or other right to receive future grants of awards or benefits in lieu of awards, even if awards have been granted in the past; c. all determinations with respect to any future grants, of awards will be at the sole discretion of the Company; d. your participation in the Plan is voluntary; e. the Award and the Shares subject to the Award are not intended to replace any pension rights or compensation; f. unless provided for in a separate agreement between Grantee and the Company, the Award and the Shares subject to the Award, and the income and value of same, are not part of normal or expected compensation for purposes of calculating any benefits, severance, resignation, termination, redundancy, dismissal, end of service payments, bonuses, long-service awards, pension or retirement or welfare benefits or similar payments; g. the future value of the Common Stock subject to the Award is unknown, indeterminable and cannot be predicted with certainty; h. neither the Plan, the Award nor the issuance of the Shares shall create a right to employment or be interpreted to form an employment contract with the Employer, the Company, or any subsidiary and shall not interfere with the ability of the Company, any subsidiary or the Employer, as applicable, to terminate your employment at any time; and i. unless otherwise provided in the Plan or by the Company in its discretion, the Award and the benefit evidenced by this Agreement do not create any entitlement to have the Award or any such benefits transferred to, or assumed by, another company nor to be exchanged, cashed out or substituted for, in connection with any corporate transaction affecting the Shares. 13. No Advice Regarding Grant. The Company is not providing any tax, legal or financial advice, nor is the Company making any recommendations regarding your participation in the Plan, or your acquisition or sale of the underlying Shares. You are hereby advised to consult with your own personal tax, legal and financial advisors regarding your participation in the Plan before taking any action related to the Plan.



slide5

14. Employee Data Privacy. By entering into this Agreement and accepting the Award: a. you explicitly and unambiguously consent to the collection, use and transfer, in electronic or other form, of any of your personal data as described in this Agreement and any other restricted stock unit grant materials by and among, as applicable, the Employer, the Company and its Subsidiaries for the exclusive purpose of implementing, administering and managing your participation in the Plan; b. you understand that the Company and the Employer may, for the exclusive purpose of implementing, administering and managing the Plan, hold certain personal information about you, including but not limited to your name, home address and telephone number, date of birth, social insurance number or other identification number, salary, nationality, job title, and details of all matters set forth herein, awards or entitlements to Common Stock granted to you under the Plan or otherwise ("Data"); c. you understand that Data will be transferred to, in electronic or other form, and stored by, a broker or stock plan service provider selected by the Company, to assist the Company with the implementation, administration and management of the Plan. You understand that the recipients of the Data may be located in the United States or elsewhere, and that the recipients' country may have different data privacy laws and protections than your country. You authorize the Company, the broker or stock plan services provider, and any other possible recipients that may assist the Company (presently or in the future) with implementing, administering and managing the Plan to receive, possess, use, retain and transfer the Data, in electronic or other form, for the sole purpose of implementing, administering and managing your participation in the Plan; d. you understand that Data will be held only as long as is necessary to implement, administer and manage your participation in the Plan; e. you understand that you are providing the consents herein on a purely voluntary

basis, and that if you do not consent, or if you later seek to revoke your consent, your employment and career with the Employer will not be adversely affected, and the only adverse consequence of refusing or withdrawing your consent is that the Company would not be able to grant you restricted stock units or other equity awards or administer or maintain such awards, and you therefore understand that refusing or withdrawing your consent may affect your ability to participate in the Plan; and f. you understand that, you may, at any time, request a list with the names and addresses of any potential recipients of the Data, request access to the Data, request additional information about the storage and processing of Data, require any necessary amendments to Data or refuse or withdraw the consents herein, in any case without cost, by contacting in writing your human resources representative. 15. Severability. In the event of that any discrepancy between the provisions of the Lease and this Memorandum, the provisions of the Lease shall take precedence and prevail over the provisions provision of this Memorandum.

C-2

9. Termination of Lease. All rights of Tenant in the Premises shall terminate upon the expiration or earlier termination of the Lease, which may be evidenced by a written notice of such expiration or termination recorded or filed by Landlord among the appropriate land records of the County in which the Premises Agreement is located.

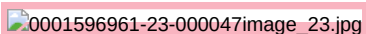
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C-3

IN WITNESS WHEREOF, Landlord and Tenant have caused this Memorandum of Lease deemed to be duly executed on invalid or as of unenforceable, in whole or in part, the day and year first above written.

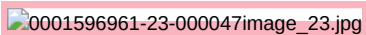
Signed, sealed and delivered in the presence of:

"LANDLORD"



Name:

NNN REIT, LP,  
a Delaware limited partnership



Name:

By: NNN GP Corp., a Delaware corporation, as General Partner

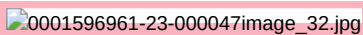
By: Name: Its:

(CORPORATE SEAL)

STATE OF FLORIDA COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this day of , 20 by

, as of NNN GP Corp., a Delaware corporation, as general partner of NNN REIT, LP, a Delaware limited partnership, on behalf of the partnership. He is personally known to me.



Notary Public - State of Print Name: Commission Number: Commission Expires:

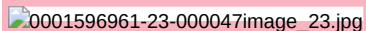
(NOTARY SEAL)

C-4

“TENANT”

**FREEDOM POWERSPORTS FORT**

Name: **WORTH, LLC**, a Texas limited liability company



By: Name: Its:

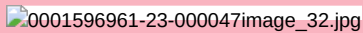
Name:

(CORPORATE SEAL)

STATE OF COUNTY OF

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this day of , 20 by

, as of Freedom Powersports Fort Worth, LLC, a Texas limited liability company, on behalf of the . He/she is personally known to me or has produced as identification.



