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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

In re:

THE FALLS EVENT CENTER LLC,

Debtor.

**Bankruptcy Case No. 18-25116
Chapter 11**

Honorable R. Kimball Mosier

**REPLY MEMORANDUM IN SUPPORT OF CREDITOR TROLLEY SQUARE
VENTURES, LLC'S MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

Pursuant to 11 U.S.C. § 362(d), Rule 4001 of the Federal Rules of Bankruptcy Procedure and Local Rule 4001-1(a), (b), Trolley Square Ventures, LLC, as creditor in this bankruptcy proceeding ("Creditor"), by and through counsel, hereby files its Reply Memorandum in support of its Motion for Relief from the Automatic Stay ("Motion") as follow:

FACTS

1. Based on The Falls Event Center LLC's (the "Debtor") objection to Creditor's Motion, Debtor admits or does not dispute the following facts, among others:

a. Debtor admits that The Falls at Trolley Square, LLC (the "Tenant") is not a debtor in bankruptcy, neither in this case nor in any other case pending in any other court.

- b. Debtor admits that the Tenant is a wholly owned subsidiary of the Debtor.
- c. Debtor admits that it executed a Guaranty of the Lease Agreement executed between the Creditor and Tenant (the “Lease”).
- d. Debtor does not deny that Creditor sent notification to Tenant *prior* to the filing of this Bankruptcy case that the Lease was terminated and for Tenant to vacate.
- e. Debtor does not deny that Tenant has remained at the subject Property without making any monthly Lease payments since being demanded to vacate.
- f. Debtor admits that the Lease is correctly not listed on Schedule G as an executory contract or unexpired lease for the Debtor.
- g. Debtor admits that there was a change in management of the Debtor, which is directly on point with the provision that Creditor cited as a violation of the Lease and grounds for termination of the Lease.
- h. Debtor admits that the Debtor, not the Tenant, is conducting business activities at the Property, despite having no lease or other authority to do so from Creditor.

ARGUMENT

Debtor does not oppose Creditor’s argument that the automatic stay does not apply to the Tenant

2. Creditor’s primary and foundational argument in its Motion was that the automatic stay does not apply or extend to the Tenant because it is a wholly owned subsidiary of the Debtor and filed its motion “out of an abundance of caution, and not as an admission that the automatic stay applies to the Lease as it is between 2 non-debtors.” Mot. [dkt. 88], at ¶ 16.

3. As legal support that the automatic stay does not apply to the Tenant, Creditor cited *Kreisler v. Goldberg*, 478 F.3d 209, 214 (4th Cir. 2007), stating that “[t]he fact that a parent

corporation has an ownership interest in a subsidiary, however, does not give the parent any direct interest in the *assets* of the subsidiary.” (Emphasis in original.) The Court in *Kreiser* went on to hold that “an action to obtain possession or exercise control over [subsidiary’s] property was not an action to obtain possession or exercise control over property of Kreiser’s bankruptcy estate.” *Id.*¹

4. Here, the Lease at issue was not entered into by the Debtor, but by the Debtor’s subsidiary, and is therefore, not property of the estate. Accordingly, the automatic stay does not apply to the Lease, nor does it protect eviction or other action to enforce the Lease by Creditor against the non-debtor Tenant.

¹ Many other courts have also ruled that that automatic stay does not apply to subsidiaries of the debtor. *See e.g. In re Panther Mountain Land Development, LLC*, 686 F.3d 916, 923 (8th Cir. 2012) (“[T]he automatic stay does not, in general, apply to actions against parties who enjoy factual or legal relationships with a debtor, such as a debtor’s wholly owned subsidiaries.”); *In re Furlong*, 437 B.R. 712, 721 (Bankr. D. Mass. 2010) (“And unless a corporation itself is a bankruptcy debtor, the automatic stay afforded to an individual debtor under § 362(a) does not extend to the assets of a corporation in which the debtor has an interest, even if the interest is 100% of the corporate stock.”); *In re HSM Kennewick, L.P.*, 347 B.R. 569, 571 (Bankr. N.D. Tex. 2006) (“It is an elementary principle of corporate law that a corporation and its stockholders are separate entities and that title to corporate property is vested in the corporation and not in the owners of the corporate stock. Even where one hundred percent of a subsidiary’s stock is owned by the shareholder in question, that shareholder has not acquired, and has no property interest in, specific assets of the subsidiary.”); *In re Winer*, 158 B.R. 736, 743 (Bankr. N.D. Ill. 1993) (“Absent a piercing-the-corporate veil situation (and none is claimed to exist here), the debtor’s presence in the bankruptcy court cannot block actions implicating the nondebtor subsidiary. And importantly, the debtor cannot invoke the automatic stay just because the action against the nondebtor subsidiary will impact on the value of the debtor’s stock.”); *Rimco Acquisition Co. v. Johnson*, 68 F. Supp. 2d 793, 797 (E.D. Mich. 1999) (“Plaintiff has offered no support for its position that a bankruptcy filing by a parent company automatically stays actions against a wholly owned subsidiary.”); *In re Tower Automotive, Inc.*, 356 B.R. 598, 603 (Bankr. S.D.N.Y. 2006) (“It is a basic principle of bankruptcy law that each separate individual or corporate entity must file a separate bankruptcy petition and that each entity is treated separately unless grounds for substantive consolidation are demonstrated.”)

