

LEASE CONSENT AND ESTOPPEL CERTIFICATE

Munciana Real Estate Company, LLC, an Indiana limited liability company ("Lessee"), and The Town of Yorktown, Indiana ("Lessor"), are parties to a Ground Lease dated February 27, 2009, as amended by a First Amendment to Ground Lease dated February 28, 2009, and a Second Amendment to Ground Lease dated November 3, 2010 (the "Ground Lease"), for certain land in Yorktown, Indiana, as more particularly described in the Ground Lease (the "Land").

Lessee has constructed a building on the Land, located at and known as 200 S CR 600 W, Yorktown, Indiana (the "Building"), which Lessee shall own at all times during the term of the Ground Lease.

By signing below, Lessor hereby consents to Lessee leasing a portion of the Building to 3 Step Sports LLC, a Delaware limited liability company ("3 Step"), upon any such terms and conditions as Lessee and 3 Step may desire.

Lessor further warrants, represents, and certifies that the statements set forth below are true and accurate with the understanding that 3 Step will rely on said statements in connection with 3 Step's execution of a lease for a portion of the Building:

1. A true, correct, and complete copy of the Ground Lease, including all amendments and exhibits thereto, is attached hereto as Exhibit A, and there are no additional understandings or modifications, oral or written, of any sort, of or to the Ground Lease. The Ground Lease has been duly executed and delivered by the parties thereto, is in full force and effect, and is the entire agreement between Lessor and Lessee with respect to the Land.

2. All conditions of the Ground Lease to be performed by Lessor and necessary to the enforceability of the Ground Lease have been satisfied, and Lessor is not in default under any terms of the Ground Lease, nor has any event occurred that, with the passage of time or giving of notice (or both), would become a default or event of default by Lessor under any terms of the Ground Lease. Lessee is not in default under any terms of the Ground Lease, nor has any event occurred that, with the passage of time or giving of notice (or both), would become a default or event of default under any terms of the Ground Lease.

3. Notwithstanding any provision of the Ground Lease to the contrary, including but not limited to the provisions of Section 12 of the Ground Lease, 3 Step shall have the full right and authority to lease, use, and occupy the leased portion of the Building for sports and recreational purposes without interference by Lessor or any person claiming under Lessor, and Lessor hereby waives any and all rights under the Ground Lease to reclaim or otherwise use the leased portion of the Building, notwithstanding the fact that Lessee shall not be using such space.

4. Lessor agrees to give 3 Step a copy of any notice of default served upon Lessee by Lessor with respect to a default which would entitle Lessor to terminate the

Ground Lease or exercise a right of self-help. Lessor agrees that 3 Step shall have the same rights to cure any and all defaults by Lessee under the Ground Lease within the same grace, notice and cure periods provided to Lessee in relation thereto, except that such periods in relation to 3 Step shall not commence until 3 Step shall have received a copy of the notice of default from Lessor.

5. So long as 3 Step's lease for a portion of the Building is in effect, Lessor shall not amend, modify, cancel or terminate the Ground Lease, or consent to an amendment, modification, cancellation or termination of the Ground Lease, so as to adversely affect 3 Step's use of the leased premises, without 3 Steps' prior written consent in each instance.

6. This Lease Consent and Estoppel Certificate and any agreements of Lessor hereunder shall be binding upon the successors and assigns of Lessor.

[SIGNATURE PAGE FOLLOWS]

Executed this _____ day of February, 2022.

LESSOR

The Town of Yorktown, Indiana

By: _____

Name:

Title:

Exhibit A

Ground Lease

GROUND LEASE

THIS GROUND LEASE is entered into this 22 day of February, 2009 ("Effective Date"), between **The Town of Yorktown, Indiana** ("Lessor"), and **Munciana Real Estate Company, LLC**, an Indiana limited liability company ("Lessee"), as follows:

1. Land. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the real estate located in the Town of Yorktown, Delaware County, Indiana, more particularly described on "Exhibit B" attached hereto ("Land"). Lessor shall remain the owner of the Land at all times during the term of this Lease.