Notary Public - State of Print Name: Commission Number: Commission Expires:

(NOTARY SEAL)

C-5

“TENANT”

**FREEDOM POWERSPORTS, LLC**

Name: a Texas limited liability company

By:

Name:

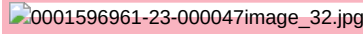
Name:Its:

(CORPORATE SEAL)

STATE OF COUNTY OF

The foregoing instrument was acknowledged before me by means of  physical presence  
or  online notarization, this day of , 20 by

, as of Freedom Powersports, LLC, a Texas limited liability company, on behalf of the . He/she is personally known to me or has produced as  
identification.

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Notary Public - State of Print Name: Commission Number: Commission Expires:

(NOTARY SEAL)

C-6

“TENANT”

**FREEDOM POWERSPORTS MCKINNEY,**

Name:LLC, a Texas limited liability company

By:

Name:

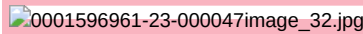
Name:Its:

(CORPORATE SEAL)

STATE OF COUNTY OF

The foregoing instrument was acknowledged before me by means of  physical presence  
or  online notarization, this day of , 20 by

, as of Freedom Powersports McKinney, LLC, a Texas limited liability company, on behalf of the . He/she is personally known to me or has  
produced as identification.

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Notary Public - State of Print Name: Commission Number: Commission Expires:

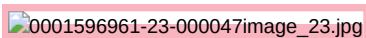
(NOTARY SEAL)

C-7

**"TENANT"**

**FREEDOM POWERSPORTS JOHNSON**

Name: COUNTY, LLC, a Texas limited liability company



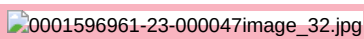
By:Name:Its:

Name:

(CORPORATE SEAL)

STATE OF COUNTY OF

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this day of , 20 by , as of Freedom Powersports Johnson County, LLC, a Texas limited liability company, on behalf of the . He/she is personally known to me or has produced as identification.



Notary Public - State of Print Name: Commission Number: Commission Expires:

(NOTARY SEAL)

C-8

**"TENANT"**

**FREEDOM POWERSPORTS DALLAS,**

Name:LLC, a Texas limited liability company

By:

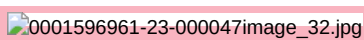
Name:

Name:Its:

(CORPORATE SEAL)

STATE OF COUNTY OF

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this day of , 20 by , as of Freedom Powersports Dallas, LLC, a Texas limited liability company, on behalf of the . He/she is personally known to me or has produced as identification.



Notary Public - State of Print Name: Commission Number: Commission Expires:

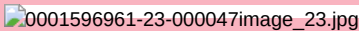
(NOTARY SEAL)

C-9

“TENANT”

**FREEDOM POWERSPORTS**

Name: **LEWISVILLE, LLC**, a Texas limited liability company



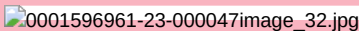
By:Name:Its:

Name:

(CORPORATE SEAL)

STATE OF COUNTY OF

The foregoing instrument was acknowledged before me by means of  physical presence  
or  online notarization, this day of , 20 by  
, as of Freedom Powersports Lewisville, LLC, a Texas limited liability company, on behalf of the . He/she is personally known to me or has  
produced as identification.



Notary Public - State of Print Name: Commission Number: Commission Expires:

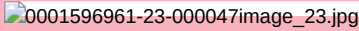
(NOTARY SEAL)

C-10

“TENANT”

**FREEDOM POWERSPORTS**

Name: **MCDONOUGH, LLC**, a Delaware limited liability company



By:Name:Its:

Name:

(CORPORATE SEAL)

STATE OF COUNTY OF

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this day of , 20 by , as of Freedom Powersports McDonough, LLC, a Delaware limited liability company, on behalf of the . He/she is personally known to me or has produced as identification.

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Notary Public - State of Print Name: Commission Number: Commission Expires:

(NOTARY SEAL)

C-11

EXHIBIT "D"

**FINANCIAL INFORMATION**

To be in a form reasonably acceptable to Landlord and Tenant.

EXHIBIT "E"

**UNCONDITIONAL AND CONTINUING GUARANTY**

FOR VALUE RECEIVED, and in consideration for, and as an inducement to NNN REIT, LP, a Delaware limited partnership, as "**Landlord**", to enter into a certain Unitary Master Lease Agreement dated on or about the date hereof, with respect to eight (8) powersport dealerships located in various Cities and States, more particularly described therein (the "**Lease**", which is incorporated herein by reference) with **FREEDOM POWERSPORTS FORT WORTH, LLC**, a Texas limited liability company; **FREEDOM POWERSPORTS, LLC**, a Texas limited liability company; **FREEDOM POWERSPORTS MCKINNEY, LLC**, a Texas limited liability company; **FREEDOM POWERSPORTS JOHNSON COUNTY, LLC**, a Texas limited liability company; **FREEDOM POWERSPORTS DALLAS, LLC**, a Texas limited liability company; **FREEDOM POWERSPORTS LEWISVILLE, LLC**, a Texas limited liability company; and **FREEDOM POWERSPORTS MCDONOUGH, LLC**, a Delaware limited liability company, collectively as "**Tenant**", **RUMBLEON, INC.**, a Nevada corporation, as "**Guarantor**", absolutely, unconditionally and irrevocably guarantees to Landlord the full and prompt payment of all rent and all other charges to be paid by Tenant under the Lease and the full and timely performance and observance of all covenants, conditions, and agreements therein provided to be performed and observed by Tenant.