5. Debtor, in its opposition to Creditor's Motion, asserts that the existence of the Debtor's guarantee of the Lease, and the Debtor's potential liability thereunder, implicates the automatic stay because Creditor's actions against the Tenant "will have the effect of fixing the Debtor's guarantor liability". *Debtor's Opposition*, at 12 [Docket # 136]. The mere fact that the Debtor is "potentially" liable under a guarantee does not prevent action against non-debtor defendant such as the Tenant. "It is clearly established that the automatic stay does not apply to non-bankrupt co-defendants of a debtor 'even if they are in a similar legal or factual nexus with the debtor.'" *Seiko Epson Corp. v. Nu-Kote Intern., Inc.* 190 F.3d 1360 (Fed. Cir. 1999) (internal citation omitted).

6. In the event that the non-debtor Tenant is evicted and found liable to Creditor for damages, and the non-debtor Tenant is unable to satisfy such damages, it is clear that the automatic stay prevents Creditor from suing the Debtor to collect outside of this bankruptcy proceeding. The Debtor will not be forced to litigate in multiple forums over multiple claims. The Debtor maintains all of its defenses as a guarantor, which it can assert as an objection to Creditor's proof of claim, and if the Debtor is correct that Creditor not only cannot terminate the lease as argued, and that Creditor's attempt to terminate the lease justifies Tenant from paying any rent, then Debtor has no concern at all.

7. Furthermore, Debtor argues that the automatic stay should somehow apply because the Debtor has not finished formulating its plan, and it may want to use the Property. Debtor asserts its internally contradictory position as follows:

"Although it is true that the Lease is not property of the Debtor's estate at this time, since the Lease is with the Debtor, by analogy the Debtor should be given time and space to formulate its plan or reorganization, which may include the Debtor's continued operation of the facility at Trolley Square that is being leased by the Tenant under the Lease."

Debtor's Opposition, at 13. Debtor cannot logically argue that the Lease is not property of the estate, and that the Lease is with the Debtor. It cannot simply be both ways. Those two conditions are mutually exclusive. The facts are that the Lease is not with the Debtor. The Debtor has no property rights in the Lease, and the Debtor has absolutely no right to be operating a business at the Property. The Debtor is a trespasser at the Property. This Court cannot allow the Debtor to become a squatter at the Property, then assert it should be allowed to stay because it might use it in its plan of reorganization.

8. Accordingly, the Court should rule that the automatic stay does not apply to the Creditor's actions against the Tenant, and the Creditor may pursue eviction procedures and all other rights under the Lease and at law, in Creditor's discretion against the Tenant. However, the automatic stay remains in regards to any collection efforts against the Debtor as a result of the Lease.

Debtor's alleged defenses to the termination of the Lease should not be resolved in this action because the Lease and the Tenant are not part of this action

9. In lieu of addressing or opposing Creditor's fundamental issue that the automatic stay does not apply, Debtor simply argues over the merits of Creditor's allegations of a breach of the Lease. Debtor argues that the Lease was not validly terminated because the change in management only affected the Debtor, not the Tenant's management. Debtor's argument has no bearing on this Court's analysis of whether the automatic stay applies.

10. Tenant may assert this defense, or any other defenses, to Creditor's notification that the Lease is terminated in another action if such an opportunity arises. This bankruptcy action is

not the appropriate court or venue to adjudicate whether two non-bankruptcy parties terminated a Lease which is also not subject to this bankruptcy or part of the estate.

