



EdenAreaROP

Just a little
Friendly Reminder



The October board meeting
location has changed to

Castro Valley USD, Boardroom
4400 Alma Avenue
Castro Valley, CA 94546



GOVERNING BOARD MEETING AGENDA

Thursday, October 6, 2016

5:30 pm

Location:

4400 Alma Avenue
Castro Valley, CA 94546

Website:

www.edenrop.org

Phone Numbers:

(510) 293-2971
Fax (510) 293-8225



Governing Board Members

Gary Howard, President
Lisa Brunner, Vice-President
Janet Zamudio, Member
Vince J. Rosato, Member

Castro Valley Unified School District
Hayward Unified School District
San Lorenzo Unified School District
San Leandro Unified School District

Mission Statement

The mission of the Eden Area Regional Occupational Program is to prepare students for careers and further education as well as to instill workplace skills and ethics that enable them to compete successfully in the economy of today and the future.



Regular Meeting of the ROP Governing Board
Castro Valley Unified School District, Board Room
4400 Alma Avenue., Castro Valley, CA 94546

Date: Thursday, October 6, 2016

Time: 5:30 p.m.

AGENDA

Welcome to the Eden Area Regional Occupational Program Governing Board Meeting. The purpose of the meeting is to consider matters of policy and business necessary for the operation of the Regional Occupational Program.

Visitors wishing to address the Governing Board are asked to complete a "Request to Address ROP Governing Board" card, available at the entrance to the meeting room, and submit it to the Governing Board's Administrative Secretary. Any member of the audience may speak on any agenda item by following this process, or upon recognition by the Chairperson by identifying him/herself and his/her organization affiliation prior to any action taken by the Governing Board. Such presentations may be limited. If there is a desire to address the Governing Board on a matter relating to the Eden Area ROP that does not appear on the agenda, this may be done during the "Other Business" section.

State law prohibits the ROP Governing Board from taking any action on or discussing items that are not on the posted agenda except to A) briefly respond to statements made or questions posed by the public in attendance; B) ask questions for clarification; C) provide a reference to a staff member or other resource for factual information in response to the inquiry; or D) ask a staff member to report back on the matter at the next meeting and/or place it on a future agenda. (Government Code Section 54954.2 (a))

This meeting is being recorded. These recordings are maintained by the Eden Area ROP for 30 days and are available for review to the public upon request.

I. Call to Order

II. Roll Call

III. Pledge of Allegiance

IV. Mission Statement

V. Approval of Agenda

VI. CONSENT CALENDAR

Action by the ROP Governing Board of the Eden Area Regional Occupational Program means that all items listed under the Consent Calendar are adopted by one single motion, unless a member of the Governing Board, the Superintendent, or a member of the public requests that any such item be removed from the Consent Calendar and voted upon separately.

Page 2 – Agenda for the October 6, 2016 Regular Meeting of the ROP Governing Board

- A. Request the Governing Board to approve the Minutes of the Regular Governing Board Meeting of September 1, 2016 (pages 4-9)
- B. Request the Governing Board to approve the Bill Warrants (pages 10-15)
- C. Request the Governing Board to approve the Personnel Action Items (pages 16-17)
- D. Request the Governing Board to approve the Listed Donations-Vicente Gonzalez (page 18)
- E. Request the Governing Board to approve the Quarterly Report on Williams Act Complaints and Resolutions (pages 19-20)
- F. Request the Governing Board to approve the Revised Donation, Assignment and Assumption Agreement with Construction Craft Training Center (CCTC) (pages 21-92)
- G. Request the Governing Board to approve the Lease Agreement with L&M Investments for the Electrical Trainee Program-Turlock (pages 93-99)
- H. Request the Governing Board to approve the Sublease Agreement with American Home Inspectors Training (AHIT) (pages 100-102)

VII. INFORMATION ITEMS

- A. CDE Course Review-Photography (pages 103-104)
- B. Back to School Night (page 105)
- C. Principals' Breakfast (page 106)

VIII. ACTION ITEMS

- A. Request the Governing Board to approve the MOU with Leadership Public Schools (pages 107-109)

Superintendent's Report

IX. Other Business/ Governing Board Reports

- A. Public
- B. ROP Governing Board

X. Recess to Closed Session

- A. Public Employee Appointment/Employment (Pursuant Government Code section 54957): Superintendent's Contract

XI. Reconvene to Open Session and Report Action Taken in Closed Session

- A. Public Employee Appointment/Employment (Pursuant Government Code section 54957):
Superintendent's Contract

XII. Adjournment

Consent Calendar





**Minutes of the Regular Meeting of the ROP Governing Board
September 1, 2016**

I. Call to Order

Trustee Gary Howard, President, called the meeting to order at 5:34 p.m. on Thursday, September 1, 2016 at the Eden Area Regional Occupational Program Board Room, 26316 Hesperian Blvd., Hayward, CA 94545.

II. Roll Call

Roll was called by Gabriela Juarez, Administrative Assistant.

Eden Area ROP Governing Board Present:

Gary Howard, President	Castro Valley USD	
Lisa Brunner, Vice-President	Hayward USD	
Janet Zamudio, Member	San Lorenzo USD	arrived at 5:40 pm
Evelyn Gonzalez, Alternate	San Leandro USD	

Eden Area ROP Governing Board Absent:

Vince Rosato, Member	San Leandro USD
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Superintendent: Linda Granger- present

ROP Administrators in Attendance:

Craig Lang	Director
Sheila Lawrence	Assistant Director of Off-Site Programs
Marites Fermin	Business Manager
Evan Goldberg	Grant Coordinator

ROP Staff in Attendance:

Erika Emery	Careers in Education Program Instructor
Gabriela Juarez	Superintendent's Administrative Assistant

Others in Attendance:

Chris Floethe	Construction Craft Training Center (CCTC) Director
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III. Pledge of Allegiance

Linda Granger led the Pledge of Allegiance.

IV. Mission Statement

Craig Lang read the Eden Area ROP Mission Statement.

V. Approval of Agenda

Trustee Evelyn Gonzalez moved to approve the agenda and Trustee Lisa Brunner, seconded the motion. By the following vote, the agenda was approved.

AYES: 3 (Brunner, Gonzalez, Howard)
NOES: 0
ABSTAIN: 0
ABSENT: 2 (Rosato, Zamudio)

VI. Consent Calendar

Trustee Evelyn Gonzalez moved to approve the Consent Calendar with the exception of item E and I that was pulled for discussion and moved to be approved as separate items under consent:

- A. Approve the Minutes of the Regular Governing Board Meeting of August 4, 2016
- B. Approve the Bill Warrants Items
- C. Approve the Personnel Action Items
- D. Approve the Listed Donations-Jose A. Ortiz
- E. Approve the SkillsUSA Overnight Field Trips for the 2016-2017 Fiscal Year
- F. Approve the Public Disclosure of Eden Area ROP Employees' Agreement for the 2015-2016 Salary Increase
- G. Approve the MOU Addendum with Associated Builders and Contractors (ABC) for the 2016-2017 School Year
- H. Approve the Agreement with Alameda County Office of Education (ACOE) for Delivery Services for the 2016-2017 Fiscal Year
- I. Approve the Contract with Blackboard for Website Hosting for the 2016-2017 Fiscal Year
- J. Approve the Contract with Century Carpet, Inc. for Carpet Flooring Services for the 2016-2017 Fiscal Year
- K. Approve the Contract with Zamora & Sons for Painting Services for the 2016-2017 Fiscal year
- L. Approve the Agreement with Rhea Settles for Fall 2016
- M. Approve the contract with AT&T for Telephone Services
- N. Approve the Advisory Committee Meeting Minutes

Trustee Lisa Brunner seconded the motion.

