

THIS INSTRUMENT PREPARED BY:
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STATE OF NEW YORK)
 :
COUNTY OF TOMPKINS)

ACCESS EASEMENT AGREEMENT
WITH COVENANTS AND RESTRICTIONS

THIS EASEMENT AGREEMENT WITH COVENANTS AND RESTRICTIONS (the "Agreement") is made this _____ day of _____, 2020 by and between THE BROADWAY GROUP, LLC, d/b/a TBG ALABAMA, LLC, an Alabama limited liability company (hereinafter referred to as "A"), SLN PROPERTIES, LLC (hereinafter referred to as "B").

WITNESSETH:

WHEREAS, A is the owner of those certain tracts or parcel of land lying and being in Tompkins County, New York, being more particularly described on Exhibit "A", attached hereto and made a part hereof by this reference (hereinafter collectively referred to as "A Tract"); and

WHEREAS, B is the owner of those certain tracts or parcels of land lying contiguous or in close proximity to the A Tract and lying and being in Tompkins County, New York, and being more particularly described on Exhibit "B", attached hereto and made a part hereof by this reference (hereinafter referred to collectively as the "B Tract"; the A Tract and the B Tract each being herein sometimes referred to individually as a "Tract" and collectively as the "Tracts"); and

WHEREAS, A and B desire to establish certain easements and rights benefiting and burdening the Tracts, as hereinafter provided.

NOW, THEREFORE, for and in consideration of Ten and No/100 Dollars (\$10.00), the premises, the mutual benefits to be derived by the provisions of this Agreement, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged by the parties hereto, A and B do hereby covenant and agree as follows:

1. Benefited Park Les/Binding Effect. The rights, easements and obligations established in this Agreement shall run with the land and be for the benefit of the Tracts and shall

run with the land and be binding upon the Tracts. The owners of the Tracts may delegate the right to use and maintain the easements granted herein to their respective tenants, customers, invitees, employees, agents, contractors and licensees, successors and assigns.

2. Easements. A hereby grants and conveys to B, for the benefit of and as an appurtenance to the B Tract, a non-exclusive, perpetual easement over, upon, across and through that portion of the easement area identified in Exhibit "C", attached hereto and made a part hereof by this reference, and as further described on Exhibit "D", attached hereto and made a part hereof by this reference (the "Easement Area") and located on the A Tract for the purposes of pedestrian and vehicular access, ingress and egress, together with the right, but not the obligation, of maintaining and repairing that portion of the Easement Area located on the A Tract. In no event shall the Easement Area be altered or changed in any manner without the written consent of the parties hereto. B acknowledges and agrees that any easement and/or ingress/egress rights it may have as to A Tract are contained within the Easement Area.

A hereby covenants and agrees to keep and maintain in good order, condition and state of repair, at its sole expense, those portions of the Easement Area located on the A Tract, including any driveways, curbing, paving and lighting located therein. A shall also be responsible for snow removal with respect to the Easement Area located on the A Tract. In the event that A defaults in its obligation to so maintain the portions of the Easement Area lying on the A Tract, then B shall have the right to perform such maintenance upon ten (10) days advance written notice on behalf of A and A shall reimburse B within ten (10) days of receipt of invoice for same. A and B agree that at no time after Closing shall any tractor trailers, trucks, or any other vehicles be parked or stored in or upon the Easement Area. All rights granted in this Section 2 shall also be deemed granted to each Tract owners' successors, assigns and tenants/lessees.

A and B do further agree that no party hereto shall at any time erect, construct, or cause to be erected or constructed, any fence, wall, curb or other barrier between the A Tract and the B Tract or in any manner interfere with or restrict the full and complete use and enjoyment by any party of the easements granted herein. This Agreement does not dedicate the easements created herein to the general public, nor does this Agreement restrict the use and development of the A Tract or the B Tract except as stated herein. It is the intent of this Agreement to grant reciprocal easements over the Easement Area without limiting the right of A and of B to alter, demolish, redevelop or, subject to the provisions of this Paragraph 2, improve the remainder of each Tract unless expressly stated herein to the contrary.