11. Notably, Debtor's argument that the termination is invalid because the only change of management was with the Debtor, not the Tenant, is nonsensical. The Lease states: "In addition to the foregoing, the transfer or change of management control of Tenant **and/or Tenant's parent** and Tenant's and/or Tenant's parent's controlling shareholders/interest holders, shall be deemed a Transfer within the meaning and provisions of this Lease for which Landlord's prior written consent is required." *See* Lease, 7(e), Ex. A. to Mot. [dkt. 88] (emphasis added). The Debtor admits that there was changes in the Debtor's (parent's) management, stating "any management changes were for Debtor The Falls Event Center, LLC. There was no change or transfer of management control for the Debtor's subsidiary, the Tenant." Debtor's Opp. [dkt. 136], at 2, ¶ 5. Debtor admits the grounds for the breach and termination of the Lease.

12. In addition, since the filing of its Motion, Creditor has learned of additional breaches of the Lease by the Tenant. Creditor and Tenant executed a reinstatement of the Lease during November of 2007 ("Reinstatement") after Tenant defaulted on the Lease. *See* Reinstatement, Ex. A.

13. Pursuant to the terms of the Reinstatement, all the terms of the Lease were incorporated into the Reinstatement and additional terms were added, including, but not limited to, the following:

a. In the Event of Default, as defined in the Lease and Reinstatement, and termination of the Lease, Tenant agreed that "all contracts in which Tenant considers as accounts receivables (Event Booking Agreement), without judicial action, shall be

automatically assigned to Landlord [Creditor]. All remaining amounts owed to Tenant as a result of those contracts shall be payable to Landlord [Creditor]. Existing or future event contracts shall not be transferred or assigned after November 2, 2017 without the written consent of Landlord [Creditor].” *See* Reinstatement, at 1(c), Ex. A.

b. Tenant agreed to multiple terms and provisions regarding a duty to immediately establish and maintain a bank account at US Bank in order to, among other things, pay rent, “deposit and collect 100% of its revenue generated from events”, allow Creditor to view the account transactions at all times, and allow Creditor to view the funds in the account as an escrow account held in favor of Creditor in the event that the Lease is terminated. *Id.* at 1(d)(1), (5), (6), Ex. A.

c. Tenant’s failure to perform any to the terms and conditions of the Reinstatement shall be an Event of Default as set forth in the Lease. *Id.* at 6, Ex. A.

14. After Debtor filed its Petition, representatives of Debtor, Landlord, and Creditor had a meeting on August 30, 2018, wherein Creditor learned that all contracts for events are with the Debtor, not the Tenant, and all deposits are with the Debtor, not the Tenant. Creditor also learned at the 341 meeting that Tenant terminated its bank account at US Bank.

15. Accordingly, the Tenant is not only in breach of the Reinstatement and Lease by failing to assign the contracts to Creditor and maintain a bank account with the deposits, but also misrepresented such terms in the Reinstatement as the Tenant is not on any contracts.

16. However, as with the Tenant’s previously cited breach, this Court is not the appropriate venue to resolve the Tenant’s additional breaches of the Lease. Tenant will have its own day in Court to answer and defend against these breaches.

17. Finally, the Debtor argues that the Creditor's Motion is premature because the Debtor is still developing its plan for reorganization. In its argument, the Debtor again recognized that the Tenant and the Lease are not part of the bankruptcy action. Thus, this argument is another attempt by the Debtor to assist the Tenant in remaining at the Property without paying monthly lease payments and is, in effect, the Debtor's attempt to provide the Tenant with bankruptcy protection and protection of the automatic stay *without* filing a bankruptcy petition. As cited above, the automatic stay and bankruptcy protections do not extend to a subsidiary of the debtor.

18. In summary, Tenant is in violation of the Lease, refuses to vacate the subject Property, and refuses to make monthly Lease payments. The automatic stay and other protections as a result of Debtor's bankruptcy Petition do not append to other non-parties and agreements not subject to this bankruptcy proceeding. Tenant will be afforded an opportunity to argue the validity of the termination, and additional breaches alleged herein, but not in this Court. The automatic stay does not apply to Creditor's efforts in evicting Tenant from the premises and pursuing Creditor's rights against Tenant under the Lease and at law. However, the automatic stay does preclude any collection efforts against the Debtor in regards to its guaranty of the Lease.