AYES: 3 (Brunner, Gonzalez, Howard)
NOES: 0
ABSTAIN: 0
ABSENT: 2 (Rosato, Zamudio)

E. Request the Governing Board to approve the SkillsUSA Overnight Field Trips for the 2016-2017 Fiscal Year

Trustee Lisa Brunner requested to pull the SkillsUSA Overnight Field Trips. Trustee Lisa Brunner just wanted other funding sources to be noted so that every student who qualifies can attend the competitions. Superintendent Granger highlighted that the ROP does do fundraisers throughout the year to raise money for the trips.

Upon review of and a motion by Trustee Evelyn Gonzalez and a second by Trustee Lisa Brunner, the Governing Board approved the SkillsUSA Overnight Field Trips.

AYES: 3 (Brunner, Gonzalez, Howard)
NOES: 0
ABSTAIN: 0
ABSENT: 2 (Rosato, Zamudio)

I. Request the Governing Board to approve the Contract with Blackboard for Website Hosting for the 2016-2017 Fiscal Year

Trustee Evelyn Gonzalez requested to pull the contract with Blackboard for website hosting. She had a question regarding the use of Blackboard. She wanted to know if blackboard was used for other services such as teleparent. Superintendent Granger shared that at this time it is only used for web hosting until we upgrade our phone system.

Upon review of and a motion by Trustee Evelyn Gonzalez and a second by Trustee Lisa Brunner, the Governing Board approved the Contract with Blackboard for website hosting for the 2016-2017 fiscal year.

AYES: 3 (Brunner, Gonzalez, Howard)
NOES: 0
ABSTAIN: 0
ABSENT: 2 (Rosato, Zamudio)

VII. Information Items

A. CDE Course Review-Careers in Education

Dr. Erika Emery, Instructor, shared that the Careers in Education program has returned as a full time at the ROP center. Students enrolled in this class qualify for a child development permit, meet the requirements for the U.C. g credit, earn community college credits through articulation agreements and job placement assistance. Dr. Emery also places students in internships throughout the community to build their skills. Dr. Emery concluded her report by sharing photos of the students in action.

B. Opening of School for the 2016-2017 School Year

Mr. Craig Lang, Director, reported on the opening of school. He shared that it had been a staggered start this year as the districts had multiple start dates. Students were here for the first day of ROP, regardless of their first day of school at the home high school. Strong collaboration has been established between school sites and the ROP to make sure students not only enroll in ROP, but into their desired class. Mr. Lang shared that our Career Counselor, Mrs. Audra Muñoz, has implemented using google docs for our enrollment. The google doc is a live document shared with the counselors at the high school sites. Using google docs allowed staff to fill classes faster and efficiently.

C. Dates for Sophomore Tours and the Student Award Ceremony

Sheila Lawrence, Assistant Director of Off-Site Programs, presented to the Governing Board the projected dates for the sophomore tours. She also shared the date of the Student Award Ceremony, it will be held on Wednesday, May 10, 2017 at 6:00 pm at the Castro Valley Center for the Arts. Ms. Lawrence then extended an invitation to the Governing Board to attend the

award ceremony. She also welcomed the Board members to attend their respective high schools sophomore tours dates.

D. Eden Area ROP Service Awards

Linda Granger, Superintendent, highlighted the employees that were recognized and honored for their commitment and service to the ROP. She shared that annually service awards are presented to staff for their years of experience and dedication to the organization. These awards were presented to staff at the August 15, 2016 Staff Development Day. Service awards were given to Heather Bystrom (10 years), Annette Senter (10 years), Jennifer Aguilar (15 years) and Francisco De Leon (20 years).

VIII. Action Items

A. Request the Governing Board to approve the 2015-2016 Unaudited Actual Income and Expenditure Report

Upon review of and a motion by Trustee Janet Zamudio and a second by Trustee Evelyn Gonzalez, the Governing Board approved the 2015-2016 unaudited actual income and expenditure report.

AYES: 4 (Brunner, Gonzalez, Howard, Zamudio)
NOES: 0
ABSTAIN: 0
ABSENT: 1 (Rosato)

B. Request the Governing Board to approve the Revised Calendar of Governing Board Meetings for the 2016-2017 School Year

The Eden Area ROP 2016-2017 Governing Board Meeting Calendar was approved on June 2, 2016 at the Governing Board Meeting. After the June meeting it was announced that ACOE will be holding their Annual Teacher of the Year Awards Night on October 6, 2016 at 6:30 pm at the Castro Valley Center for the Arts at Castro Valley High School. This will conflict with the October meeting. ROP staff suggested changing the time of the meeting to start at 5:00 pm or changing the location to Castro Valley USD board meeting room located at 4400 Alma Avenue, Castro Valley. After some discussion the Board decided to move the location to CVUSD.

Upon review of and a motion by Trustee Lisa Brunner and a second by Trustee Janet Zamudio, the Governing Board approved the Revised Calendar of Governing Board Meetings for the 2016-2017 school year with a location change to the October meeting.

AYES: 4 (Brunner, Gonzalez, Howard, Zamudio)
NOES: 0
ABSTAIN: 0
ABSENT: 1 (Rosato)

C. Request the Governing Board to approve the Donation, Assignment and Assumption Agreement with Construction Craft Training Center

Upon review of and a motion by Trustee Lisa Brunner and a second by Trustee Janet Zamudio, the Governing Board approved the Donation, Assignment and Assumption Agreement with Construction Craft Training Center.

AYES: 4 (Brunner, Gonzalez, Howard, Zamudio)
NOES: 0
ABSTAIN: 0
ABSENT: 1 (Rosato)

D. Request the Governing Board to approve the Contract for Consulting with Chris Floethe for the Electrical Trainee Program

Upon review of and a motion by Trustee Evelyn Gonzalez and a second by Trustee Lisa Brunner, the Governing Board approved the Contract for Consulting with Chris Floethe for the Electrical Trainee Program.

AYES: 4 (Brunner, Gonzalez, Howard, Zamudio)
NOES: 0
ABSTAIN: 0
ABSENT: 1 (Rosato)

E. Request the Governing Board to approve the Adult Program Salary Schedule

Upon review of and a motion by Trustee Janet Zamudio and a second by Trustee Lisa Brunner, the Governing Board approved the Adult Program Salary Schedule.

AYES: 4 (Brunner, Gonzalez, Howard, Zamudio)
NOES: 0
ABSTAIN: 0
ABSENT: 1 (Rosato)

IX. Superintendent's Report

Linda Granger highlighted in her report the ROP's staff development day at the start of the year. The staff development day started with a guest speaker to discuss leading from where you are and that we are all leaders in our organization. This was a perfect message for our staff as there has been a lot of change in the last three years. The guest speaker also discussed changes for this generation of students. Studies show that this generation of students don't finish high school with work experience as they did before. He talked about what teachers can do to teach work ethics in their classroom because it's not happening outside the classroom. In keeping with the theme of change Superintendent Granger asked staff to share their input about the changes that have occurred over the last three years. She will use the data in her annual report.

Superintendent Granger also shared that ROP staff has signed up to several committees that will help with communication and progress of the ROP.

The Superintendent also highlighted that she started a weekly bulletin to the staff and that it was well received.

X. Other Business/Governing Board Reports

A. Public

None

B. Governing Board Reports

Janet Zamudio, San Lorenzo USD representative, shared that she brought back to the San Lorenzo Board the alignment of district calendars. The district plans to align with the first district to approve their calendar.

IV. Recess to Closed Session

The meeting was called into closed session at 6:28 pm.

- A. Public Employee Performance Evaluation: Superintendent's Goals (Government Code Sec. 54957)

V. Reconvene to Open Session and Report any Action taken in Closed Session

The meeting resumed to open session at 6:35 p.m.

- A. Public Employee Performance Evaluation: Superintendent's Goals (Government Code Sec. 54957)

Upon review of and a motion by Trustee Evelyn Gonzalez and a second by Trustee Janet Zamudio, the Governing Board approved the Superintendent's Goals for 2016-2017.