The validity of this Guaranty of Lease (this "**Guaranty**") and the obligations of the Guarantor **remaining provisions** shall not be terminated, affected, or impaired by reason of (i) any forbearance, releases, settlements or compromises between Landlord and Tenant or any other guarantor, by reason of any waiver of or failure to enforce any of the rights and remedies reserved to Landlord in the Lease or otherwise; (ii) the invalidity, illegality or unenforceability of the Lease for any reason whatsoever; (iii) the relief or release of Tenant or any other guarantor from any of their obligations under the Lease by operation of law or otherwise, including, without limitation, the insolvency, bankruptcy, liquidation or dissolution of Tenant or any other guarantor or the rejection of or assignment of the Lease in connection with proceedings under the bankruptcy laws now in effect or hereafter enacted (other than any written release of Tenant by Landlord); (iv) the release, surrender, exchange, subordination, deterioration, waste, loss or impairment (including, without limitation, negligent, willful, unreasonable or unjustifiable impairment) of

any collateral securing the Lease; or (v) any other act or omission of Landlord or Tenant which would otherwise constitute or create a legal or equitable defense in favor of Guarantor.

Guarantor represents and warrants that Guarantor has a material economic interest in Tenant and that the execution of this Lease will be of direct benefit to it, whether or not it shall ever occupy any portion of the Demised Premises (as defined in the Lease). This Guaranty will nevertheless remain in full force and effect as to any renewal, modification, amendment, without being impaired or extension of the Lease, any assignment or transfer of the Lease by Landlord or Tenant, any subletting by Tenant, any change in the status, composition, structure or name of Tenant or Guarantor, or any holdover by Tenant under the Lease.

If Guarantor, directly or indirectly, advances any sums to Tenant, such sums and indebtedness will be subordinate in all respects to the amounts then and thereafter due and owing by Tenant under the Lease. Payment by Guarantor of any amount pursuant to this Guaranty shall

not invalidated in any way entitle Guarantor to any right, title or interest (whether by way of subrogation or otherwise) in way. 16. Governing Law and to any of the rights or remedies Landlord may have against Tenant, unless and until all of the obligations then payable or performable by Tenant under the Lease have been performed, including particularly, but without limitation, payment of the full amount then due and owing to Landlord under the Lease Venue. The Award and this Guaranty.

Wherever reference is made to the liability of Tenant in the Lease, such reference is deemed likewise to refer to Guarantor, jointly and severally, with Tenant. The liability of Guarantor for the obligations of the Lease shall be primary; in any rights of action which accrues to Landlord under the Lease, Landlord may proceed against Guarantor and/or Tenant, jointly or severally, and may proceed against Guarantor without having demanded performance of, commenced any action against, exhausted any remedy against, or obtained any judgment against Tenant. This Guaranty is irrevocable and continuing in nature and relates to any of the obligations now existing or hereafter arising under the Lease. This Guaranty is a guaranty of prompt and punctual payment and performance and is not merely a guaranty of collection. Guarantor waives any obligation on the part of Landlord to enforce the terms of the Lease against Tenant as a condition to Landlord's right to proceed against Guarantor.

Guarantor expressly waives: (i) notice of acceptance of this Guaranty and of presentment, demand and protest; (ii) notice of any default hereunder or under the Lease and of all indulgences; (iii) demand for observance, performances, or enforcement of any terms for provisions of this Guaranty or the Lease; and (iv) all other notices and demands otherwise required by law which Guarantor may lawfully waive. In addition, Guarantor expressly waives any notice of the assignment of the Lease by Landlord or Tenant, or any notice of the amendment of the Lease by Landlord and Tenant, and no such assignments or amendments shall in any way release or reduce Guarantor's continuing liability and obligations under this Guaranty. Upon any such amendment of the Lease by Landlord and Tenant the guaranteed obligations hereunder shall be all of the obligations under the Lease as so amended.

Guarantor agrees that in the event that Tenant shall become insolvent or shall be adjudicated a bankrupt, or shall file a petition for reorganization, arrangement or other relief under any present or further provision of the United State Bankruptcy Code, Bankruptcy Reform Act of 1978, as amended or modified, or in connection with any other State of Federal solvency proceeding, or if such a petition be filed by creditors of said Tenant, or if Tenant shall seek any judicial readjustment of the rights of its creditors under any present or future Federal or State law or if a receiver of all or part of the Tenant's property and assets is appointed by any State or Federal court, no such proceeding or action taken therein shall modify, diminish or in any way affect the liability of Guarantor under this Guaranty and the liability of Guarantor with respect to the Lease shall be of the same scope as if Guarantor itself executed the Lease as the named lessee thereunder and no "rejection" and/or "termination" of the Lease in any of the proceedings referred to in this paragraph shall be effective to release and/or terminate the continuing liability of Guarantor to Landlord under this Guaranty with respect to the Lease for the remainder of the Lease term stated therein unaffected by any such "rejection" and/or "termination" in said proceedings; and if, in connection with any of the circumstances referred to in this paragraph, Landlord should request that Guarantor execute a new lease for the balance of the term of the Lease (unaffected by any such "rejection" and/or "termination" in any of said proceedings), but in all other respects identical with the Lease, Guarantor shall do so as the named "Tenant" under such new lease (irrespective

of the fact that the existing Lease may have been “rejected” or “terminated” in connection with any proceedings referred to in this paragraph). In the event of failure or refusal of Guarantor to execute such new lease as therein provided, without limiting any of the legal or equitable remedies of Landlord on account of such failure or refusal, Guarantor agrees that Landlord shall have the right to obtain a decree of specific performance against Guarantor; and further, if in connection with any of the solvency or insolvency proceedings referred to in this paragraph, should the Tenant seek and obtain approval to assume or otherwise reaffirm the Lease and the obligations thereunder or to assume the Lease and assign the Lease to a third party, and even in the event Landlord consents to any such assumption or assumption and assignment, Guarantor acknowledges and agrees that this Guaranty will remain in effect and Guarantor will continue to be liable under the Lease as assumed or as assumed and assigned.