WHEREFORE, Creditor prays for the following relief:

1. That Creditor be granted relief from the automatic stay to exercise all of its legal rights under the Lease and at law to evict Tenant and retake possession of the Property, as well as pursue collection of damages against non-debtor guarantors;
2. The Court order that the lease may not be assumed by the Debtor or any appointed Trustee as part of the bankruptcy estate; and

3. For such other and further relief as this Court deems just and proper.

DATED this 26th day of September, 2018.

CLYDE SNOW & SESSIONS

/s/ James W. Anderson

James W. Anderson

*Attorneys for Creditor Trolley Square
Ventures, LLC*

DESIGNATION OF PARTIES TO BE SERVED

Service of the foregoing **REPLY MEMORANDUM IN SUPPORT OF CREDITOR TROLLEY SQUARE VENTURES, LLC'S MOTION FOR RELIEF FROM THE AUTOMATIC STAY** shall be served to the parties and in the manner designated below:

By Electronic Service: I certify that the parties of record in this case as identified below, are registered CM/ECF users and will be served notice of entry of the foregoing Order through the CM/ECF system:

- James W. Anderson jwa@clydesnow.com, jritchie@clydesnow.com
- David P. Billings dbillings@fabianvancott.com, mparks@fabianvancott.com
- Laurie A. Cayton tr laurie.cayton@usdoj.gov,
James.Gee@usdoj.gov;Lindsey.Huston@usdoj.gov;Suzanne.Verhaal@usdoj.gov
- Oren Buchanan Haker oren.haker@stoel.com
- Mark E. Hindley mehindley@stoel.com, rross@stoel.com;slcdocket@stoel.com
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- Richard C. Terry richard@tjblawyers.com, cbcecf@yahoo.com
- United States Trustee USTPRegion19.SK.ECF@usdoj.gov
- Brent D. Wride bwride@rqn.com, docket@rqn.com;pbrown@rqn.com

/s/ James W. Anderson
James W. Anderson

EXHIBIT A

AGREEMENT

COMES NOW, the undersigned THE FALLS AT TROLLEY SQUARE, LLC (“Tenant”) and TROLLEY SQUARE VENTURES, LLC (“Landlord”) and they and each of them hereby mutually agree to the following:

RECITALS

Tenant and Landlord entered into Lease on the 22nd day of September, 2014. See Lease Exhibit 1, which is now incorporated by reference into this Agreement including all of its terms and conditions, amendments should there be any and guarantor agreements.

Landlord Leased to Tenant certain space within the Trolley Square Shopping Center more particularly identified at Unit P-103 and E-101 which contains a total of approximately 14,421 square feet.

In addition to the Lease and pursuant to the terms thereof the parties, on October 8, 2014, authorized a filing of a UCC Financing Statement, with the Utah Department of Commerce-Division of Corporations and Commercial Code No. 5743187 granting Landlord a security in all of Tenant personal property on the premises. The security interest secures Tenant performance of all of the terms and conditions of the Lease. See Exhibit 2.

Tenant failed to pay its rent obligation to Landlord. Failure to pay rent is an “an Event of Default” pursuant to the terms of the Lease. See Section 31 of the Lease. Landlord served Tenant was a with written notice of this Event of Default and termination of the Lease on the 2nd day of November 2017. See Exhibit 3.

Landlord, after terminating the Lease, re-entered and took possession of the property pursuant to Section 32 of the Lease.

Tenant has requested that Landlord reinstate the Lease and Landlord has agreed to do so but only upon the following terms and conditions as set forth herein.

TERMS AND CONDITIONS OF LEASE REINSTATEMENT

1. Reinstatement of the Lease. In consideration of the following Landlord hereby reinstates the Lease with Tenant conditioned upon full performance of the terms and conditions set forth herein:

- a. Tenant shall cure the Event of Default upon immediate payment of the following amounts:

July 2017

<u>Rent</u>	<u>Additional Rent</u>	<u>Penalties</u>	<u>Interest</u>	<u>Total</u>
\$ 0	\$ 9,016.28	\$ 2,473.20	\$ 333.30	\$11,822.78

August 2017

<u>Rent</u>	<u>Additional Rent</u>	<u>Penalties</u>	<u>Interest</u>	<u>Total</u>
\$24,732.02	\$10,671.55	\$ 2,473.20	\$ 567.91	\$38,444.68

