

North Carolina

Wake County

LEASE AGREEMENT

This lease agreement, made and entered into this ____ day of, _____, 2021 by and between, Town of Apex, hereinafter referred to as "Lessor"; and State Employees' Credit Union, a North Carolina credit union, hereinafter referred to as "Lessee."

WITNESSETH:

That subject to the terms and conditions hereinafter set out, Lessor does hereby let and lease unto Lessee, and Lessee does hereby accept as tenant of Lessor that certain tract or parcel of land located at 333 N. Mason St., Apex, County of Wake, State of North Carolina, and as more fully described and/or depicted in Exhibit A (the "Leased Premises").

The terms and conditions of this Lease Agreement are as follows:

- 1) The term of this Lease Agreement shall be for a period of five (5) years beginning on the FIRST day of January, 2022 and ending on the LAST day of December, 2026, unless extended or terminated under the other provisions of this Lease Agreement. If Lessee does not provide notice of its intent to extend the term of this Lease Agreement pursuant to Section 12 below, at the expiration of the term of this Lease Agreement, this Lease Agreement shall automatically renew as a month-to-month lease unless and until a party provides at least ten (10) days written notice to the other party that this Lease Agreement shall not renew.
- 2) As rental for the Leased Premises, Lessee shall pay to Lessor the sum of twelve dollars (\$12.00) per year, payable monthly in advance on the first day of each calendar month. **The first monthly rental payment will be due on the first day of the month following the date that the ATM becomes operational.** Rental payments will be payable to Town of Apex and sent to the following address: Town of Apex, PO. Box 250, Apex, NC 27502.
- 3) Lessee shall use and occupy the premises for the purpose of constructing and operating a kiosk ATM, and Lessee shall have exclusive control and possession of the Leased Premises for the entire term of this Lease Agreement.
- 4) Lessor shall be responsible for the repair and/or maintenance of the parking lot area on or immediately surrounding the Leased Premises including but not limited to repairing any potholes, removing any debris, and performing all landscaping such as maintaining and trimming any shrubs and trees in close proximity of the ATM. In addition, Lessor shall ensure that reasonably adequate lighting, parking, and access are available for the Leased Premises at all times. Upon written notice from Lessee to Lessor requesting any repairs and/or maintenance described above on the Leased Premises, Lessor shall perform any requested repairs and/or maintenance within thirty (30) days. If Lessor fails to perform any requested repairs and/or maintenance within thirty (30) days, then Lessee has the option to provide a forty-five (45) day written notice of its intent to terminate this Lease Agreement (such 45-day window to include the 30-day repair and maintenance window). Except as otherwise agreed to in writing by both parties, Lessee

will be responsible for the construction of the ATM and any necessary upkeep, repairs, and maintenance of the ATM during the term of this Lease Agreement. Upon termination of the Lease Agreement, Lessee will be responsible for removing the ATM and the structure from the "Leased Premises" and will restore the premises back to substantially the same condition as existed prior to the installation of the ATM.

- 5) During the term of this Lease Agreement, Lessee shall maintain comprehensive general liability insurance on an occurrence basis with minimum limits of liability in the amount of Three Hundred Thousand Dollars (\$300,000.00) for property damage, bodily injury, personal injury or death to any one person; Lessee shall also maintain excess liability coverage with a per occurrence limit of at least One Million Dollars (\$1,000,000.00); and Lessee shall keep the kiosk structure on the Leased Premises together with the equipment in the structure insured against loss or damage by fire or other casualties.
- 6) Lessee shall neither use nor occupy the Leased Premises or any part thereof for any unlawful or hazardous purpose.
- 7) Lessor shall pay prior to delinquency all taxes and assessments of every kind and nature which may be imposed or assessed upon or with respect to the Leased Premises.
- 8) If the Leased Premises are wholly or partially destroyed by fire or other casualty, rental payments shall abate in proportion to the loss of use thereof, and Lessee shall, at its own expense, promptly restore the Leased Premises to substantially the same condition as existed before damage or destruction, whereupon full rental shall resume. Should Lessee elect not to repair or replace the ATM, then Lessee shall provide to Lessor at least thirty (30) days written notice of its intent to terminate this Lease Agreement. Upon such termination, Lessee shall restore the premises to substantially the same condition as existed prior to the installation of the ATM. After the premises are restored, Lessee and Lessor shall not have any responsibility to each other under the terms of the Lease Agreement.
- 9) If the whole of the Leased Premises, or such portion thereof as will make the Leased Premises unsuitable for use contemplated hereby, shall be taken under the power of eminent domain (including any conveyance in lieu thereof), then the term hereof shall cease as of the date possession thereof is taken by the condemnor, and rental payments shall be accounted for as between Lessor and Lessee as of that date.
- 10) All applications in connection with necessary utility services on the Leased Premises shall be made in the name of Lessee only, and Lessee shall be solely liable for utility charges as they become due, including those for electricity, gas, and telephone/data services. Lessor shall reasonably cooperate with Lessee's efforts in furtherance of this provision, including, but not limited to, promptly responding to any requests for information or access by a utility provider.
- 11) Lessee shall defend, indemnify and hold harmless Lessor from and against any claims, damages, or expenses (including reasonable attorney's fees), whether due to damage to the Leased Premises, claims for injuries to persons or property, or administrative or criminal action by governmental authority, where such claims, damages, or expenses result from the negligence or misconduct by Lessee, its agents, or employees. Lessor shall defend, indemnify and hold harmless Lessee from and against any claims, damages, or expenses (including reasonable attorney's fees) where such claims,

damages, or expenses result from the negligence or misconduct by Lessor, its agents, employees or invitees.