AYES: 4 (Brunner, Gonzalez, Howard, Zamudio)
NOES: 0
ABSTAIN: 0
ABSENT: 1 (Rosato)

XI. Adjournment

The meeting was adjourned at 6:35 p.m.

Approved by the Eden Area ROP Governing Board _____.

Linda Granger, Superintendent
Clerk to the ROP Governing Board



DATE: October 6, 2016
TO: ROP Governing Board
FROM: Linda Granger, Superintendent
PREPARED BY: Sabrina Ubhoff, Accounting Technician
SUBJECT: Request the Governing Board to approve the Bill Warrants

CURRENT SITUATION

The bill warrants submitted for approval are for the period of August 17, 2016 through September 19, 2016 and include test warrant numbers and voided warrants.

CONSENT CALENDAR



DATE: October 6, 2016
TO: ROP Governing Board
FROM: Linda Granger, Superintendent
PREPARED BY: Mercedes Henderson, Personnel Coordinator
SUBJECT: Request the Governing Board to approve the Personnel Action Items

CURRENT INFORMATION

The attached listing of personnel consent items are the Eden Area ROP Superintendent's recommendations for approval.

CONSENT CALENDAR



DATE: October 6, 2016
TO: ROP Governing Board
FROM: Linda Granger, Superintendent
PREPARED BY: Craig Lang, Director
SUBJECT: Request the ROP Governing Board to approve the Listed Donations-Vincente Gonzalez

CURRENT SITUATION

Occasionally, gifts or monetary items are donated to the ROP. Vincente Gonzalez donated a 1997 Nissan 200SX to the Eden Area ROP Auto Technology program.

A letter of acceptance will be sent to all donors.

FISCAL IMPACT SOURCE

Not applicable

FUNDING

Not applicable

CONSENT CALENDAR



DATE: October 6, 2016
TO: ROP Governing Board
FROM: Linda Granger, Superintendent
SUBJECT: Request the Governing Board to approve the Quarterly Report on Williams Act Complaints and Resolutions

BACKGROUND

Education Code 35186 (d) requires the following:

A school district shall report summarized data on the nature and resolution of all complaints concerning deficiencies related to instructional materials, emergency or urgent facilities conditions and teacher vacancy or misassignment on a quarterly basis to the county superintendent of schools and the Governing Board of the school district. The summaries shall be publicly reported at a regularly scheduled meeting of the Governing Board of the school district. The report shall include the number of complaints with the number of resolved and unresolved complaints. The complaints and written responses shall be available as public records.

CURRENT SITUATION

Attached is a report for the complaints and resolutions through October 1, 2016 as specified by Education Code 35186 (d).

CONSENT CALENDAR

Quarterly Report on Williams Act Complaints

[Education Code 35186 (d)]

Report through: October 1, 2016

District: Eden Area Regional Occupational Program
Person completing this form: Gabriela Juarez
Title: Superintendent's Administrative Assistant

Quarterly Report Submission (check one)→

Date: October 1, 2016

- ☐ January 2016
☐ April 2016
☐ July 2016
☒ October 2016

Date for information to be reported publicly at the Governing Board meeting: October 6, 2016

Please check the box that applies:

- ☒ No complaints were filed with any school in the district during the quarter indicated above.
- ☐ Complaints were filed with schools in the district during the quarter indicated above. The following chart summarizes the nature and resolution of these complaints.

General Subject Area	Number of Complaints	Number of Resolved Complaints	Number of Unresolved Complaints
Textbooks and Instructional Materials	0	0	0
Teacher Vacancy or Mis-assignment	0	0	0
Facilities Conditions	0	0	0
CAHSEE Intensive Instruction and Services	0	0	0
TOTALS	0	0	0

Publicly reported at the Governing Board meeting on: October 6, 2016

Linda Granger, Superintendent



DATE: October 6, 2016
TO: ROP Governing Board
FROM: Linda Granger, Superintendent
SUBJECT: Request the Governing Board to approve the Revised Donation, Assignment and Assumption Agreement with Construction Craft Training Center (CCTC)

BACKGROUND

The Eden Area ROP and Construction Craft Training Center (CCTC) have had a long partnership. When CCTC applied for approval to provide training services, we applied jointly with them and were assigned school #109 by the Department of Industrial Relations. CCTC has been providing this training for adults for 30 years.

CURRENT SITUATION

Construction Craft Training Center (CCTC) has approached the Eden Area ROP regarding assuming the operation of their adult electrical training program. In exchange for taking over the operation of this program, CCTC will be donating all of their existing furniture, equipment and materials owned by CCTC. The Donation, Assignment and Assumption Agreement provides the specifics of this transfer of property to the Eden Area ROP in exchange for the continued operation of the electrical trainee program.

Given the amount of time that it has taken for CCTC employees to complete the hiring process required by the State, we need to change the effective date on this agreement from 9/5/2016 to 10/1/2016. For this reason, we are bringing the agreement back to the Governing Board for approval with the effective date changed accordingly.

Fiscal Impact: funds generated from the adult programs will be used to cover the ongoing cost of providing the programs.

CONSENT CALENDAR

DONATION, ASSIGNMENT, AND ASSUMPTION AGREEMENT

This DONATION, ASSIGNMENT, AND ASSUMPTION AGREEMENT (the “Agreement”) is made effective as of October 1, 2016 by and between Eden Area Regional Occupational Program, a California joint venture of Castro Valley, Hayward, San Leandro, and San Lorenzo Unified School Districts (“Eden Area ROP”), and Construction Craft Training Center, a California nonprofit public benefit corporation (“CCTC”), with reference to the following facts:

- A. Eden Area ROP is a governmental instrumentality and a qualified charitable organization under Section 170(c)(1) of the Internal Revenue Code of 1986, as amended (the “Code”).
- B. CCTC is a qualified charitable organization under Section 501(c)(3) of the Code and a public charity under Section 509(a)(1) of the Code.
- C. CCTC desires to transfer the operation of its existing Electrician Training Program to Eden Area ROP by making a contribution to Eden Area ROP of all of its assets, and Eden Area ROP desires to accept the transfer of the operation of the Electrician Training Program and agrees to assume certain CCTC’s liabilities as listed in Appendix VI, resulting in the net donation described in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and mutual promises set forth below, the parties hereby agree as follows:

1. Contribution.

(a) Assets.

CCTC hereby irrevocably gives, delivers, transfers, and assigns to Eden Area ROP all right, title, and interest in and to the assets of CCTC more specifically described on in Appendix I (the “Assets”).

(b) Leases.

(1) 26200 Hayward Lease.

CCTC hereby assigns all of its right, title, and interest in and to that certain Hayward Business Park Lease Agreement by and between Chris Floethe dba Construction Craft Training as tenant and Hayward Business Park, Inc. as landlord, for the premises located at 26200 Industrial Blvd., Hayward, CA 94545, a copy of which is attached to this Agreement as Appendix II (the “26200 Lease”) and the aggregate security deposit held by Hayward pursuant to the 26200 Lease.

(2) 26206 Hayward Lease.

CCTC hereby assigns all of its right, title, and interest in and to that certain Hayward Business Park Lease Agreement by and between Chris Floethe dba Construction Craft Training as tenant

and Hayward Business Park, Inc. as landlord, for the premises located at 26206 Industrial Blvd., Hayward, CA 94545, a copy of which is attached to this Agreement as Appendix III (the “26206 Lease”) and the aggregate security deposit held by Hayward pursuant to the 26206 Lease.

An assignment of lease from Chris Floethe dba Construction Craft Training to CCTC for the 26200 Lease and the 26206 Lease is attached to this Agreement as Appendix IV and incorporated herein by reference.