2. Conditions Precedent. Prior to the Effective Date of this Lease, Lessor, at its expense, will have furnished to Lessee the following:

(a) a minimum standard staked survey of the Land; and

(b) a commitment for a leasehold owners title insurance policy showing that Lessor is the owner of the Land, subject only to current taxes and assessments not delinquent and normal exceptions, and insuring Lessee's leasehold interest in the Land.

3. Term. The term of this Lease shall be for a period of fifty (50) years, commencing with the Effective Date of this Lease. At the end of the term, the parties contemplate a continuing tenancy by Lessee, and will endeavor in good faith to enter into a renewed Lease with similar provisions.

4. Rent. Lessee shall pay to Lessor as rent for the Land a one time payment of Fifty Dollar (\$50.00) payable on the Effective Date of this Lease.

5. Building. Lessee shall, at its expense, cause to be constructed upon the Land a building not to exceed 50,000 square feet consisting of six (6) volleyball courts, a community center and related space ("Building"). Final building plans and specifications must be approved by Lessor, which approval shall not be unreasonably withheld. Lessee shall obtain all necessary permits and observe all applicable federal, state and local laws and regulations with regard to the construction of the Building. Lessee shall remain the owner of the Building at all times during the term of this Lease. If construction of the Building has not commenced within one hundred

eighty (180) days from the Effective Date of this Lease, then Lessor shall have the right to commence termination of the lease by giving to the Lessee written notice of the proposed termination, and giving Lessee thirty (30) days to cure by commencing construction.

6. Right to Mortgage. Lessee shall have the right to mortgage its interest in the Building and the Land in order to secure a loan to finance the construction or any subsequent reconstruction or remodeling of the Building.

7. Utilities and Maintenance. The parties will enter a separate lease for the Building, which shall set forth the division of costs of utilities and maintenance.

8. Parking. Lessee's guests and invitees shall have the nonexclusive right to use the parking lots adjacent to the Building, which lots are owned by Lessor and which shall be maintained by Lessor. Lessee shall pay to Lessor a reasonable fee for the use and maintenance of the parking lots upon the request of Lessor. To the extent permitted by Indiana law, the Lessor shall grant to Lessee this nonexclusive right to use the adjacent parking lots for as long as the Lessee remains in possession of the Land.

9. Taxes and Assessments. Lessee shall pay, on or before the due date, all taxes and assessments on its own personal property which shall become due and payable after the Effective Date of this Lease with respect to the Building. Proof of payment of all taxes and assessments required to be paid by this paragraph shall be furnished upon request.

10. Insurance. Lessee shall obtain and maintain in force at all times during the term of this Lease the following types of insurance in at least the following amounts:

(a) casualty insurance covering all improvements located on the Land against normal hazards in an amount equal to the initial cost of constructing the improvements;

(b) comprehensive general public liability insurance with respect to the Land and all improvements located thereon, covering Lessee and Lessor against property damage, bodily or personal injury or death with liability limits of at least \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate; and

(c) workers' compensation coverage in the amounts required by law.

Neither party shall be liable to the other for any loss or damage to the Land or Building by fire or any other cause. In the event of any such loss or damage, Lessor and Lessee shall each look solely to their insurers or any third party against which either may have a claim. Lessor and Lessee shall each cause any insurance policy purchased pursuant to the provisions of this Section Eleven to be written so as to provide that insurers waive all right of recovery by way of subrogation against the other party, or its officers, directors, employees or agents.

Proof of the insurance coverages required by this paragraph shall be furnished upon request.

11. Indemnification. To the extent not covered by insurance, Lessee shall indemnify and hold Lessor harmless from any and all liability, claims and actions (including all costs incurred in defending same) resulting from Lessee's use and occupancy of the Land and Building during the term of this Lease.

12. Use. Lessee shall use the Land and Building only as a sports and recreation facility in an appropriate manner, consistent with all applicable laws and regulations, and shall not cause toxic or hazardous substances to be used or stored on the Land or Building. During times that the Building is not used by Lessee, Lessor shall have the right to use the Building as a recreation facility for citizens of the Town of Yorktown, Indiana, and their sub-lessees, invitees or licensees. Representatives of Lessor and Lessee shall meet periodically to schedule their respective use of the Building. The parties will enter into a Building Lease (see attached form) contemporaneously with the execution of this Ground Lease.