- 12) Lessor hereby grants unto Lessee the option to extend the term of this Lease Agreement for an additional one (five) year period commencing at the expiration of the primary term hereof at a yearly rental rate of \$12.00; all payable annually on or before the first day of each calendar month, provided Lessee shall provide to Lessor at least ninety (90) days prior to the expiration of the primary term written notice of its intention to extend.
- 13) It is expressly understood and agreed that if any monthly installment of rent as herein called for shall remain overdue and unpaid for thirty (30) days, Lessor may, at its option, at any time during such default, declare this Lease Agreement terminated and canceled and take possession of the Leased Premises, and require the Lessee to remove the structure from the premises and restore the Leased Premises back to substantially the same condition as existed prior to the installation of the ATM.
- 14) If Lessee shall pay the rent and perform and observe all the other covenants and conditions to be performed and observed by it hereunder, Lessee shall at all times during the term hereof have the peaceable and quiet enjoyment of the premises without interference from Lessor or any person lawfully claiming through Lessor.
- 15) All notices provided for in this Lease Agreement shall be in writing and shall be deemed to have been given when sent by registered or certified mail addressed to Lessor at:

Town of Apex
P.O. Box 250
Apex, NC 27502

and to Lessee at:

State Employees' Credit Union
Attn: SVP, Facilities Services
PO Box 26807
Raleigh, NC 27611

- 16) This Lease Agreement shall be construed and enforced in accordance with the laws of the State of North Carolina without regard to any conflict of laws provisions.
- 17) This Lease Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. In addition, this Lease Agreement may be assigned by Lessee, without further consent or approval required, to a third party that is regularly in the business of operating ATMs.
- 18) This Lease Agreement contains the complete agreement of the parties regarding the terms and conditions of the lease of the Leased Premises beginning January 1, 2022 and on that date will effectively terminate and replace the lease agreement entered into by the parties on or about June 1, 2020. There are no other oral or written conditions, terms, warranties, understandings or other agreements pertaining thereto which have

not been incorporated herein. This Lease Agreement may be modified only by written instrument executed by both parties or their respective successors in interest or assigns.

- 19) If any provision of this Lease Agreement shall be declared invalid or unenforceable, the remainder of this Lease Agreement shall continue in full force and effect.
- 20) Nonperformance of either party shall be excused to the extent that performance is rendered impossible by strikes or other labor problems, fire, flood, civil unrest, pandemics, acts of terror, war, governmental acts or orders or restrictions, failure of suppliers, or any other reason where failure to perform is beyond the reasonable control of the non-performing party.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

In testimony whereof, the parties have caused this Lease Agreement to be executed as of the day and year first above written.

Lessor:
Town of Apex

By: _____
Name: _____
Title: _____

North Carolina:
_____ County:

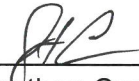
This is the ____ day of _____, 2021, before me, _____,
a Notary Public, personally came _____, who, being duly sworn, says
that she/he is a duly authorized officer of the foregoing entity and that the foregoing was signed
and sealed by her/him on behalf of the said entity by its authority duly given, and acknowledged
the said writing to be the act and deed of said entity.

Witness my hand and notarial seal, this ____ day of _____, 2021.

Notary Public

My Commission Expires:

Lessee:
State Employees' Credit Union

By: 
Jonathan Crane
Senior Vice-President,
Facilities Services

North Carolina:
Wake County:

This the 10th day of November, 2021, before me, Rachel M. Forehand a Notary Public, personally came Jonathan Crane, who, being duly sworn, says that he is Senior Vice-President, Facilities Services of State Employees' Credit Union and the said writing was signed and sealed by him on behalf of the said credit union by its authority duly given and the Senior Vice-President, Facilities Services acknowledged the said writing to be the act and deed of said credit union.

Witness my hand and notarial seal, this the 10th day of November, 2021.

Rachel M. Forehand
Notary Public

My Commission Expires:

September 19, 2026

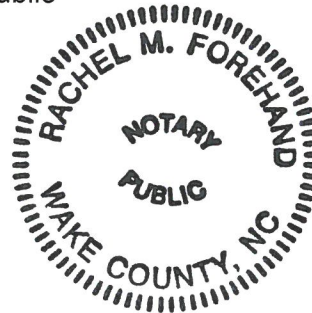


Exhibit A