(3) Turlock Lease.

CCTC hereby assigns all of its right, title, and interest in and to that certain Multi-Tenant Lease – Gross by and between CCTC as tenant and L & M Investments as landlord, for the premises located at 2480 Acme Court, Turlock, CA 95380, a copy of which is attached to this Agreement as Appendix V (the “Turlock Lease”) and the aggregate security deposit made by CCTC pursuant to the Turlock Lease.

2. Assumption of Liabilities.

Eden Area ROP hereby assumes only those CCTC liabilities as are set forth on Appendix VI, which include the liabilities under the 26200 Lease, the 26206 Lease, and the Turlock Lease. Other than the liabilities as are set forth on Appendix VI, Eden Area ROP does not assume any liabilities, known or unknown, of CCTC.

3. Representations of CCTC and Chris Floethe.

CCTC and Chris Floethe hereby represent and warrant to Eden Area ROP that:

- (a) CCTC has obtained all necessary consents to the transfer of the Assets, including the consents of Landlord as required under the 26200 Lease, the 26206 Lease, and the Turlock Lease.
- (b) The \$89,175 Long Term Note Payable as referenced on the August 30, 2015 CCTC Balance Sheet has been paid in full.
- (c) The \$10,800 Note Receivable as referenced on the August 30, 2015 CCTC Balance Sheet has been received and is no longer outstanding.
- (d) There are no liabilities of CCTC other than those listed on the most recent Balance Sheet.
- (e) The transfer of the Assets by CCTC will not violate any term of any agreement in place between CCTC and any third party.
- (f) CCTC owns the Assets free and clear from any lien or encumbrance, and has the power to transfer the Assets in accordance to the terms set forth in this Agreement.

4. Indemnity.

CCTC and Chris Floethe hereby, jointly and severally, agree to indemnify, defend and hold Eden Area ROP harmless for any damages incurred by Eden Area ROP based on CCTC and/or Chris Floethe's breach of this Agreement or any breach of the representations and warranties of CCTC and/or Chris Floethe as contained in this Agreement.

5. Miscellaneous.

(a) Governing Law.

This Agreement shall be governed by and construed according to the laws of the State of California that would apply if all parties were residents of California and this Agreement was made and performed in California.

(b) Successors and Assigns.

This Agreement and all its provisions shall be binding on and inure to the benefit of the successors and assigns of the parties.

(c) Notices.

Any notices given pursuant to this Agreement shall be in writing and shall be served either personally or delivered by United States mail, postage prepaid, registered or certified, return receipt requested, to the address set forth below for each party. Each party may change such address for notices by delivery of a written notice to the other party.

Eden Area ROP:	Eden Area Regional Occupational Program Attn: Linda Grainger, Superintendent 26316 Hesperian Blvd. Hayward, CA 94545
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CCTC:	Construction Craft Training Center Attn: Chris Floethe, Executive Director 26200 Industrial Blvd. Hayward, CA 94545
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(d) Entire Agreement.

This Agreement contains the entire understanding between the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements and understandings, inducements, or conditions, express or implied, oral or written, except as herein contained.

(e) Amendment.

This Agreement may not be modified or amended other than by an agreement in writing signed by an authorized representative of each party hereto.

IN WITNESS WHEREOF, the parties have entered into this Donation, Assignment, and Assumption Agreement effective as of the date set forth above.

Eden Area Regional Occupational Program

Construction Craft Training Center

By:

Linda Granger, Superintendent

By: _____
Chris Floethe, Executive Director

Chris Floethe

**APPENDIX I
TO
DONATION AGREEMENT**

Assets and Liabilities

1. All assets listed on attached Balance Sheet dated as of June 30, 2016, including but not limited to all accounts receivable of CCTC, all inventory, and all prepaid expenses.

Construction Craft Training Center
Balance Sheet
June 30,2016

Assets

Current Assets:

Cash	22580	\$22,580	
Accounts Receivable	\$51,875		
Less: Reserve for Bad Debts	<u>2,594</u>	49,281	
Merchandise Inventory		4,300	
Prepaid Expenses		11,512	
Notes Receivable		<u>0</u>	
Total Current Assets			\$87,673

Fixed Assets:

Vehicles	0		
Less: Accumulated Depreciation	<u>0</u>	0	
Furniture and Fixtures	22,500		
Less: Accumulated Depreciation	<u>2,250</u>	20,250	
Equipment	135,000		
Less: Accumulated Depreciation	<u>13,500</u>	121,500	
Buildings	0		
Less: Accumulated Depreciation	<u>0</u>	0	
Land		<u>0</u>	
Total Fixed Assets			141,750

Other Assets:

Goodwill		<u>0</u>	
Total Other Assets			0

Total Assets			<u><u>\$229,423</u></u>
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Liabilities and Capital

Current Liabilities:

Accounts Payable	\$8,300		
2410 - Credit Card #8885	\$368		
2420- Credit Card #0339	\$11,401		
Payroll Liabilities	5,212		
Payroll wages	34,829		
Unearned Revenues	0		
Short-Term Notes Payable	0		
Short-Term Bank Loan Payable	<u>0</u>		
Total Current Liabilities			\$60,110

Construction Craft Training Center
Balance Sheet
June 30, 2016

Long-Term Liabilities:

Long-Term Notes Payable	0	
Mortgage Payable	0	
Total Long-Term Liabilities		<u>0</u>

Total Liabilities	60,110
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Capital:

Owner's Equity	0	
Net Profit	59,224	
Total Capital		<u>59,224</u>

Total Liabilities and Capital	<u><u>\$119,334</u></u>
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**APPENDIX II
TO
DONATION AGREEMENT**

26200 Hayward Lease

See attached.

May 28, 2015

Construction Craft Training
26200 Industrial Blvd
Hayward, CA 94545

Dear Chris Floethe,

We have received your request to active the two year option term on your lease agreement for 26200 and 26206 Industrial Blvd. in Hayward, California. As further provided, the Option period shall be on the same terms and conditions as the lease agreement, with exception for the following terms:

The commencement date of the option begins June 1, 2015 and the option term ends May 31, 2017.

Per the option clause in the lease, Base Rent for 26200 Industrial Blvd will be increased by 2% in accordance with the Consumer Price Index clause to \$3055.00. It will be adjusted in accordance with the consumer price index on the commencement of the second year of the option term.

Base Rent for 26206 Industrial Blvd will be increased by 2% in accordance with the Consumer Price Index clause to \$2142.00. It will be adjusted in accordance with the consumer price index on the commencement of the second year of the option term.

Sincerely,



Kelsey Pressnall
Administration
Kelsey@friesproperties.com

Hayward Business Park Lease Agreement

Hayward Business Park Inc., herein called "Lessor" whose address is 26250 Industrial Boulevard, Hayward CA 94545 and Chris Floethe dba Construction Craft Training "Lessee" whose address is 26200 Industrial Blvd, Hayward, CA 94545, agree to the following terms and conditions relating to the lease of land and improvements within the Hayward Business Park.

1. GRANT AND TERM

1.1. LEASED PREMISES.

In consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of Lessee to be observed and performed, the Lessor demises and leases to the Lessee and Lessee rents from Lessor, those certain premises, now in the Hayward Business Park (herein called the "Business Park"), commonly known as 26206 Industrial Blvd., in the City of Hayward, County of Alameda, California, premises consists of a store having approximately 2550 square feet herein called the "leased premises".

1.2. USE OF ADDITIONAL AREAS.

The use and occupation by the Lessee of the leased premises shall include the use in common with others entitled thereto of the common areas, employees' parking areas, service roads, loading facilities, sidewalks and customer car parking areas, and other facilities as may be designated from time to time by the Lessor, subject however to the terms and conditions of this agreement and to reasonable rules and regulations for the use thereof as prescribed from time to time by Lessor.