13. Eminent Domain. If any part or all of the Land and/or the Building is taken for any public use by right of eminent domain and such taking materially adversely affects Lessee's use of the Land and Building, then Lessee shall have the right to terminate this Lease within thirty (30) days after receipt by Lessee of notice of the exercise of the right of eminent domain. Each party shall be entitled to an award for damages as a result of the exercise of the right of eminent domain in accordance with each party's respective interest in the Land and Building.

14. Quiet Enjoyment. Lessor warrants that Lessee, if it pays the rent and observes all of the provisions of this Lease, shall have the quiet and peaceable enjoyment and possession of the Land, free from any claims of Lessor or anyone claiming by or through Lessor.

15. Rights on Default. If either party shall fail to perform or observe any provision of this Lease to be performed or observed by such party, and if such failure shall not be corrected within thirty (30) days after receipt of written notice from the non-defaulting party of the specific failure, then such party shall be in default and the non-defaulting party shall have the right to terminate this Lease by a written notice of termination delivered to the defaulting party. The rights provided for herein shall be in addition to any other rights available to the parties at law.

16. Notices. Any notice required by this Lease shall be deemed given if delivered to a party either personally or by United States mail or private carrier with return receipt requested at the following addresses:

(a) If to Lessor:

Town of Yorktown, Indiana
Attn: Pete Olson
9800 W. Smith Street
Yorktown, Indiana 47396

(b) If to Lessee:

Munciana Real Estate Company, LLC
Attn: Tim Kuzma
400 S. Walnut Street, Suite 100
Muncie, Indiana 47305

17. Dispute Resolution. Before any action is filed regarding any dispute arising between the parties under this Lease, the dispute shall be first discussed by representatives of the parties. If the dispute is not resolved by the representatives, then the parties shall secure the services of a qualified, independent mediator, selected by agreement of the parties, to assist them in resolving the dispute. The costs of mediation shall be born equally by the parties. The parties agree to fully participate in the mediation process in good faith.

Lessee shall have the right to remove all of its fixtures and personal property from the Building, so long as such removal will not cause damage to the Building.

18. Independent Contractors. The parties are independent contractors with respect to each other and nothing in this Lease shall be construed to create a partnership, joint venture, agency or employment relationship.

19. Assignment. Neither party shall assign its rights or obligations under this Lease without the express written consent of the other. Such consent shall not be unreasonably withheld.

20. Entire Agreement. This Lease contains the entire agreement between the parties with respect to the subject matter hereof and supersedes any prior understandings or agreements between the parties.

21. Amendment. This Lease may not be amended in any way subsequent to the date of execution except by an instrument in writing executed on behalf of each of the parties hereto.

22. Applicable Law. This Lease shall, in all respects, be construed in accordance with the law of the State of Indiana.

23. Recording Memorandum. This Lease shall not be recorded, but a memorandum of this Lease signed by the parties, describing the Land, term, parties and the existence of an option in favor of Lessee, may be recorded in the office of the Recorder of Delaware County, Indiana.

IN WITNESS WHEREOF, the parties have caused this Lease to be signed by their respective duly authorized officer on the dates set forth below.

TOWN OF YORKTOWN, INDIANA

By: 

Printed Name: Stephen R. Lowmy

Title: President

Date: 2-27, 2009

MUNCIANA REAL ESTATE COMPANY,
LLC

By: 

Printed Name: Wesley C. Lyon

Title: President

Date: 2-28-09, 2009

STATE OF INDIANA)
) SS:
COUNTY OF DELAWARE)

Before me, a Notary Public in and for said county and state personally appeared Stephen Jowry, the duly authorized representative of the Town of Yorktown, Indiana, and acknowledged the execution of the above and foregoing document.

WITNESS my hand and seal this 28th day of February, 2009.

My Commission Expires:

Aug. 18th - 2015

Kim A. Huston
Name: Kim A. Huston
County of Residence: Delaware
NOTARY PUBLIC

STATE OF INDIANA)
) SS:
COUNTY OF DELAWARE)

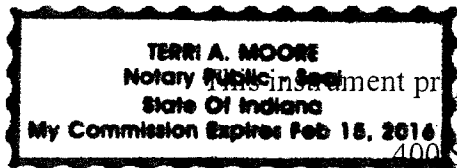
Before me, a Notary Public in and for said county and state personally appeared Wesley C. Lyon, the duly authorized representative of Munciana Real Estate Company, LLC, and acknowledged the execution of the above and foregoing document.

