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Lincoln County, North Carolina
Danny R. Hester, Register of Deeds

This instrument was prepared by and return to:

The Jonas Law Firm, PLLC
Robert J. Brown
1258 NC-16 Business
Denver, NC 28037

EASEMENT AND MAINTENANCE AGREEMENT

THIS EASEMENT AND MAINTENANCE AGREEMENT (this "**Agreement**") is made as of the 11th day of September, 2020, by and between **BBC Industrial, LLC**, a North Carolina limited liability company ("**BBC**"), and **MARS 5 HOLDINGS**, a North Carolina limited liability company ("**MARS**" and, together with BBC, and their respective successors and assigns, the "**Parties**" and, individually, a "**Party**").

BACKGROUND:

A. BBC is the owner of fee simple title to those certain tracts and parcels of real property located in Lincoln County, North Carolina consisting of Lots 1, 2, 3, and 4 as shown and delineated on those certain plats entitled "Minor Subdivision Prestige Business Park Map 1" and "Minor Subdivision Prestige Business Park Map 2" and being recorded in Plat Book 18 at Pages 62 and 63 in the Lincoln County Public Registry (collectively the "**Plat**"), and by this reference a description of said lots by metes and bounds are fully incorporated herein (the "**BBC Parcel**").

B. MARS has acquired from BBC, and is the owner of, fee simple title to Lot 4 as shown on the Plat (the "**MARS Parcel**"). The BBC Parcel and the MARS Parcel are sometimes referred to individually as a "**Parcel**" and collectively as the "**Parcels**".

C. Lots 1 -6 as shown on the Plat, which include the BBC Parcel and the MARS Parcel, are all part of the subdivision known as Prestige Business Park as shown on the Plat, which is sometimes hereinafter referred to as the "**Development**".

C. The Parties intend to address their respective rights and obligations with respect to the Easements (as defined below) on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

submitted electronically by "The Jonas Law Firm - Denver"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Lincoln County Register of Deeds.

1. Recitals. The foregoing recitals are true and are incorporated herein as a part of this Agreement.

2. Definitions. "Grant" or "Grants" as used herein shall mean to declare, give, grant, bargain, sell and convey an easement in the real property described in such grant to the extent specified, and shall be deemed to create an easement that is not personal but is appurtenant to and runs with the property of the specified grantee and shall burden the property of the specified grantor forever, unless a shorter time is set forth, to have and to hold each of the easements herein unto the specified grantee(s) and their respective heirs, successors and assigns, invitees, licensees, lessees, representatives, occupants, agents, employees and contractors (collectively, the "Affiliated Parties"), for the uses and purposes set forth herein. "Lot" or "Lots" shall mean the enumerated lots as shown on the Plat. "Owner" or "Owners" shall mean current and/or future record owners, whether one or more persons or entities, of a fee simple title to any Lot or portion thereof, which includes MARS.

3. Grant of Easements. Subject to the terms and conditions of this Agreement, the Parties Grant to each other, as applicable, the Access Roads Easement, Sign Easement and the BBC Temporary Construction Easement (as such terms are defined below, and collectively, the "Easements") on the terms and conditions set forth herein:

a. Access Roads Easement to Owners. BBC does hereby Grant to Owners a perpetual non-exclusive access easement over, through, and across the Access Road depicted as "JAMESON WAY - 50' ACCESS EASEMENT" on the Plat for the purposes of vehicular and pedestrian access, ingress and egress to and from the Development and Quarry Lane and to use, enjoy, and maintain such Access Road as set forth herein (the "Access Roads Easement"). "Access Roads" as used herein shall mean the access roads and curb cuts, and related infrastructure and improvements.

b. Sign Easement. BBC hereby reserves perpetual, non-exclusive easements over, through and across the southeastern and southwestern corners of Lot 6 as more particularly shown on Exhibit A attached hereto and incorporated herein by reference for the purpose of installing, using, maintaining, repairing, restoring and replacing a monument sign and a directional sign as set forth herein (collectively the "Sign Easement"). "Sign" as used herein shall collectively mean the monument sign, directional sign and related utilities to be constructed and installed by BBC within the Sign Easement. Owners, reserve the right, at its election, to have the business name and/or logo, for the business operating from the any Lot, from time to time, on a sign panel on the signs located within the Sign Easement (the "Sign Panel"), and BBC hereby Grants to Owners a perpetual, exclusive easement to use the Sign Panel as may be located on the signs from time to time (the "Sign Panel Easement").