1.3. COMMENCEMENT OF TERM.

The term of this lease, and Lessee's obligation to pay rent, shall commence on June 1, 2014. In the event that the fixed date above does not occur on the first day of the month, Lessee shall pay rent for the fractional month on a per diem basis (calculated on the basis of a thirty day month) until the first day of the month when the term hereunder commences; and thereafter the minimum rent shall be paid in equal monthly installments on the first day of each and every month in advance.

1.4. ACCEPTANCE

Lessee shall, by entering into and occupying the demised premises be conclusively deemed to have accepted the same and to have acknowledged that said demised premises are in good order, condition and repair.

1.5. LENGTH OF TERM.

The term of this lease shall be for one (1) year and commencement of the term as provided in Section 1.3 hereof and lease shall expire on May 31, 2015.

1.6. EXCUSE OF LESSOR'S PERFORMANCE.



Anything in this agreement to the contrary notwithstanding, providing such cause is not due to the willful act or neglect of the Lessor, the Lessor shall not be deemed in default with respect to the performance of any of the terms, covenants and conditions of this lease if same shall be due to any strike, lockout, civil commotion, war-like operation, invasion, rebellion, hostilities, military or usurped power, sabotage, governmental regulations or controls, inability to obtain any material, service or financing rain or muddy conditions, through Act of God or other cause beyond the control of the Lessor.

2. RENT

2.1. MINIMUM RENT.

The fixed minimum rent during the term of this lease shall be payable by Lessee in monthly installments, or on or before the first day of each month in advance, at the office of the Lessor or at such other place designated by Lessor, without any prior demand therefore, and without any deduction or set-off whatsoever, and shall be as follows:

Base Rent per month, is two thousand, one hundred (\$2100.00) dollars.

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In the event the fixed minimum monthly rent is not paid to Lessor by Lessee within 10 (ten) days of the date on which it is due Lessee agrees to pay to Lessor as additional rent, a late-charge of 10% of rental amount due. Lessee further agrees to pay Lessor any costs incurred by Lessor in effecting the collection of such past due rent and late-charge including but not limited to reasonable fees of an attorney or collection agency. The parties hereto agree that all late charges shall be deemed additional rent and shall be due and payable as such within five (5) days of Lessee's receipt of a statement itemizing the same. Nothing herein contained shall limit any other remedy of Lessor.

2.2. REAL ESTATE TAXES

Lessee agrees to pay Lessee's pro rata share of all real property taxes and assessments which may be levied or assessed by any lawful authority against the land on which buildings are located and improvements thereon in the Business Park. Lessee shall pay said taxes monthly upon receipt from Lessor of a statement delineating Lessee share of said taxes and said share shall be paid within five (5) days after receipt of said statement. Lessee's pro rata share shall be apportioned according to the floor area of the demised premises as it relates to the total floor area of the building or buildings including the demised premises. All taxes for the year in which this lease commences shall be apportioned and adjusted.

As used herein, the term "real property tax" shall include any form of real estate tax or assessment, general, special, ordinary or extra ordinary, and license fee, commercial rental tax, improvement bond or bonds, levy or tax [other than inheritance, personal income or estate taxes] imposed upon the premises by any authority having the direct or indirect powers of tax, including any city, state or federal government, or any school, sanitary, fire, street, drainage or other improvement district thereof as against any legal or equitable interest of Lessor in the premises or in the real property of which the premises are a part, as against Lessor's business of leasing the premises. The term "real property tax" shall also include any tax, fee, levy, assessment or charge [1] in substitution of partially or totally, any tax, fee, levy, assessment or charge hereinabove included within the definition of real property tax or [2] the nature of which was hereinbefore included within the definition of real property tax or [3] which is imposed for a service or right not charged prior to June 1, 1978, or if previously charged has been increased since June 1, 1978.

2.3. ADDITIONAL RENT.

The Lessee shall pay as additional rent money required to be paid pursuant to sections 2.2, 8.1, 10.1, 11.2, 11.4, and 12.1, and all other sums of money or charges required to be paid by Lessee under this lease, without any deductions or setoffs whatsoever, whether or not the same shall be designated "additional rent." If such amounts or charges are not paid at the time provided in this lease, the Lessee further agrees to pay to Lessor any cost incurred by Lessor in effectuating the collection of such past due amounts or charges including but not limited to fees of an attorney or a collection agency. The parties hereto agree that all of the hereinabove mentioned charges shall be deemed additional rent and shall be all due and payable as such within five (5) days of Lessee's receipt of a statement itemizing the same. Nothing herein contained shall limit any other remedy of Lessor.

2.4. ADJUSTMENTS TO MINIMUM RENT.

2.4.1. Commencing with the end of the first lease year, the minimum rent may be adjusted and after the end of each subsequent lease year during the term of this lease in accordance with the Consumer Price Index, hereinafter called "CPI" as published by the Bureau of Labor Statistics (U.S. Cities Average for all Urban Consumers) between (i) the amount of that Index as last published prior to the beginning of the preceding 12-month period, and (ii) the amount of that Index as last published prior to the date on which the rental increase is to occur

2.4.2. The CPI as of the first month shall be designated as the Beginning Index;

2.4.3. Promptly after the end of the first Lease Year and each year thereafter, the annual rental shall be adjusted as follows. If the CPI has increased over the beginning index, the minimum monthly rent payable during the next lease year shall be set by multiplying the minimum rent set forth in paragraph 4.1 by a fraction, the numerator of which is the CPI and the denominator is the beginning index. As soon as the minimum monthly rent for the next lease year is set, the Lessor shall give Lessee notice of the amount of the new minimum monthly rent. If the index is changed so that the base year differs from that used as of the date most immediately preceding the date the first lease year commences, the CPI shall be converted in accordance with conversion factors

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published by the United States Department of Labor Statistics. If the index is discontinued or revised during the term, such other government index with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the index were not discontinued. In no event shall the annual increase be less than 2% or more than 4%.

3. CONSTRUCTION OF LEASED PREMISES

3.1. CHANGES AND ADDITIONS TO BUILDINGS.

Lessor hereby reserves the right at any time to make alterations or additions to and to build additional stories on the building in which the premises are contained and to build adjoining the same. Lessor also reserves the right to construct other buildings or improvements in the Business Park from time to time and to make alterations thereof or additions thereto and to build additional stories on any such building or buildings and to build adjoining same. Easements for light and air are not included in the leasing of these premises to Lessee. Lessor further reserves the exclusive right to the roof except as provided in this lease agreement.

3.2. RIGHT TO RELOCATE.

Lessor reserves the right at any time to vary and adjust the size of the various buildings, co-Lessees, automobile parking areas, and other common areas as described in this lease, provided, however, that said parking area (including landscaped and common areas) shall at all times be in compliance with the minimum requirements of the City of Hayward, County of Alameda, State of California.

4. CONDUCT OF BUSINESS BY LESSEE

4.1. USE OF PREMISES.

Lessee shall use the leased premises for the purpose of conducting the business of: Office & Classroom. Lessee shall occupy the leased premises within thirty (30) days after the date of the notice provided for in Section 1.3 hereof, and shall conduct continuously in the leased premises the business above stated. Lessee will not use or permit, or suffer the use of the leased premises for any other business or purpose without Lessor's approval.

4.2. CONDUCT OF BUSINESS.



Lessee acknowledges that Lessor makes no representations as to the present or future condition of the demised premises, or to the fitness, desirability or zoning hereof for any particular purpose, and Lessor shall not be liable for any charges therein or additions thereto required by any public authority. Any permits or requirements of any kind pertaining to the operation of Lessee's business will be Lessee's responsibility and any construction or special equipment required by public authority to enable Lessee to conduct his business shall likewise be Lessee's sole cost and responsibility.