3. Restrictions on A Tract and B Tract. A covenants and agrees not to lease, rent, occupy, or allow to be leased, rented or occupied, any part of the A Tract for the purpose of allowing a business to operate that conducts residential remodeling, home improvement, or residential design activities.

B covenants and agrees not to lease, rent, occupy, or allow to be leased, rented or occupied, any part of the B Tract for the purpose of conducting business as or for use as a Family Dollar Store, Bill's Dollar Store, Fred's, Dollar Tree, Dollar Zone, Variety Wholesale, Dollar Express, Ninety-Nine Cents Only, Deals, Bonus Dollar, Maxway, Super Ten, Planet Dollar, Big Lots, Walgreens, CVS, Rite Aid, or any Wal-Mart concept including but not limited to Super

Wal-Mart, Wal-Mart, Wal-Mart Neighborhood Market, or Walmart Express.

4. Use Restrictions on A Tract and B Tract. Each of A and B covenants and agrees not to lease, rent, occupy, or allow to be leased, rented or occupied, any part of its Tract to be used or operated for any of the following: (a) for any unlawful purpose or in any way which would constitute a legal nuisance to an adjoining owner or occupant; (b) as a discotheque, dance hall or night club; (c) as a massage parlor; (d) funeral parlor; (e) bingo parlor; (f) car wash; (g) any use which emits a strong, unusual, offensive or obnoxious odor, fumes, dust or vapors, or any sound which can be heard outside of any buildings on the A Tract or B Tract, except that any usual paging system be allowed; (h) any assembling, manufacturing, distilling, refining, smelting, agricultural, or mining operation; (i) any "second hand" store or liquidation outlet; (j) any mobile home park, trailer court, labor camp, junk yard, recycling facility or stock yard; (k) any dumping, disposing, incineration or reduction of garbage (exclusive of garbage compactors located near the rear of any building); (l) any dry cleaners performing on-site cleaning services; (m) any automobile, truck, trailer or recreational vehicles sales, leasing, storage, display or body shop repair operation; (n) any living quarters, sleeping apartments or lodging rooms; (o) any veterinary hospital or animal raising facilities (except this provision shall not prohibit pet shops and shall not prohibit the provision of veterinary services in connection with pet shops or pet supplies business); (p) any establishment selling or exhibiting paraphernalia for use with illicit drugs, and establishment selling or exhibiting materials or devices which are adjudicated to be pornographic by a court of competent jurisdiction, and any adult bookstore, adult video store or adult movie theater; (q) any bar or tavern; provided, however, a bar within a restaurant shall be permitted; (r) any pool or billiard hall, gun range or shooting gallery, or amusement or video arcade; (s) any use which creates fire, explosives or other hazards; and (t) facilities for the use of treating addiction including but not limited to inpatient or outpatient substance abuse treatment facilities, pharmacological treatment facilities, safe injection sites and methadone maintenance therapy or clinics.

5. Manner of Performing Work. Whenever a party shall perform any construction, maintenance, repairs or replacements on its Tract or as otherwise permitted herein, such work shall be done expeditiously and in a good and workmanlike manner and in accordance with all applicable laws, codes, rules, statutes and regulations of governmental authorities having jurisdiction thereof. Such work shall be carried out in such manner so as to cause the least amount of disruption to any business operations being conducted on the surrounding land as is reasonably practicable.

6. Insurance and Indemnification. Each of A and B shall maintain or cause to be maintained in full force and effect commercial general liability insurance with respect to such activities with a combined single limit of liability of not less than One Million Dollars (\$1,000,000.00) for bodily injury to or personal injury or death of any person and consequential damages arising therefrom, and for property damage arising out of any one occurrence, and with minimum excess or umbrella policy limits of not less than Two Million Dollars (\$2,000,000.00) per occurrence, and the other party shall be an additional insured under such policy. Each party shall further maintain adequate worker's compensation insurance at all times during construction activities in the minimum statutory limits required by the State of New York. Such insurance shall be procured from a company licensed in the State of New York and shall be rated by Best's