c. BBC Temporary Construction Easement. Owners hereby grant to BBC a temporary, non-exclusive construction easement over, through and across those portions of the Lots located immediately adjacent to the Access Roads (the exact location of which shall be determined following the date hereof by mutual agreement of the Parties) (the "BBC Temporary Construction Easement Area"), for the purpose of allowing BBC to configure, construct and install, at its sole cost and expense, the Access Roads and the Utilities Improvements (as defined below) (the "BBC Temporary Construction Easement"). The BBC Temporary Construction Easement is subject to the following terms and conditions: (i) any access to or entrance upon the Lots will be performed in a manner and at such times so as to minimize any inconvenience to Owners and its Affiliated Parties;

(ii) the size of the BBC Temporary Construction Easement Area shall be the minimum amount necessary for BBC to complete the Access Roads and the Utilities Improvements; (iii) BBC shall promptly repair any damage to the Lots caused by BBC (or its designated agents and contractors) in exercising its rights granted herein; (iv) subject to the easement rights granted herein, Owners retain, reserve, and shall continue to enjoy use of the BBC Temporary Construction Easement Area for any and all purposes which do not materially interfere with the easement, rights, and privileges provided by the BBC Temporary Construction Easement; and (v) BBC shall not interfere with the conduct of business operations by any Owner, or tenant or occupant of the Lots. The BBC Temporary Construction Easement shall automatically expire and be of no further force or effect upon BBC's completion of construction and installation of the Access Roads and the Utilities Improvements. "**Utilities Improvements**" as used herein shall mean the basins and storm water facilities serving the Development.

4. **Nature and Scope of Easement.** The Parties and their respective Affiliated Parties shall use the Easements solely for the purposes set forth herein, and may not use such Easements for any other purpose. Each Party reserves the right to use its respective Lots for any purpose not inconsistent with the other Party's use and enjoyment of its Easements granted in this Agreement, including the right to grant one or more easements upon, over and through its respective Lots to other parties for any purpose, provided that such other easements do not violate the terms of this Agreement or interfere with either Party's rights hereunder with respect to the Easement. No barrier or structure (whether temporary or permanent) shall be erected or permitted within or across any Parcel which would prevent reasonably convenient use of the Easements and rights granted herein; provided, however, the foregoing provision shall not prohibit the installation of landscaping improvements or additional utility improvements, lighting standards, monument signs, sidewalks, medians, bumper guards, curbing, stop signs, and other forms of traffic controls permitted under any governmental rules, ordinances, statutes and laws and any private restrictions applicable to the Lots or the easement areas referenced herein, and any other improvements expressly provided for herein (if any) so long as such items do not frustrate the purpose of the Easements and rights granted herein.

5. **Maintenance of the Sign.** BBC shall be responsible, at its sole cost and expense, for the construction, installation, maintenance (in good condition and repair) and replacement of the Sign in compliance with all Applicable Law (as defined below), including obtaining all permits and approvals as may be required from time to time in connection therewith, including, without limitation, ensuring that any and all lighting of the Sign is properly functioning ("**Sign Maintenance**"). Notwithstanding the foregoing, each Owner shall be responsible for maintaining, repairing and replacing its Sign Panel, and shall have the right to update, change, and modify the business name, information and/or logo on the Sign Panel to reflect any changed use of the Lot, at Owner's sole expense. "**Applicable Law**" as used herein shall mean any and all present and future governmental laws, ordinances, rules, regulations and orders applicable to the Lots and any party's use and occupancy thereof including, but not limited to, the Americans with Disabilities Act of 1990, 42 USC Section 12101 et. seq., and all analogous state and local laws, and all rules and regulations promulgated to further the purpose thereof.