WITNESS my hand and seal this 28th day of February, 2009.

My Commission Expires:

2/15/2016

Terrri A. Moore
Name:
County of Residence: Delaware
NOTARY PUBLIC



This instrument prepared by Steven D. Murphy, Attorney at Law
DeFur Voran LLP
400 South Walnut Street, Suite 200
Muncie, IN 47305

Young's Title

3p
INC

FIRST AMENDMENT TO GROUND LEASE

The Town of Yorktown, Indiana ("Lessor") and Munciana Real Estate Company, LLC ("Lessee") hereby enter into this First Amendment ("Amendment") to the Ground Lease dated February 28, 2009 ("Ground Lease"):

In consideration of the mutual covenants herein contained, Lessor and Lessee agree as follows:

1. Access. As a part of the use and occupancy of the Land leased by Lessor to Lessee and described on Exhibit B to the Ground Lease, consisting of 1.29 acres as described in Exhibit A attached hereto and made a part hereof, Lessor hereby grants to Lessee, its sublessees, successors and assigns, a nonexclusive and irrevocable right of access for the term of the Ground Lease providing ingress and egress for vehicular traffic to and from Delaware County Road 600 West, on, over and across roads, drives and parking lots designated by Lessor, to the Land and parking lots adjacent thereto.
2. Subordination. Lessor (a) hereby subordinates its Lease to a mortgage dated July 20, 2009 ("Mortgage"), by Lessee to STAR Financial Bank ("Bank"); (b) agrees that it will not disturb Lessee's possession of the Land so long as Lessee is not in default under the terms of the Ground Lease; (c) agrees that it will in the event of foreclosure of the Mortgage recognize and accept the Bank as succeeding to all of the rights of the Lessee under the Ground Lease for the remaining balance of the term thereof; and (d) agrees that it will notify the Bank and provide opportunity to cure in the event of any alleged breach of the Ground Lease by Lessee.
3. Ratification. Except as modified herein, all other terms and conditions of the Ground Lease remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Amendment to be signed by their respective duly authorized officer on the date set forth below.

TOWN OF YORKTOWN, INDIANA

By: Peter L Olson

Printed Name: Peter L Olson

Title: Town Manager

Date: July 24, 2009

MUNCIANA REAL ESTATE COMPANY, LLC

By: Wesley C. Lyon

Printed Name: Wesley C. Lyon

Title: Member

Date: July 27, 2009



* 2009R17978 *

2009R17978

JANE LASATER

DELAWARE COUNTY RECORDER

RECORDED ON

08/04/2009 03:51:38PM

REC FEE: 16.00

7 of 15

Young's Title

4P
2CR

* 2 0 1 0 R 1 7 7 2 1 *

2010R17721

JANE LASATER
DELAWARE COUNTY RECORDER
RECORDED ON

11/16/2010 12:29:04PM

REC FEE: 19.00

PAGES: 4

Second Amendment to Ground Lease

This SECOND AMENDMENT TO GROUND LEASE is entered into this 3rd day of November, 2010 between **The Town of Yorktown, Indiana** ("LESSOR") AND **Munciana Real Estate Company, LLC**, an Indiana Limited Liability Company ("LESSEE"). as follows