September 2017

<u>Rent</u>	<u>Additional Rent</u>	<u>Penalties</u>	<u>Interest</u>	<u>Total</u>
\$24,732.02	\$10,671.55	\$ 2,473.20	\$1,103.93	\$38,980.70

October 2017

<u>Rent</u>	<u>Additional Rent</u>	<u>Penalties</u>	<u>Interest</u>	<u>Total</u>
\$24,732.02	\$10,671.55	\$2,473.20	\$1,726.00	\$39,602.77

November 2017

<u>Rent</u>	<u>Additional Rent</u>	<u>Penalties</u>	<u>Interest</u>	<u>Total</u>
\$24,732.02	\$10,671.55	\$ 2,473.20	\$1,179.70	\$39,056.47

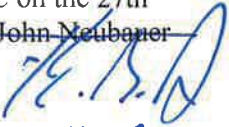
Totals

<u>Rent</u>	<u>Additional Rent</u>	<u>Penalties</u>	<u>Interest</u>	<u>Total</u>
\$98,928.08	\$51,702.48	\$12,366.00	\$4,910.84	\$167,907.40

- b. Lien Satisfaction. Providing the Lease is reinstated should there be in the future another Event of Default, as defined by the Lease in Section 31, and Landlord once again terminates the Lease, Tenant agrees that Landlord may without judicial action take possession and make use of all of the personal property on the premises, determine its value by a third party appraisal and deduct the value from any amount owed to Landlord. The personal property shall then be owned by Landlord. No personal property present on the premises on November 2, 2017 shall be removed from the premises without the written consent of Landlord.

- c. Assignment of Contract Interests. Providing the Lease is reinstated should there be in the future another Event of Default, as defined by the Lease in Section 31, and Landlord once again terminates the Lease, at the time the Lease is terminated it shall be deemed that all contracts in which Tenant considers as accounts receivables (Event Booking Agreements), without judicial action, shall be automatically assigned to Landlord. All remaining amounts owed to Tenant as a result of those contracts shall be payable to Landlord. Existing or future event contracts shall not be transferred or assigned after November 2, 2017 without the written consent of Landlord.
- d. Special Deposit Account. Providing the Lease is reinstated and Tenant is permitted to continue in business it shall immediately establish an account at US Bank to be used to pay its monthly rent to Landlord as follows:
1. Tenant shall at all times deposit and collect 100% of its revenue generated from events, booking agreements and any other services or performances rendered including but not limited to all cash, event deposits, credit card payments, merchant service accounts, checks and any other receivables and place such into the account.
 2. Landlord shall establish an ACH payment process with US Bank to access the account and be enabled to withdraw and transfer funds from the account to itself between the 1st day and the 5th day of each month equal to the monthly rent due pursuant to the terms of the Lease. This amount may be adjusted from time to time upon mutual consent of the parties to be consistent with the Lease obligations. The current monthly amount to be deducted from the account is the total of \$24,732.02 in rent and \$10,671.55 in addition rent for a total of \$35,403.57, defined by the Lease. Failure to have sufficient funds in the account to pay the rent will be an Event of Default.
 3. Landlord may withdraw the monthly amount in more than one payment.
 4. During the 1st and 5th day of the month Tenant shall not make any deductions, debts, transfers or withdrawals from this account without the prior written consent of Landlord.
 5. Tenant shall provide Landlord with a password to the special deposit account to allow Landlord to view the account transactions at all times.
 6. Should at any time in the future Landlord terminate the Lease with Tenant the money in the account at the time of the Lease is terminated shall be immediately deemed an escrow account held in favor of Landlord. Tenant may not withdraw, debit, or transfer any amounts at any time without the prior written consent of Landlord.