Insurance Reports not less than A-/VIII. Such insurance shall provide that it shall not be cancelable without thirty (30) days prior, written notice to additional insureds. Upon request, each party shall provide a certificate of such insurance coverage to the other. A shall indemnify and hold B harmless from and against any and all loss, cost, damage, liability or expense (including reasonable attorneys' fees actually incurred and court costs) incurred by B in connection with the exercise by A of the easements and rights created herein, except to the extent caused by the negligence or willful act of B, its employees, tenants, contractors, agents or licensees. B shall indemnify and hold A harmless from and against any and all loss, cost, damage, liability or expense (including reasonable attorneys' fees actually incurred and court costs) ever incurred by A in connection with the exercise by B of its easements and rights created herein, except to the extent caused by the negligence or willful act of A, its employees, tenants, contractors, agents or licensees.

7. Extent of Liability. Notwithstanding any other provision contained in this Agreement to the contrary, A and B hereby expressly agree that the obligations and liability of each of them shall be limited solely to such party's interest in its respective Tract, as such interest is constituted from time to time. A and B agree that any claim against a party hereto shall be confined to and satisfied only out of, and only to the extent of, such party's interest in its Tract, as such interest is constituted from time to time. Nothing contained in this paragraph shall limit or affect any right that any party might otherwise have to seek or to obtain injunctive relief or to specifically enforce the rights and agreements herein set forth, provided that such injunctive relief or specific performance does not involve the payment of money from a source other than such party's interest in its Tract, as such interest may be constituted from time to time.

8. Duration. The provisions of this Agreement shall run with and bind the land described herein and shall be and remain in effect perpetually to the extent permitted by law.

9. Miscellaneous. This Agreement shall be governed in accordance with the laws of the State of New York. The paragraph headings in this Agreement are for convenience only, shall in no way define or limit the scope or content of this Agreement, and shall not be considered in any construction or interpretation of this Agreement or any part hereof. Nothing in this Agreement shall be construed to make the parties hereto partners or joint venturers. No party hereto shall be obligated to take any action to enforce the terms of this Agreement or to exercise any easement, right, power, privilege or remedy granted, created, conferred or established hereunder. This Agreement may be amended, modified or terminated only in writing, executed and acknowledged by all parties to this Agreement or their respective successors or assigns, and only with the prior written consent of A, so long as it, its successors, assigns or assignees is occupying the property. Time is of the essence of this Agreement.

10. Severability. In the event that any condition or covenant herein contained is held to be invalid or void by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other covenant or conditions herein contained. If such condition, covenant or other provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

11. Binding. This Agreement is binding on the heirs, successors, and assigns as their interest may appear.

12. Authority. Each of the persons signing this Agreement below represents and warrants to the other party that (s)he has the full power and authority to enter into this Agreement for or on behalf of the party on whose behalf it or (s)he executes the same.

13. Counterparts. This Agreement may be executed in any number of identical counterparts, each of which shall be considered an original, but together shall constitute but one and the same Agreement.

IN WITNESS WHEREOF, A and B have set their hands and seals as of the day, month and year first mentioned above.

[SIGNATURES AND ACKNOWLEDGEMENTS TO FOLLOW]

THE BROADWAY GROUP, LLC, d/b/a TBG ALABAMA, LLC, an Alabama limited liability company

By: BROADWAY MANAGEMENT, LLC, d/b/a BM ALABAMA, LLC, an Alabama limited liability company, Its Manager

By: _____

STATE OF ALABAMA)
 :
COUNTY OF MADISON)

On the _____ day of _____, 2020, before me, the undersigned, a Notary Public in and for said state, personally appeared _____, to me personally known or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Given under my hand and seal this the ____ day of _____, 2020.

Notary Public
My Commission Expires:

SLN PROPERTIES, LLC

By: _____

Its:

STATE OF NEW YORK)
 :
COUNTY OF _____) ss:

On the _____ day of _____, 2020, before me, the undersigned, a Notary Public in and for said state, personally appeared _____, to me personally known or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument

Given under my hand and seal this the _____ of _____, 2020.