Guarantor further agrees that, to the extent Tenant or Guarantor makes a payment or payments to Landlord under the Lease or this Guaranty, which payment or payments or any part thereof are substantially invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to the Tenant or Guarantor or their respective estate, trustee, receiver or any other party under any bankruptcy law, state or federal law, common law or equitable cause, then to the extent of such payment or repayment, this Guaranty and the advances or part thereof which have been paid, reduced or satisfied by such amount shall be reinstated and continued in full force and effect as of the date such initial payment, reduction or satisfaction occurred.

Guarantor hereby waives, to the maximum extent permitted by law, all defenses available to a surety, whether or not the waiver is specifically enumerated in this Guaranty.

Nothing herein shall in any way modify or limit the effect of terms or conditions set forth in any other document, instrument or agreement executed by Guarantor or Tenant in connection with the obligations under the Lease, but each and every term and condition hereof shall be in addition thereto. No modification or amendment of this Guaranty will be effective unless executed by Guarantor and consented to by Landlord in writing, and no cancellation of this Guaranty will be valid unless executed by Landlord in writing.

If Tenant's obligations are void or voidable due to illegal or unauthorized acts by Tenant in the execution of the Lease, Guarantor shall nevertheless be liable hereunder to the same extent as it would have been if the obligations of the Tenant had been enforceable against the Tenant.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, LANDLORD AND GUARANTOR HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY AND ALL ISSUES PRESENTED IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER PARTY HERETO OR THEIR RESPECTIVE SUCCESSORS WITH RESPECT TO ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY DOCUMENT CONTEMPLATED HEREIN OR RELATED HERETO. THIS WAIVER BY THE PARTIES HERETO OF ANY RIGHT TO A TRIAL BY JURY HAS BEEN NEGOTIATED AND IS AN ESSENTIAL ASPECT OF THEIR BARGAIN.

**1. Statute of Limitations and Other Legal Requirements.** Until all obligations due under the Lease have been satisfied and performed in full, all of the rights, privileges, powers and remedies granted to Landlord hereunder shall continue to exist and may be exercised by Landlord at any time and from time to time irrespective of the fact that any of the said obligations under the Lease may have become barred by any statute of limitations. Guarantor expressly waives the benefit of any and all statutes of limitation, and any and all laws providing for exemption of property from execution or for valuation and appraisal upon foreclosure, to the maximum extent permitted by applicable law.

**2. Interest.** If Guarantor fails to make any payment due and required to be made by it under this Guaranty (“**Payment**”), then, to the extent permitted by law, such Payment shall bear interest from the due date thereof until paid at the lesser of twelve percent (12%) per annum or the highest rate allowed by applicable law (the “**Default Rate**”). Guarantor agrees to pay interest accrued hereunder in respect of any Payment on demand. All computations of interest hereunder will be made by Landlord on the basis of a year of 360 days and based upon the actual number of days elapsed (including the first (1st) day but excluding the last day).

3. **Representations, Warranties and Covenants.** As an inducement to Landlord entering into the Lease, Guarantor hereby makes the following representations, warranties and covenants which survive the execution and delivery of this Guaranty:

(a) Guarantor has the power and/or legal right to own its assets, to conduct its business as now conducted, and to enter into and perform the provisions of this Guaranty.

(b) The execution, delivery and performance of this Guaranty by Guarantor, if it is a corporation, partnership or other entity, has been duly authorized by all necessary corporate, stockholder, partner and/or other action.

(c) The execution, delivery and performance of this Guaranty by Guarantor does not contravene (1) any existing law or any legal order applicable to, or license or permit granted to Guarantor, (2) any agreement or instrument to which Guarantor is a party or to which it or any of its assets is subject, or (3) any provision of Guarantor's certificate of incorporation, by-laws or organizational documents.

(d) Guarantor (1) is not, and will not as a result of the execution and delivery of this Guaranty be rendered insolvent, (2) does not intend to incur, or believe it is incurring, obligations beyond its ability to pay and (3) represents that its property remaining after the delivery and performance of this Guaranty will not constitute unreasonably small capital.

(e) This Guaranty is a legal, valid and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms, except as the enforceability thereof may be limited by the Guarantor's bankruptcy, insolvency or other similar laws of general application affecting the enforcement of creditor's rights or by general principles of equity limiting the availability of equitable remedies.

(f) No approval of any governmental entity or any other person is required for the execution, delivery and performance by Guarantor of this Guaranty.

(g) There are no conditions precedent to the effectiveness of this Guaranty that have not been satisfied or waived.

4. **Sale of All or Substantially All of the Assets of Guarantor.** Notwithstanding anything else contained herein or in the Lease, Guarantor shall not sell all or substantially all of Guarantor's assets to any other person or entity (a "**Purchaser**") without (i) thirty (30) days prior notice to Landlord, and (ii) without obtaining from a Purchaser for the benefit of Landlord a fully executed Guaranty of the Lease binding on the Purchaser in the same form as this Guaranty. No such sale of all or substantially all of the assets of Guarantor shall in any way release Guarantor from any obligations under the Guaranty. Any violation of the terms of this Section shall be a default of Guarantor under this Guaranty and shall be an Event of Default of Tenant under the Lease, which shall give rise to all of Landlord's rights and remedies under this Guaranty and the Lease.