6. **Maintenance of the Access Roads.**

a. **Maintenance.** Subject to the terms and conditions of this Agreement, BBC shall be responsible, at its sole cost and expense, for the permitting, construction and installation of the Access Roads in compliance with Applicable Law, and for the Access Roads Maintenance (as defined below). In performing the Access Roads Maintenance, BBC shall not unreasonably interfere

with the business operations being conducted on the Lots. If BBC shall fail to perform the Access Roads Maintenance pursuant to the terms and conditions of this Section 6(a) and if such failure continues for thirty (30) business days following written notice delivered to BBC of such failure (or such shorter notice as is reasonable in the case of an emergency, including no notice if reasonable), then Owners shall have the right, but not the obligation, to perform such Access Roads Maintenance without relieving BBC of its obligations under this Section 6(a), and without constituting a waiver by Owners with respect to same or diminishing any other rights and remedies that Owners may have under this Agreement and/or at law or in equity, and BBC shall reimburse Owners in accordance with Article 6(c) below for all costs and expenses reasonably incurred by Owners in performing such obligations on behalf of BBC. "**Access Roads Maintenance**" as used herein shall mean maintaining the Access Roads in good condition and repair and in compliance with Applicable Law, including obtaining all permits and approvals as may be required from time to time in connection therewith, and including, without limitation, repairing potholes and pavement cracks; promptly removing (to the extent reasonably practicable) snow, ice, surface water and debris; resurfacing, restriping and repairing the Access Roads when reasonably required; planting and weeding all landscaping; and ensuring that any and all lighting is properly functioning.

b. **Owner's Maintenance Expenses**. Commencing on the date that each Owner acquires a Lot, each Owner of a Lot agrees to reimburse BBC for one-sixth (1/6) of the reasonable costs and expenses actually incurred by BBC in performing the Access Roads Maintenance and Sign Maintenance (collectively, "**Maintenance Expenses**").

c. **Reimbursement**. Any time that a Party (the "**Performing Party**") incurs Maintenance Expenses that are reimbursable by the other Party (the "**Contributing Party**") under the terms of this Agreement, the Performing Party shall provide the Contributing Party with an itemized statement, together with reasonable supporting documentation, as to the Maintenance Expenses incurred. The Contributing Party shall pay for and reimburse the Performing Party within thirty (30) days following receipt of such documentation. If payment is not timely made, then (i) interest shall accrue thereon from the date such payment is due until paid at the rate of eight percent (8%) per annum, (ii) the Performing Party shall be deemed to have contracted with the Contributing Party for such work and materials, and the Performing Party shall have the right, in addition to all of its other available rights and remedies, to file a mechanic's lien against the Contributing Party's Parcel for the delinquent amount in accordance with Chapter 44A of the North Carolina General Statutes; and (iii) if a legal proceeding is initiated by the Performing Party, the Contributing Party shall be responsible for all reasonable costs (including reasonable attorneys' fees) incurred by the Performing Party in connection therewith.

7. **Notice**. Any notices, requests, or other communications required or permitted to be given under this Agreement shall be in writing and shall be delivered by hand, courier (including United Parcel Service, Federal Express, and other such courier services), or mailed by United States certified mail, return receipt requested, postage prepaid and addressed to each Party at the addresses provided below (and with a required copy to any other party so designated in writing by any Party from time to time). Any such notice, request, or other communication shall be considered received on the date of hand or courier delivery or on actual receipt following deposit in the United States mail as provided above. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice was given shall be deemed to be receipt upon the date of attempted delivery. Each Party may from time to time and at any time change its mailing address(es) under this Agreement, and any notice, request or other communication required or permitted to be

given by a Party may be given by their respective counsel. The addresses of the Parties are as follows:

BBC: BBC Industrial, LLC
Attn: Brian Mahoney/Steve Bailey
701 S. Laurel St, Suite 1
Lincolnton, NC 28092

MARS: MARS 5 Holdings, LLC
Attn: Jerod Lutz
PO Box 1535
Denver, NC 28037

9. Indemnification. Each Party (the "Indemnifying Party") agrees to indemnify, defend and hold harmless the other Party and any of such other Party's contractors, agents and employees from and against any and all losses, damages, costs (including costs of suits and attorneys' fees), liabilities or cause of action(s) arising from (i) the failure to perform such Party's obligations under this Agreement, and/or (ii) the negligence or willful misconduct of the Indemnifying Party or any of its agents, contractors or employees in connection with such party's use of the Access Roads or of its respective Easements, except to the extent such losses, damages, costs, liabilities or cause of action(s) are due to the negligence or willful misconduct of the other Party or its contractors, agents or employees.