- 1 This Amendment is hereby added to and is now a part of a certain GROUND LEASE dated February 27, 2009, recorded August 4, 2009 in the Office of the Recorder of Delaware County, Indiana, as Instrument Number 2009R17977 and a FIRST AMENDMENT TO GROUND LEASE executed July 2009, recorded August 4, 2009 as Instrument Number 2009R17978 in the Office of the Recorder of Delaware County, Indiana, ✓
- 2 In connection with a loan to Lessee from Indiana Statewide Certified Development Corporation ("ISCDC"), to be assigned to the US Small Business Administration ("SBA") in the amount of \$758,000, Lessor and Lessee hereby agree to the following provisions, which will now become part of the GROUND LEASE
 - a Lessor specifically provides its consent to allow Lessee to encumber the leasehold estate by a leasehold mortgage in favor of ISCDC/SBA and hereby subordinates the GROUND LEASE to said leasehold mortgage and a fixture filing securing the building
 - b Lessor specifically provides its consent to allow Lessee to provide ISCDC/SBA with a Collateral Assignment of GROUND LEASE as security for the loan
 - c The GROUND LEASE will not be modified or cancelled without ISCDC's or SBA's approval
 - d CDC or SBA has a right to acquire the leasehold at a foreclosure sale or by assignment and has an unqualified right to reassign the leasehold estate (along with any right to exercise any options) Lessor may not unreasonably withhold, condition, or delay the reassignment
 - e CDC, SBA, or other successor has a right to sublease the property upon acquisition of the leasehold
 - f Upon the default of the tenant and/or termination of the lease, CDC will be provided written notice and at least 60 days to cure the default. Notice shall be provided to the CDC as follows: Indiana Statewide Certified Development Corporation, 4181 East 96th Street, Suite 200, Indianapolis, IN 46240
 - g CDC and SBA are hereby given the right to share in hazard insurance proceeds resulting from damage to improvements and the right to share in condemnation proceeds.

LESSOR:

The Town of Yorktown, Indiana

BY Peter L Olson
Signature

Peter L Olson
Printed Name

Town Manager
Title

LESSEE:

Munciana Real Estate Company, LLC

BY Tim L. Kuzma
Tim L. Kuzma, Member

BY: Wesley C. Lyon
Wesley C. Lyon, Member

BY: Michael W. Engenfelder
Michael W. Engenfelder, Member

BY: Philip B. Leswing
Philip B. Leswing, Member

STATE OF INDIANA)
COUNTY OF DELAWARE) SS

Before me, the undersigned, a Notary Public for the State of Indiana, personally appeared Peter L. Olson being Town Manager of The Town of Yorktown, Indiana, first duly sworn by me upon their oath. State that the facts alleged in the foregoing instrument are true. Signed and sealed this 3rd day of November, 2010.

My Commission Expires: August 4, 2016
My County of Residence: Delaware

Notary Public

Steven D. Murphy
Steven D. Murphy

STATE OF INDIANA)
COUNTY OF Delaware) SS.

Before me, the undersigned, a Notary Public for the State of Indiana, personally appeared Tim L. Kuzma, Wesley C. Lyon, Mihcael W. Lingenfelter, and Philip B. Leswing, Members of Munciana Real Estate Company, LLC, first duly sworn by me upon their oath, state that the facts alleged in the foregoing instrument are true. Signed and sealed this 3rd day of November, 2010.

Susan B. Sanders
Notary Public

My Commission Expires. _____
My County of Residence _____

This instrument was prepared by
Amy S. Thurmond, Attorney at Law
4181 E. 96th St, Suite 200
Indianapolis, IN 46240

"I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law." Amy S. Thurmond, Attorney at Law

LEGAL DESCRIPTION

That portion of land situate in the North Half of the Northwest Quarter of Section 15, Township 20 North, Range 9 East of the Second Principal Meridian in Delaware County, Indiana, being more particularly described as follows: Considering the West line of the Northwest Quarter as bearing South 00°16'11" East with all other bearings herein contained relative thereto; Commencing at a stone in road casting at the Northwest corner of said Northwest Quarter; thence on said West line South 00°16'11" East a distance of 798.28 feet; thence South 90°00'00" East a distance of 256.71 feet to the Point of Beginning; thence continuing South 90°00'00" East a distance of 175.00 feet; thence North 00°00'00" West a distance of 25.00 feet; thence South 90°00'00" East a distance of 120.00 feet; thence South 00°00'00" East a distance of 295.00 feet; thence North 90°00'00" West a distance of 120.00 feet; thence North 00°00'00" West a distance of 150.00 feet; thence North 90°00'00" West a distance of 175.00 feet; thence North 00°00'00" West a distance of 120.00 feet to the Point of Beginning. Containing 1.29 acres (56,400 sq. ft.) and being subject to all Easements and Rights-of-Way.