## 5. **Miscellaneous.**

(a) **Joint and Several Liability.** The liability of each Guarantor hereunder, if more than one, shall be joint and several.

(b) **Costs, Expenses and Legal Fees.** If Guarantor breaches its obligations hereunder and Landlord counsel to enforce its rights hereunder, whether or not suit is commenced or judgment is entered, Landlord shall be entitled to recover its reasonable costs and reasonable attorneys' fees incurred in enforcing its rights, specifically including reasonable attorneys' fees incurred in connection with any appeals (whether or not taxable as such by law). Such costs shall include all legal fees and costs incurred for the negotiation of a settlement, enforcement of rights or otherwise. Landlord shall also be entitled to recover its reasonable attorneys' fees and costs incurred in any bankruptcy action filed by or against Tenant or Guarantor, including, without limitation, those incurred in seeking relief from the automatic stay, in dealing with the assumption or rejection of this Lease, in any adversary proceeding, in the preparation and filing of any proof of claim, and in getting seated on and in serving on any creditor's committee or sub-committees in said bankruptcy proceeding.

(c) **Governing Law, Venue and Jurisdiction.** This Guaranty Agreement shall be governed by and construed in accordance with the laws of the State of Nevada, without regard to conflict of laws principles. Each party agrees to exclusive personal jurisdiction and venue in which the Demised Premises is located. Guarantor federal and Landlord agree that state courts in Clark County, Nevada, for any dispute arising out of this Guaranty Agreement. 17. **Electronic Delivery and Acceptance.** The Company may, in its sole discretion, decide to deliver any documents

related to the Award and participation in the Plan or future Awards that may be granted under the Plan by electronic means or to request your consent to participate in the Plan by electronic means. You hereby consent to receive such documents by electronic delivery and, if requested, to agree to participate in the Plan through an on-line or electronic system established and maintained by the Company or a third party designated by the Company. 18. Code Section 409A. It is intended that all compensation payable pursuant to this Agreement are exempt from or, alternatively, comply with Section 409A (and any legally binding guidance promulgated under Section 409A, including, without limitation, the Final Treasury Regulations) ("Code Section 409A"), and this Agreement will be interpreted, administered and operated accordingly. The Company reserves the right, to the extent the Company deems necessary or advisable in its sole discretion, to unilaterally amend or modify this Agreement as may be necessary to ensure that all payments provided for under this Agreement are made

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slide6

in a manner that qualifies for exemption from or complies with Code Section 409A; provided, however, that the Company makes no representation that the grant, vesting, or settlement of the Award will be exempt from or comply with Code Section 409A and makes no undertaking to preclude Code Section 409A from applying to the grant, vesting or settlement of the Award granted pursuant to this Agreement. In the event that any provision of this Agreement is inconsistent with Code Section 409A or such guidance, then the applicable provisions of Code Section 409A shall supersede such inconsistent provision. Notwithstanding the foregoing, in no event will any of Company, its parent, or their respective subsidiaries, affiliates, or officers, directors, employees, or agents have any liability for failure of the form of this Agreement to be exempt from or comply with Code Section 409A and none of the foregoing guarantees that the form of this Agreement is exempt from or complies with Code Section 409A. For all purposes under Code Section 409A, Grantee's right to receive any payments pursuant to this Agreement shall be treated as a right to receive a separate and distinct payment, and any payments to be made in installments shall be deemed to be a series of separate payments. Whenever a payment under this Agreement specifies a payment period with reference to a number of days, the actual date of payment within the specified period shall be within the sole discretion of Company. A termination of employment under this Agreement shall mean a "separation from service" under Code Section 409A. Notwithstanding any provisions of the Agreement to the contrary, to the extent that Code Section 409A would cause an adverse tax consequence to Grantee, a Change in Control shall not be deemed to occur for purposes of this Agreement unless the Change in Control meets the definition ascribed to the phrase "Change in the Ownership or Effective Control of a Corporation or in the Ownership of a Substantial Portion of the Assets of a Corporation" under Treasury Department Regulation 1.409A-3(i)(5), as revised from time to time in either subsequent regulations or other guidance. 19. Compliance with Applicable Laws. The issuance and transfer of shares of Class B Common Stock will be subject to compliance by the jurisdiction Company and Grantee with all applicable requirements of federal and venue shall state securities laws and with all applicable requirements of any stock exchange on which the Class B Common Stock may be appropriate in the listed. No shares of Class B Common Stock will be issued or transferred unless and until any then applicable requirements of state and federal courts located the State of Texas laws and located in Orange County, Florida. For that purpose, Guarantor and Landlord hereby submits regulatory agencies have been fully complied with to the jurisdiction satisfaction of the Company and consents its counsel. 20. Imposition of Other Requirements. The Company reserves the right to venue impose other requirements on your participation in the state Plan, on the Award and federal courts located on any Shares issued in settlement of the State Award, to the extent the Company determines it is necessary or advisable for legal or administrative reasons, and to require you to sign any additional agreements or undertakings that may be necessary to accomplish the foregoing. 21. Waiver. You acknowledge that a waiver by the Company of Texas and located in Orange County, Florida. Guarantor and Landlord further agree to accept service of process out breach of any provision of the aforesaid courts in any such dispute by registered or certified mail addressed to Guarantor or Landlord. Nothing herein contained, however, shall prevent Landlord from bringing any action or exercising any rights against (i) Tenant, (ii) any security, (iii) Guarantor, or (iv) the assets of Tenant or Guarantor, within any other state or jurisdiction.