4.3. ACCEPTANCE OF PREMISES

Acceptance of demised premises except as may be otherwise herein provided, Lessees shall be entering into and occupying the demised premises shall be deemed to have accepted the demised premises "as is" and to have acknowledged that the same are as represented by Lessor and in good order, condition and repair. Lessee acknowledges that it has reviewed and examined the demised premises prior to the execution hereof to its complete satisfaction.

4.4. OPERATION OF BUSINESS.

Lessee shall operate one hundred percent (100%) of the leased premises during the entire term of this lease with due diligence and efficiency unless prevented from doing so by causes beyond Lessee's control. Subject to inability by reason of strikes or labor disputes, Lessee shall carry at all times in said premises a stock of merchandise of such size, character and quality as shall be reasonably designed to produce the maximum return to Lessee. Lessee shall conduct its business in the leased premises during the regular customary days and hours for such type of business in the City or trade area in which the Business Park is located.

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4.5. STORAGE

Lessee shall warehouse, store and/or stock in the leased premises only such goods, wares and merchandise as Lessee intends to offer for sale at retail at, in, from or upon the leased premises. No auction, fire or bankruptcy sales may be conducted in the leased premises without the previous written consent of Lessor.

5. GRANT OF CONCESSIONS**5.1. CONDITIONS TO GRANT.**

The provision against subletting elsewhere contained in this lease shall not prohibit Lessee from granting concessions for the operation of one or more departments of the business which Lessee is permitted by Section 4.1 to conduct in or upon the leased premises; provided, however that [a] each such concession may be granted only upon receipt by Lessee of the written consent of the Lessor and shall be subject to all terms and provisions of this lease; [b] at least seventy-five percent (75%) of the sales floor area of the leased premises shall be at all times devoted to the business of and be operated by Lessee.

6. SECURITY DEPOSIT**6.1. AMOUNT OF DEPOSIT.**

Lessee, contemporaneously with the execution of this lease, will deposit with Lessor the sum of two thousand and forty (\$2040.00). Said deposit shall be held by Lessor, without liability for interest, as security for the faithful performance by Lessee of all of the terms, covenants, and conditions of this lease by said Lessee to be kept and performed during the term hereof. If at any time during the term of this lease any of the rent herein reserved shall be overdue and unpaid, or any other sum payable by Lessee to Lessor hereunder shall be overdue and unpaid then Lessor may, at the option of Lessor (but Lessor shall not be required to), appropriate and apply any portion of said deposit to the payment of any such overdue rent or other sum. It is expressly understood that this sum does not apply toward rent.

6.2. USE AND RETURN OF DEPOSIT.

In the event of the failure of Lessee to keep and perform any of the terms, covenants and conditions of this lease to be kept and performed by Lessee, then the Lessor at its option may, after terminating this lease, appropriate and apply said entire deposit, or so much thereof as may be necessary, to compensate the Lessor for all loss or damage sustained or suffered by Lessor due to such breach on the part of Lessee. Should the entire deposit, or any portion thereof, be appropriated and applied by Lessor for the payment of overdue rent or other sums due and payable to Lessor by Lessee hereunder, then Lessee shall, upon the written demand of Lessor, forthwith remit to Lessor a sufficient amount in cash to restore said security to the original sum deposited and Lessee's failure to do so within five (5) days after receipt of such demand shall constitute a breach of this lease. Should Lessee comply with all of said terms, covenants and conditions and promptly pay all of the rental herein provided for as it falls due, and all other sums payable by Lessee to Lessor hereunder, the said deposit shall be returned in full to Lessee within two weeks from the end of the term of this lease, or upon the earlier termination of this lease.

6.3. TRANSFER OF DEPOSIT.

Lessor may deliver the funds deposited hereunder by Lessee to the purchaser of Lessor's interest in the leased premises, in the event that such interest is sold, and thereupon Lessor shall be discharged from any further liability with respect to such deposit.

7. PARKING AND COMMON USE AREAS AND FACILITIES**7.1. CONTROL OF COMMON AREAS BY LESSOR.**

All automobile parking areas, driveways, entrances and exits thereto, and other facilities furnished by Lessor in or near the Business Park, including employee parking areas, the truck way or ways, loading docks, package pick-up stations, pedestrian sidewalks and ramps, landscaped areas, exterior stairways, first-aid stations, comfort stations and other areas and improvements provided by Lessor for the general use, in common, of Lessees, their officers, agents,

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employees and customers, shall at all times be subject to the exclusive control and management of Lessor, and Lessor shall have the right from time to time to establish, modify and enforce reasonable rules and regulations with respect to all facilities and areas mentioned in this Article. Lessor shall have the right to construct, maintain and operate lighting facilities on all said areas and improvements, to police the same, from time to time to change the area, level, location and arrangement of parking areas and other facilities hereinabove referred to; to restrict parking by Lessees, their officers, agents and employees to employee parking areas; to enforce parking charges (by operation of meters or otherwise), with appropriate provisions for free parking ticket validating by Lessees; to close all or any portion of said areas or facilities to such extent as may, in the opinion of Lessor's council, be legally sufficient to prevent a dedication thereof or the accrual of any rights to any person or the public therein; to close temporarily all or any portion of the parking areas or facilities; to discourage non-customer parking; and to do and perform such other acts in and to said areas and improvements as, in the use of good business judgment, the Lessor shall determine to be advisable with a view to the improvement of the convenience and use thereof by Lessees, their officers, agents, employees and customers. Lessor will operate and maintain the common facilities referred to above in such a manner as Lessor, in its sole discretion, shall determine from time to time. Without limiting the scope of such discretion, Lessor shall have the full right and authority to employ all personnel and to make all rules and regulations pertaining to and necessary for the proper operation and maintenance of the common areas and facilities.

7.2. LICENSE.

All common areas and facilities not within the leased premises, which Lessee may be permitted to use and occupy, are to be used and occupied under a revocable license, and if any such license be revoked, or if the amount of such areas be diminished, Lessor shall not be subject to any liability nor shall Lessee be entitled to any compensation or diminution or abatement of rent, nor shall such revocation or diminution of such areas be deemed constructive or actual eviction.

8. COST OF MAINTENANCE OF COMMON AREAS [NNN]

8.1. LESSEE TO BEAR PRO RATA SHARE OF EXPENSE.

8.1.1. In each lease year, as defined in Section 2.1 hereof, Lessee will pay to Lessor, in addition to the rentals specified in Article II hereof, as further additional rent, subject to the limitation hereinafter set forth, a proportion of the Business Park's operating cost, hereinafter defined, based upon the ratio of the square feet of all the building space in the Business Park.

8.1.2. For the purpose of this Section 8.1 the "Business Park's operating cost" means the total cost and expense incurred in operating and maintaining the common facilities, hereinafter defined, actually used or available for use by Lessee and the employees, agents, servants, customers and other invitees of Lessee, specifically including without limitation, gardening and landscaping, the cost of public liability and property damage insurance, fire and extended coverage insurance, joint utilities, painting, and repairs (not capital in nature), property management, employment of security guards, bookkeeping, real estate property taxes and assessments thereon, and the cost of personnel to implement such services, to direct parking, and to police the common facilities. "Common Facilities" means all areas, space, equipment, and special services provided by Lessor for the common or joint use and benefit of the occupants of the Business Park, their employees, agents, servants, customers and other invitees, including without limitation parking areas, access roads, driveways, retaining walls, landscaped areas, truck service ways or tunnels, loading docks, pedestrian malls, courts, stairs, ramps and sidewalks, comfort and first aid stations, washrooms, parcel pick-up stations and Business Park sign rental.

8.1.3. The additional rent to be paid in this Section 8.1 and also Sections 2.2, 11.1 and 11.2 shall be paid monthly in advance. The monthly charge shall be estimated for a twelve (12) month period and adjusted annually upwards or downwards to reflect the actual cost incurred. Lessee will then be credited or billed accordingly at year end to reflect this adjustment. Lessee shall have the right to review the breakdown on the operating costs that are incurred for the premises once a year, should Lessee request.