Notary Public (affix stamp and/or seal)

My Commission Expires:

EXHIBIT "A"

Legal Description of A Tract

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Dryden, County of Tompkins, and State of New York, being a part of Military lot 53 in said Town, bounded and described as follows;

BEGINNING at a point S 69°56'13" W. 93.86 feet from a concrete highway monument found on the northerly line of New York State Route 13 (Dryden Road).

THENCE along the northern boundary line of New York State (map No. 15, Parcel No. 10) the following courses and distances.

S 69°56'13" W, 16.21 feet to a concrete monument found.

S 62°52'33" W, 139.54 feet to a concrete monument found.

S 73°46'19" W, 13.69 feet to a concrete monument found.

THENCE N 0°03'02" W along the eastern boundary line of premises now or formerly of 4 Season Storage Tompkins LLC, 513.34 feet to point.

THENCE N 82°57'39" E, 152.50 feet to a point.

THENCE S 00°47'57" E, 173.85 feet to a point.

THENCE S 70°40'36" W, 69.36 feet to a point.

THENCE S 20°06'08" E, 344.95 feet to the **point of beginning**.

CONTAINING 1.73 acres of land as shown on a map drawn by Fagan Engineers & Land Surveyors, PC dated May 14, 2019 and shown as project # 2017.023-015.

EXHIBIT "B"

Legal Description of B Tract

LOT B:

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Dryden, County of Tompkins, and State of New York, being a part of Military lot 53 in said Town, bounded and described as follows;

BEGINNING at a point S 69°56'13" W 93.86 feet from a concrete highway monument found on the northerly line of New York State Route 13 (Dryden Road).

THENCE N 20°06'08" W, 344.95 feet to a point.

THENCE N 70°40'36" E, 69.36 feet to a point.

THENCE N 00°47'57" W, 173.85 feet to a point.

THENCE N 82°57'39" E, 147.50 feet along the southerly boundary line of premises now or formerly of James E. & Amelia Herrman(Book 2018, Page 12170), and also New York State Electric and Gas (Book 406, page 390; Book 588 page 728) to an iron pin found.

THENCE S 01°28'34" W along the Eastern boundary line of SCF Funding II LLC (Inst.# 2016-14597) a distance of 449.83 feet to an iron pin found.

THENCE along the northern boundary of New York State (map No. 15, Parcel No. 10) the following courses and distances.

N 18°45'35" W, 16.43 feet to a broken concrete monument.

S 71°32'26" W, 54.78 feet to a broken concrete monument.

S 18°46'33" E, 34.97 feet to a broken concrete monument.

S 69°56'13" W, 93.86 feet to a point and the **point of beginning**.

CONTAINING 1.85 acres of land as shown on a map drawn by Fagan Engineers & Land Surveyors, PC dated May 14, 2019 and shown as project # 2017.023-015.

EXHIBIT "C"

ALTA Survey Showing Easement Area

EXHIBIT "D"

Legal Description of Easement Area on A Tract

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Dryden, County of Tompkins, and State of New York, being a part of Military lot 53 in said Town, bounded and described as follows;

BEGINNING at a point N 69°56'13" E, 29.21 feet from a concrete highway monument found on the northerly line of New York State Route 13 (Dryden Road).

THENCE N 17°49'48" W, 185.30 feet to a point.

THENCE N 31°37'33" W, 54.52 feet to a point.

THENCE N 19°19'24" W, 87.09 feet to a point.

THENCE along a curve to the right having a radius of 15.00 feet, and a chord of N 25°44'52.77" E, 21.24 feet to a point.

THENCE N 70°49'09" E, 24.96 feet to a point.

THENCE S 19°19'24" E, 155.21 feet to a point.

THENCE S 19°40'53" E, 184.89 feet to a point.

THENCE S 69°56'13" W, 34.37 feet along the northerly line of New York State Route 13 (Dryden Road) to **the point of beginning**.

CONTAINING 0.26 acres of land as shown on a map drawn by Fagan Engineers & Land Surveyors, PC dated May 14, 2019 and shown as project # 2017.023-015.