(d) Remedies Cumulative; No Waiver. Guarantor hereby agrees that the enumeration of Landlord's rights and remedies set forth in this Guaranty is not intended to be

exhaustive and the exercise by Landlord of any right or remedy Agreement shall not preclude the exercise of any other rights operate or remedies, all of which shall be cumulative and shall be in addition to any other right or remedy given hereunder or under any other agreement between the parties, or which may now or hereafter exist at law or in equity or by suit or otherwise. No delay on the part of Landlord in exercising any right,

power or privilege shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or privilege preclude other or further exercise thereof or the exercise of any other right, power or privilege shall be construed to be as a waiver of any default. No course of dealing between Guarantor and Landlord, or any of Landlord's agents or employees shall be effective to change, modify or discharge any other provision of this Guaranty Agreement, or to constitute a waiver of any default.

(e) **Time subsequent breach by you or any other Participant. 22. Clawback Policy.** The Company has adopted a Compensation Clawback Policy as of November 30, 2023 (the "Clawback Policy"). If Grantee is a Covered Employee (as defined in the Clawback Policy), then Grantee acknowledges that Grantee is fully bound by, and subject to all of the Essence. For terms and conditions of the Clawback Policy and agrees to abide by the terms of the Clawback Policy. To the extent that the Committee determines that all payments made or any portion of the RSUs or the Shares issued on settlement thereof must be cancelled, forfeited, repaid, or otherwise recovered by the Company, Grantee shall promptly take whatever action is necessary to effectuate such cancellation, forfeiture, repayment, or recovery. 23. Execution of Agreement. By electronically or otherwise accepting this Agreement, you acknowledge your understanding and obligations acceptance of the terms and conditions of the Award. The Company has no obligation to be performed issue you Shares under this Guaranty, time is Agreement if you do not accept the Award. Further, any acceptance of Shares issued pursuant to this Agreement shall constitute your acceptance of the essence.

(f) **Assignment, Binding Effect, Benefit Award and your agreement with all terms and conditions of Agreement.** This Guaranty and the duties and obligations of Guarantor hereunder (1) shall inure to the benefit of, and be enforceable by, Landlord and any successors and/or assigns as Landlord under the Lease; and (2) may not be delegated or transferred by Guarantor.

(g) **Severability.** Whenever possible this Guaranty and each provision hereof shall be interpreted in such manner as to be effective, valid and enforceable under applicable law. Any provisions of this Guaranty which are prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. In addition, any determination that the application of any provision hereof to any person or under any circumstance is illegal and unenforceable shall not affect the legality, validity and enforceability of such provision as it may be applied to any other person or in any other circumstance.

(h) **Headings.** The headings herein are for purposes of reference only and shall not otherwise affect the meaning or interpretation of any provisions hereof.

6. **Estoppel Certificates.** Guarantor shall from time to time, within fifteen (15) days after request by Landlord and without charge, execute and deliver to Landlord (i) a Guarantor Estoppel Certificate containing such matters as may be reasonably requested by Landlord to any person, firm or corporation specified by Landlord, and (ii) a Guarantor estoppel/acknowledgement on the form Tenant Estoppel attached to the Lease as Exhibit "B".

7. **ACKNOWLEDGMENT. GUARANTOR HEREBY ACKNOWLEDGES AND AGREES THAT IT MAKES ALL OF THE WAIVERS, AGREEMENTS AND CONSENTS ("WAIVERS") SET FORTH IN THIS GUARANTY KNOWINGLY, INTENTIONALLY, VOLUNTARILY, WITHOUT DURESS, AND ONLY AFTER EXTENSIVE CONSIDERATION OF THE RAMIFICATIONS OF SUCH WAIVERS WITH ITS COUNSEL. GUARANTOR FURTHER ACKNOWLEDGES THAT SUCH WAIVERS ARE A MATERIAL INDUCEMENT TO LANDLORD TO ENTER INTO THE LEASE AND THAT LANDLORD WOULD NOT HAVE ENTERED INTO THE LEASE WITHOUT SUCH WAIVERS.**

GUARANTOR ACKNOWLEDGES THAT IT HAS SUFFICIENT KNOWLEDGE AND EXPERIENCE TO BE CAPABLE OF EVALUATING THE RISKS OF ITS GUARANTY. IF ANY OF THE WAIVERS HEREIN ARE DETERMINED TO BE UNENFORCEABLE UNDER APPLICABLE LAW, SUCH WAIVERS SHALL BE EFFECTIVE TO THE MAXIMUM EXTENT PERMITTED BY SUCH LAW.

IN WITNESS WHEREOF, the parties hereto executed this Guaranty or have caused this Guaranty to be executed and delivered by their duly authorized officer(s) on the date set forth below.

**RUMBLEON, INC.**, a Nevada corporation

By: Name: Brian Lawson Title: Treasurer Address: 901 Walnut Hill Lane

Suite 110A  
Irving, Texas 75038

Date:

EXHIBIT "F"

**ANNUAL STORAGE TANK INFORMATION**

Facility Name	Name of Tenant and Store Number
Tank ID	Tank identifier (usually 1,2,3 or 4)
Fuel Type	Fuel Store in Tank
Tank Type	Tank Construction Information (see EPA guidelines on various tank construction types)
Pipe Material	Pipe Construction (see EPA guidelines)
Leak Detection	Type of Leak detection used such as Automatic Tank Gauging (ATG), Interstitial Monitoring or Statistical Inventory Reconciliation (see EPA guidance)
Line Test	Date of the latest piping test should be provided by tenant
Tank Tightness Test	Only if applicable, tenant should provide with test date (see EPA guidance)
Site Plan	Tenant should provide a site plan showing which tanks correspond to the Tank ID etc.