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8.1.4. Changes in any particular floor area occurring during any monthly period shall be effective on the first day of the next succeeding monthly period, and the amount of any floor area in effect for the whole of any monthly period shall be the average of the total amounts in effect on the first day of each calendar month in such monthly period.

9. SIGNS, AWNINGS, CANOPIES, FIXTURES, ALTERATIONS

9.1. INSTALLATION BY LESSEE.

All fixtures installed by Lessee shall be new or completely reconditioned. Lessee shall not make or cause to be made any alterations, additions or improvements or install or cause to be installed any trade fixtures, exterior signs, floor covering, interior or exterior lighting, plumbing fixtures, shades or awnings or make any changes to the store front without first obtaining Lessor's written approval and consent. Lessee shall present to the Lessor plans and specifications for such work at the time approval is sought.

9.2. REMOVAL AND INSURANCE BY LESSEE.

All alterations, decorations, additions and improvements made by the Lessee, or made by the Lessor on the Lessee's behalf by agreement under this lease, shall remain the property of the Lessee for the term of the lease, or any extension or renewal thereof. The Lessee shall at all times maintain fire insurance with extended coverage in the name of the Lessor and the Lessee, in an amount adequate to cover the cost of replacement of all alterations, decorations, additions or improvements in the event of fire or extended coverage loss. Lessee shall deliver to the Lessor certificates of such fire insurance policies which shall contain a clause requiring the insurer to give the Lessor ten (10) days notice of cancellation of such policies. Such alterations, decorations, additions and improvements shall not be removed from the premises without prior consent in writing from the Lessor. Upon expiration of this lease, or any renewal term thereof, the Lessee shall remove all such alterations, decorations, additions and improvements, and restore the leased premises as provided in Section 10.3 hereof. If the Lessee fails to remove such alterations, decorations, additions and improvements and restore the leased premises, then upon the expiration of this lease, or any renewal thereof, and upon the Lessee's removal from the premises, all such alterations, decorations, additions and improvements shall become the property of the Lessor.

9.3. LESSEE SHALL DISCHARGE ALL LIENS.

Lessee shall promptly pay all contractors and material men, if such were employed by Lessee or Lessee's agents for work or modifications in the leased premises, so as to minimize the possibility of a lien attaching to the leased premises, and should any such lien be made or filed, Lessee shall bond against or discharge the same within ten (10) days after written request by Lessor.

9.4. SIGNS, AWNINGS AND CANOPIES.

Lessee will not place or suffer to be placed or maintained on any exterior door, wall or window of the leased premises any sign, awning or canopy, or advertising matter or other thing of any kind, and will not place or maintain any decoration, lettering or advertising matter on the glass of any window or door of the leased premises without first obtaining Lessor's written approval and consent. Lessee further agrees to maintain such sign, awning, canopy, decoration, lettering, advertising matter or other thing as may be approved in good condition and repair at all times. Lessee agrees, at Lessee's sole cost, to obtain a sign in strict conformance with Lessor's sign criteria as to design, material, color, location, size, and letter style.

10. MAINTENANCE OF LEASED PREMISES

10.1. MAINTENANCE BY LESSEE.

10.1.1. Lessee shall at all times keep the leased premises (including maintenance of exterior entrances, all glass and show window moldings) and all partitions, doors, door jams, door closers, door hardware, fixtures, equipment and appurtenances thereof (including electrical, lighting, heating and plumbing fixtures, and any air conditioning system, including leaks around ducts, pipes, vents, or other parts of the air conditioning, heating or plumbing systems which protrude through the roof) in good order, condition and repair including

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replacements (including reasonably periodic painting as determined by Lessor), damage by unavoidable casualty excepted, except for structural portions of the premises, which shall be maintained by Lessor, but if Lessor is required to make repairs to structural portions by reason of Lessee's negligent acts or omission to act, Lessor may add the cost of such repairs to the rent which shall thereafter become due.

10.1.2. Lessee shall comply with all legal requirements now or hereafter affecting or applying to the premises at Lessee's sole cost and expense.

10.1.3. Lessee shall keep the premises and all other parts of the Business Park free from any and all liens arising out of any work performed, materials furnished or obligations incurred by Lessee or for Lessee by Lessee's Agents, and agrees to bond against, discharge any mechanic's or material men's lien, or post security with Lessor, satisfactory to Lessor, within ten (10) days after the filing of any such lien. In no event said bond and security shall be in an amount less than twice the amount of such lien. In the event Lessee fails to do any of the following within said ten (10) day period, Lessor may pay the underlying claim thereof, or otherwise discharge said lien, at Lessee's sole cost and expense. Lessee shall reimburse Lessor therefore, together with interest at the interest rate of ten percent (10%) within ten (10) days after Lessor's demand therefore.

10.1.4. Lessee expressly waives Sections 1941 and 1933(i) of the California Civil Code, and all other rights to make repairs at the expense of Lessor or deduct any amounts from rent as provided in any statute or law in effect during the term of this Lease in any.

10.2. MAINTENANCE BY LESSOR.

If Lessee refuses or neglects to repair properly as required hereunder and to the reasonable satisfaction of Lessor as soon as reasonably possible after written demand, Lessor may make such repairs without liability to Lessee for any loss or damage that may accrue to Lessee's merchandise, fixtures, or other property or to Lessee's business by reason thereof, and upon completion thereof, Lessee shall pay Lessor's reasonable costs for making such repairs, upon presentation of bill thereof, as additional rent. Said bill shall include interest at ten (10%) percent on said cost beginning fifteen (15) days after the date of completion and written notification of such completion of repairs by Lessor to the Lessee.

10.3. SURRENDER OF PREMISES.

At the expiration of the tenancy hereby created, Lessee shall surrender the leased premises in the same condition as the leased premises were in upon delivery of possession thereto under this lease, reasonable wear and tear excepted, and damage by unavoidable casualty excepted to the extent that the same is covered by Lessor's fire insurance policy with extended coverage endorsement, and shall surrender all keys for the leased premises to Lessor at the place then fixed for the payment of rent and shall inform Lessor of all combinations on locks, safes and vaults, if any, in the leased premises. Lessee shall remove all its trade fixtures, and any alterations or improvements as provided in Section 9.2 hereof, before surrendering the premises as aforesaid and shall repair any damage to the leased premises caused thereby. Lessee's obligation to observe or perform this covenant shall survive the expiration or other termination of the term of this lease.

10.4. RULES AND REGULATIONS.

10.4.1. The Lessee agrees as follows:

10.4.1.1. All loading and unloading of goods shall be done only at such times, in the areas, and through the entrances, designated for such purposes by Lessor.

10.4.1.2. The delivery or shipping of merchandise, supplies and fixtures to and from the leased premises shall be subject to such rules and regulations as in the judgment of the Lessor are necessary for the proper operation of the leased premises or Business Park.

10.4.1.3. All garbage and refuse shall be kept in the kind of container specified by Lessor, and shall be placed outside of the premises prepared for collection in the manner and at the times and places specified by Lessor. If Lessor shall provide or designate a service for picking up refuse and garbage, Lessee shall use same at Lessee's cost. Lessee shall pay the cost of removal of any of Lessee's refuse or rubbish.