10. Miscellaneous.

a. Amendment. This Agreement and the exhibits attached hereto contain the entire agreement between the Parties concerning the subject matter of this Agreement. No modification or amendment of this Agreement shall be effective unless made in writing and executed by each Party. Without limiting the generality of the foregoing, it is understood that (i) as referenced above, the specific location of certain Easements are not known with specificity as of the date hereof and (ii) once the specific location of said easement areas referenced above are known with specificity, upon any Party's request, the Parties shall enter into an amendment to this Agreement to describe said easement areas with specificity.

b. Governing Law. This Agreement shall be governed by the laws of the State of North Carolina. Should any provision hereof be declared invalid by legislative, administrative or judicial body, the other provisions hereof shall remain in full force and effect and shall be unaffected by same.

c. Counterparts. This Agreement may be executed in counterparts, all of which taken together shall be deemed one original when executed by both Parties hereto.

d. Agreement Shall Continue Notwithstanding Breach. It is expressly agreed that no breach of this Agreement shall (i) entitle any Party to cancel, rescind, or otherwise terminate this Agreement, or (ii) defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value as to any part of the Parcels subject hereto. However, such limitation shall not affect in any manner any other rights or remedies which a Party may have hereunder by reason of any such breach.

e. No Waiver. The failure of any Party to insist upon strict performance of any of the terms, covenants or conditions hereof shall not be deemed a waiver of any rights or remedies that Party may have hereunder, or at law or in equity, and shall not be deemed a waiver of any subsequent breach or default in any of such terms, covenants or conditions. No waiver by any Party of any default under this Agreement shall be effective or binding on such Party unless made in writing by such Party and no such waiver shall be implied from any omission by a Party to take action in respect to such default. No express written waiver of any default shall affect any other default or cover any other period of time other than any default and/or period of time specified in such express waiver. One or more written waivers or any default under any provision of this Agreement shall not be deemed to be a waiver of any subsequent default in the performance or the same provision or any other term or provision contained in this Agreement.

f. Covenants Run with the Land; Binding Effect. The terms of this Agreement and all easements established by this Agreement shall constitute covenants running with, shall be appurtenant to, and shall benefit and burden, the Lots as set forth herein. All terms of this Agreement and all easements established by this Agreement shall inure to the benefit of, and be binding upon, the Parties hereto and their respective heirs, executors, personal representatives, successors and assigns, and any tenants and occupants thereof.

g. No Dedication. Nothing contained herein shall create a gift or dedication of any portion of the Lots to the general public or for any public purpose, it being the intention of the Parties that this Agreement be strictly limited to the purposes herein express.

h. No Association. This Agreement shall not create an association, partnership, joint venture, or a principal and agency relationship between the Parties.

i. Captions. The captions and title of the Sections and paragraphs of this Agreement are for convenience only and are not intended to affect the interpretation or construction of this provisions herein contained.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

BBC:

BBC Industrial, LLC


By: 
Steven Bailey, President

COUNTY OF LINCOLN

STATE OF NORTH CAROLINA

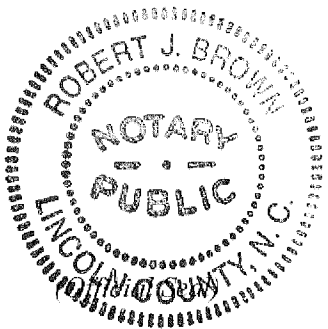
I certify that the following person personally appeared before me this day, acknowledging to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Steven Bailey, President.

Date: September 14, 2020


Official Signature of Notary

ROBERT J BROWN
Notary's printed or typed name, Notary Public

My commission expires: 02/24/2021



[SIGNATURES CONTINUE ON FOLLOWING PAGE]

MARS:

MARS 5 HOLDINGS, LLC

By: *Jerod R. Lutz*
Jerod R. Lutz, Member

COUNTY OF NORTH CAROLINA

STATE OF NORTH CAROLINA

I certify that the following person personally appeared before me this day, acknowledging to me that s/he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Jerod R. Lutz, Member.

Date: September 11, 2020.

Mindy D. Cody
Official Signature of Notary

[Notary Stamp/Seal]

Mindy D. Cody
Notary's printed or typed name, Notary Public

My commission expires: September 3, 2024