EXHIBIT "G"

**OTHER LEASES**

- That certain Lease Agreement between NNN REIT, LP, and RNMC Daytona, LLC, for the premises located at 290 N. Beach Street, Daytona Beach, FL, upon the execution of such Lease Agreement by NNN REIT, LP, and RNMC Daytona, LLC.

EXHIBIT "H"

**CONSOLIDATED EBITA**

As used within this Lease, "Consolidated EBITDA" shall have the meaning Award, as set forth in the Plan and this Exhibit "H". Unless otherwise defined Agreement. Signature Page to Follow



slide7



ACCEPTANCE AND ACKNOWLEDGMENT The parties accept and agree to the terms of the Restricted Stock Unit Award described in this Lease or set forth herein, all capitalized terms used herein shall have Agreement and in the same meaning as set forth in Guarantor's publicly filed financial statements.

"Consolidated EBITDA" means, with respect to any Person for any period, the Consolidated Net Income Plan, acknowledge receipt of such Person for such period:

- (a) increased (without duplication) by the following:
  - (i) provision for Taxes based on income or profits or capital, including, without limitation, state franchise, excise and similar taxes and foreign withholding taxes of such Person paid or accrued during such period, including any penalties and interest relating to any tax examinations, deducted (and not added back) in computing Consolidated Net Income; plus
  - (ii) Consolidated Interest Expense of such Person for such period to the extent the same were deducted (and not added back) in computing Consolidated Net Income; plus
  - (iii) Consolidated Depreciation and Amortization Expense of such Person for such period to the extent the same were deducted (and not added back) in computing Consolidated Net Income whether before or after the Closing Date; plus
  - (iv) any expenses or charges (other than depreciation or amortization expense) related to any equity offering, Investment, acquisition, disposition or recapitalization permitted hereunder or the incurrence of Indebtedness permitted to be incurred hereunder (including a refinancing thereof) (whether or not successful), including (A) such fees, expenses or charges related to the Loan Documents and (B) any amendment or other modification of the Loan Documents, in each case, deducted (and not added back) in computing Consolidated Net Income; plus
  - (v) the amount of any restructuring charge or reserve, integration cost or other business optimization expense or cost that is deducted (and not added back) in such period in computing Consolidated Net Income, including any one- time costs incurred in connection with acquisitions or divestitures on or after the Closing Date (including the Transaction Expenses), and costs related to the closure and/or consolidation of facilities and to existing lines of business; provided that amounts added back pursuant to this clause (v) shall not exceed, when added to the aggregate amount of add backs made pursuant to clause (viii) copy of this definition of "Consolidated EBITDA", 25%  
  
of Consolidated EBITDA for such period calculated prior to giving effect to the add-backs set forth in this clause (v); plus
  - (vi) any other non-cash charges, write-downs, expenses, losses or items reducing Consolidated Net Income for such period including any impairment charges or the impact of purchase accounting, (excluding any such non-cash charge, write-down or item to the extent it represents an accrual or reserve for a cash expenditure for a future period) or other items classified by the Borrower as special items less other non-cash items of income increasing Consolidated Net Income (excluding any such non-cash item of income to the extent it represents a receipt of cash in any future period); plus
  - (vii) the amount of any minority interest expense consisting of Subsidiary income attributable to minority equity interests of third parties in any non- wholly-owned subsidiary; plus
  - (viii) the amount of "run-rate" cost savings, operating expense reductions and synergies projected by the Borrower in good faith to result from actions taken prior to or during, or expected to be taken following such period (which cost savings, operating expense reductions or synergies shall be subject only to certification by a Responsible Officer of the Borrower and shall be calculated on a pro forma basis as though such cost savings, operating expense reductions or synergies had been realized

on the first day of such period), net of the amount of actual benefits realized prior to or during such period from such actions; provided that (A) a Responsible Officer of the Borrower shall have certified to the Administrative Agent that (x) such cost savings, operating expense reductions or synergies are reasonably identifiable, reasonably attributable to the actions specified and reasonably anticipated to result from such actions and (y) such actions have been taken or are to be taken within eighteen (18) months from the date of such transaction and (B) amounts added back pursuant to this clause (viii) shall not exceed, when added to the aggregate amount of add backs made pursuant to clause (v) of this definition of "Consolidated EBITDA", 25% of Consolidated EBITDA for such period calculated prior to giving effect to the add-backs set forth in this clause (viii); plus

- (ix) any costs or expenses incurred by the Borrower or a Restricted Subsidiary pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement, any severance agreement or any stock subscription or shareholder agreement, to the extent that such cost or expenses are funded with cash proceeds contributed to the capital of the Borrower or net cash proceeds of an issuance of equity interests (other than disqualified equity interests) of the Borrower; plus
- (x) cash receipts (or any netting arrangements resulting in reduced cash expenditures) not representing Consolidated EBITDA or Consolidated Net

Income in any period to the extent non-cash gains relating to such income were deducted in the calculation of Consolidated EBITDA pursuant to paragraph (b) below for any previous period and not added back; plus