- e. Payment of Independent Contractors. The Lease was terminated on November 2, 2017. Since that time the business has been under daily operation by Landlord's independent contractors. No money collected during this time to date has been expended by Landlord and has been segregated into a separate account. This account will be turned back to Tenant upon reinstatement of the Lease. Tenant will be responsible for paying the independent contractors from November 2, 2017 to the date of this agreement at the rate those persons were being paid as employees of Tenant.
 - f. Additional Security. Landlord shall hold a mortgage or lien in the amount of \$167,500.00 at no interest against a separate parcel of real property which will serve to secure payment of any future amounts due and payable to Landlord as a result of Tenant's lease obligations. This property shall be satisfactory with Landlord as to its value and equity. The proposed property is identified as 8199 Southpark Court in Littleton, Colorado. If this property is not approved another will be substituted.
 - g. Parking. Tenant has not been enforcing its parking requirements provided in the Lease. Therefore, in addition to those parking provisions set forth in Section 1 (f) of the Lease, Falls shall provide an additional two (2) parking attendants to be stationed one on the east side of the parking entrance of Whole Foods and one on the west side of the parking entrance to Whole Foods, to direct those attending Falls' events as to where to park. These additional parking attendants shall be present between 5:00 pm and 9:00 pm every Thursday, Friday and Saturday when Tenant is having an event during November and December of each year. During January through October the extra attendants need to be present at the same times and places for any event or combination of events expected to draw more than 200 people. Landlord may enforce these parking provisions by charging a \$50 per car parking fee to Falls for event cars parking outside of the designated areas during these certain times.
2. Successors and Assigns. Subject to the provisions of Section 7 of the Lease, this agreement shall inure to the benefit of and be binding upon the heirs, executors, administrators, trustees, successors and assigns of the respective parties.
 3. No Waiver of Claims. By entering into this agreement Landlord does not waive nor does it imply a waiver by Landlord of any term or condition of the Lease. Landlord specifically reserves any remedy available to it under the Lease or by law or equity despite its forbearance or indulgence related to the default and Lease termination of Falls.
 4. Hold Harmless and Indemnification. Falls represents and acknowledges that Landlord has not been in default or breach of contract in any way of its duties as set forth in the Lease to the date of this agreement. Falls hereby agrees to hold harmless and indemnify Landlord from any and all claims, known or unknown to the date of this agreement.
 5. Guaranty. The Lease guaranty previously granted by The Falls Event Center, LLC on the 27th day of September, 2014 is hereby reinstated. In addition thereto, Steve Downs and John Neuberger shall sign a written guaranty for any and all amounts owed pursuant to the Lease.


11/17/17

6. Event of Default. Should Falls fail to perform any of the terms and conditions of this agreement it shall be an Event of Default as set forth in the Lease. Landlord's remedies to defaults are set forth in Section 32 of the Lease.
7. Attorney Fees. In the event of the bringing of any action by either party hereto as against the other hereon or hereunder or by reason of the breach of any covenant or condition on the part of the other party or arising out of, involving or relating in any way to this Lease, then and in that event the party in whose favor final judgment shall be entered shall be entitled to have and recover of and from the other party reasonable attorneys' fees and costs (including expert witness fees and costs) incurred at and in preparation for discovery (including depositions), arbitration, trial, appeal and review.

Should Landlord become a party defendant to any litigation concerning this Lease or any part of the Leased Premises or this agreement by reason of any act or omission of Tenant or breach of this Lease by Tenant, its agents, employees or contractors and not because of any act or omission of the Landlord, then Tenant shall indemnify, protect, defend and hold Landlord harmless from all claims, demands, liability, or loss by reason thereof and shall pay to Landlord all reasonable attorneys' fees and costs (including expert witness fees and costs) incurred by Landlord in such litigation.

In addition, Tenant shall reimburse Landlord for any attorneys' fees or costs reasonably incurred by Landlord in performing any of Tenant's duties or obligations under the terms of the Lease or this agreement.

8. The parties acknowledge that it may take several days to accomplish all of the requirements of this agreement. Except for satisfaction of payment due pursuant to paragraph 1(a), and execution of personal guarantees pursuant to paragraph 5, both of which must be completed on the date of this agreement, each party shall have thirty (30) days, from the execution of this agreement, to complete its individual obligations set forth herein. Therefore, at the time all requirements of this agreement are met Landlord will send written notice to Falls that the Lease is reinstated. In between time, Falls may have temporary possession and use of the property and operate its business. Failure to satisfy all the requirements of this agreement within the thirty (30) day period will result in automatic termination, without notice, of Falls temporary possession and use of the property. During Tenant's temporary possession, Landlord may exercise all contractual rights between the parties as if the lease is reinstated, including but not limited to its rights upon Tenant's default.

TROLLEY SQUARE VENTURES, LLC



By:
Its: Manager

THE FALLS AT TROLLEY SQUARE, LLC

THE FALLS EVENT CENTER, LLC



By:
Its: Manager



By:
Its: Manager