- (xi) any net loss included in Consolidated Net Income attributable to non-controlling interests pursuant to the application of Accounting Standards Codification Topic 810-10-45; plus
- (xii) realized foreign exchange gains or losses resulting from the impact of foreign currency changes on the valuation of assets or liabilities on the balance sheet of the Borrower and its Restricted Subsidiaries; plus
- (xiii) net realized losses from Swap Contracts or embedded derivatives that require similar accounting treatment **Agreement** and the application of Accounting Standard Codification Topic 815 **Plan** and related pronouncements;

(b) decreased (without duplication) by the following:

- (i) non-cash gains increasing Consolidated Net Income of such Person for such period, excluding any non-cash gains to the extent they represent the reversal of an accrual or reserve for a potential cash item **acknowledge** that reduced Consolidated EBITDA in any prior period **each has read them carefully** and any non-cash gains with respect to cash actually received in a prior period so long as such cash did not increase Consolidated EBITDA in such prior period; plus
- (ii) realized foreign exchange income or gains resulting from the impact of foreign currency changes on the valuation of assets or liabilities on the balance sheet of the Borrower and its Restricted Subsidiaries; plus
- (iii) any net realized income or gains from any obligations under any Swap Contracts or embedded derivatives that require similar accounting treatment and the application of Accounting Standard Codification Topic 815 and related pronouncements; plus
- (iv) any amount included in Consolidated Net Income of such Person for such period attributable to non-controlling interests pursuant to the application of Accounting Standards Codification Topic 810-10-45;
- (c) increased or decreased (without duplication) by, as applicable, any adjustments resulting from the application of Accounting Standards Codification Topic 460 or any comparable regulation; and

(d) increased or decreased (to the extent not already included in determining Consolidated EBITDA) by any pro forma adjustment.

There shall be included in determining Consolidated EBITDA for any period, without duplication,

(A) the Acquired EBITDA of any Person, property, business or asset acquired by the Borrower or any Restricted Subsidiary during such period (but not the Consolidated EBITDA of any related

Person, property, business or assets to the extent not so acquired), including, for the avoidance of doubt, the Acquired EBITDA of the Target Companies, to the extent not subsequently sold, transferred or otherwise disposed of by the Borrower or such Restricted Subsidiary during such period (each such Person, property, business or asset acquired and not subsequently so disposed of, an "Acquired Entity or Business"), and the Acquired EBITDA of any Unrestricted Subsidiary that is converted into a Restricted Subsidiary during such period (each, a "Converted Restricted Subsidiary"), based on the actual Acquired EBITDA of such Acquired Entity or Business or Converted Restricted Subsidiary for such period (including the portion thereof occurring prior to such acquisition or conversion) and (B) an adjustment in respect of each Acquired Entity or Business equal to the amount of the Pro Forma Adjustment with respect to such Acquired Entity or Business for such period (including the portion thereof occurring prior to such acquisition) as specified in a certificate executed by a Responsible Officer and delivered to the Lenders and the Administrative Agent. For purposes of determining the Consolidated EBITDA for any period, there shall be excluded in determining the Consolidated EBITDA for any period the Disposed EBITDA of any Person, property, business or asset (other than an Unrestricted Subsidiary) sold, transferred or otherwise disposed of, closed or classified as discontinued operations by the Borrower or any Restricted Subsidiary during such period (each such Person, property, business or asset so sold or disposed of, a "Sold Entity or Business") and the Disposed EBITDA of any Restricted Subsidiary that is converted into an Unrestricted Subsidiary during such period (each, a "Converted Unrestricted Subsidiary"), based on the actual Disposed EBITDA of such Sold Entity or Business or Converted Unrestricted Subsidiary for such period (including the portion thereof occurring prior to such sale, transfer or disposition).

fully understands their contents. RUMBLEON, INC. GRANTEE By: By:  
Name: Name: Title: Date:  
Date: \_\_\_\_\_

H-4

Exhibit 31.1

#### CERTIFICATION

I, Michael W. Kennedy, certify that:

- (1) I have reviewed this Quarterly Report on Form 10-Q of RumbleOn, Inc.;
- (2) Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
- (3) Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
- (4) The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

- (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
- (5) The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
- (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

November

7,

2023 Date: May 8, 2024

By: /s/ Michael W. Kennedy

Michael

W.

Kennedy

Chief

Executive

Officer

(Principal

Executive

Officer)

Exhibit 31.2

#### CERTIFICATION

I, Blake Lawson, certify that:

- (1) I have reviewed this Quarterly Report on Form 10-Q of RumbleOn, Inc.;
- (2) Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
- (3) Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
- (4) The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

- (5) The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
- (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
- (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

November 7, 2023 May 8, 2024

By: /s/ Blake Lawson  
Blake Lawson  
Chief Financial Officer

Exhibit 32.1

**CERTIFICATION PURSUANT  
TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the accompanying Quarterly Report on Form 10-Q of RumbleOn, Inc. (the "Company") for the period ended September 30, 2023 March 31, 2024, as filed with the U.S. Securities and Exchange Commission (the "Report"), the undersigned hereby certifies pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, to my knowledge and belief, that:

- (1) the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

November 7, 2023 May 8, 2024

By: /s/ Michael W. Kennedy  
Michael W. Kennedy  
Chief Executive Officer  
(Principal Executive Officer)

Exhibit 32.2

**CERTIFICATION PURSUANT  
TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the accompanying Quarterly Report on Form 10-Q of RumbleOn, Inc. (the "Company") for the period ended September 30, 2023 March 31, 2024, as filed with the U.S. Securities and Exchange Commission (the "Report"), the undersigned hereby certifies pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, to my knowledge and belief, that:

- (1) the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

November 7, 2023 May 8, 2024

By: /s/ Blake Lawson  
Blake Lawson  
Chief Financial Officer

**DISCLAIMER**

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