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- 10.4.1.4. No aerial shall be erected on the roof or exterior walls of the premises, or on the grounds, without in each instance, the written consent of the Lessor any aerial so installed without such written consent shall be subject to removal without notice at any time.
- 10.4.1.5. No loud speakers, televisions, phonographs, radios or other devices shall be used in a manner so as to be heard or seen outside of the premises without the prior written consent of the Lessor.
- 10.4.1.6. The outside areas immediately adjoining the premises shall be kept clean and free from dirt and rubbish by the Lessee to the satisfaction of the Lessor and Lessee shall not place or permit any obstructions or merchandise in such areas.
- 10.4.1.7. Lessee and Lessee's employees shall park their cars only in those portions of the parking area designated for that purpose by Lessor. In the event the Lessee or its employees fail to park their cars in designated parking areas as aforesaid or parks illegally, then the Lessor at its option shall have the right to tow such vehicles, at vehicle Lessor expense, upon such infraction.
- 10.4.1.8. The plumbing facilities shall not be used for any other purpose than that for which they are constructed, and no foreign substance of any kind shall be thrown therein, and the expense of any breakage, stoppage, or damage resulting from a violation of this provision shall be borne by Lessee, who shall, or whose employees, agents or invitees shall have caused it.
- 10.4.1.9. Lessee shall not burn any trash or garbage of any kind in or about the leased premises, or the Business Park.
- 10.4.1.10. Lessee and Lessee's employees and agents shall not solicit business in the parking or other common areas, nor shall Lessee distribute any handbills or other advertising matter in automobiles parked in the parking area or in other common areas.
- 10.5. Lessor reserves the right from time to time to amend or supplement the foregoing rules and regulations, and to adopt and promulgate additional rules and regulations applicable to the leased premises. Notice of such rules and regulations and amendments and supplements thereto, if any, shall be given to the Lessee.
- 10.6. Lessee agrees to comply with all such rules and regulations upon notice to Lessee from Lessor, provided that such rules and regulations shall apply uniformly to all Lessees of the Business Park.

11. INSURANCE AND INDEMNITY

11.1. LIABILITY INSURANCE.

Lessee shall, during the entire term hereof, keep in full force and effect a policy of public liability and property damage insurance with respect to the leased premises, the sidewalks in front of the leased premises, and the business operated by Lessee and any sub-Lessees of Lessee in the leased premises in which the limits of public liability shall be not less than \$1,000,000.00 for each occurrence and in which the property damage liability shall be not less than \$500,000.00 for each occurrence. The policy shall name Lessor, any person, firms or corporations designated by Lessor, and Lessee as insured, and shall contain a clause that the insurer will not cancel or change the insurance without first giving the Lessor ten (10) days prior written notice. The insurance shall be in the insurance company approved by Lessor and a copy of the policy or a certificate of insurance shall be delivered to Lessor.

11.2. FIRE INSURANCE PREMIUM.

Lessor shall, at its cost and expense, maintain fire and extended coverage insurance throughout the term of this lease in an amount equal to at least ninety percent (90%) of the replacement value (exclusive of foundation and excavation costs) of the leased premises and/or the building of which the leased premises are a part. However, Lessee agrees to reimburse Lessor for Lessee's prorata share of any premiums for said fire and extended coverage insurance that may be charged during the term of this lease on the amount of such insurance which may be carried by Lessor on said premises or the building of which they are a part. This reimbursement charge will be paid monthly in advance as specified in Section 8.1.

11.3. PLATE GLASS

Lessee shall be responsible for any and all plate and other glass damaged or broken from any cause whatsoever in and about the leased premises. Lessee may elect to be self-insured for plate glass breakage of damage

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11.4. INDEMNIFICATION OF LESSOR.

Lessee will indemnify Lessor and save it harmless from and against any and all claims, actions, damages, liability and expense in connection with loss of life, personal injury and/or damage to property arising from or out of any occurrence in, upon or at the leased premises, or the occupancy or use by Lessee of the leased premises or any part thereof, or occasioned wholly or in part by any act or omission of Lessee, its agents, contractors, employees, servants, lessees or concessionaires. In case Lessor shall, without fault on its part, be made a party to any litigation commenced solely by or against Lessee, then Lessee shall protect and hold Lessor harmless and shall pay all costs, expenses and reasonable attorney's fees that may be incurred or paid by Lessor in enforcing the covenants and agreements in this lease.

12. UTILITIES

12.1. UTILITY SERVICES.

It is the Lessee's responsibility to arrange for gas, electrical, and any telecommunication service required.

12.2. UTILITY CHARGES.

Lessee shall be solely responsible for and promptly pay all charges for heat, water, gas electricity or any other utility used or consumed in the leased premises. Should Lessor elect to supply the water gas, heat, electricity or any other utility used or consumed in the leased premises, Lessee agrees to purchase and pay for the same as additional rent as apportioned by the Lessor. In no event shall Lessor be liable for an interruption or failure in supply of any such utilities to the leased premises

12.3. Lessor does NOT cover, include or guarantee any communication service or communication infrastructure, capacity, bandwidth or speed of said service including, but not limited to internet service, cable services, T-1 lines, or telephone services, and or service and distribution lines within the interior or exterior of the building.

13. OFFSET STATEMENT, ATTORNMENT SUBORDINATION

13.1. OFFSET STATEMENT

Estoppel certificate: Lessee shall at any time, and from time to time, upon not less than ten (10) days prior written request by Lessor execute, acknowledge, and deliver to Lessor a statement in writing certifying that this lease is unmodified and in full force and effect (or, that there shall have been modifications, that the lease is modified and in full force and effect as modified and stating the modifications) and the dates to which the fixed rent and any other charges or payments have been paid in advance. It is expressly understood and agreed that any such statement delivered pursuant to this paragraph may be relied upon by Lessor or any prospective purchaser, mortgagee, assignee of any mortgagee, or the trustee or beneficiary of any deed of trust placed upon the demised premises or the real property of which the demised premises are a part.

13.2. ATTORNMENT.

Lessee shall, in the event any proceedings are brought for the foreclosure of, or in the event of exercise of the power of sale under any mortgage made by the Lessor covering the leased premises, attorn to the purchaser upon any such foreclosure or sale and recognize such purchaser as the Lessor under this lease.

13.3. SUBORDINATION.

Upon request of the Lessor, Lessee will subordinate its rights hereunder to the lien of any mortgage or mortgages or the lien resulting from any other method of financing or refinancing, now or hereafter in force against the land and buildings of which the leased premises are a part or upon any buildings hereafter placed upon the land of which the lease premises are a part, and to all advances made or hereafter to be made upon the security thereof. This section shall be self-operative and no further instrument of subordination shall be required by any mortgagee.

13.4. ATTORNEY-IN-FACT.

The Lessee, upon request of any party in interest, shall execute promptly such instruments or certificates to carry out the intent of Sections 13.2 and 13.3 above as shall be requested by the Lessor. The Lessee hereby irrevocably appoints the Lessor as attorney-in-fact for the Lessee with full power and authority to execute and deliver in the

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name of the Lessee any such instruments or certificates. If fifteen (15) days after the date of a written request by Lessor to execute such instruments, the Lessee shall not have executed the same, the Lessor may, at its option, cancel this lease without incurring any liability on account thereof, and the term hereby granted is expressly limited accordingly.

14. ASSIGNMENT AND SUBLETTING

14.1. CONSENT REQUIRED.

Lessee will not assign this lease in whole or in part, nor sublet all or any part of the leased premises, without the prior written consent of Lessor in each instance. The consent by Lessor to any assignment or subletting shall not constitute a waiver of the necessity for such consent to any subsequent assignment or subletting. This prohibition against assigning or subletting shall be construed to include a prohibition against any assignment or subletting by operation of law. If this lease be assigned, or if the leased premises or any part thereof be underlet or occupied by anybody other than Lessee, Lessor may collect rent from the assignee, under-Lessee or occupant, and apply the net amount collected to the rent herein reserved, but no such assignment, underletting, occupancy or collection shall be deemed a waiver of this covenant, or the acceptance of the assignee, under-Lessee or occupant as Lessee, or a release of Lessee from the further performance by Lessee of covenants on the part of Lessee herein contained. Notwithstanding any assignment or sublease, Lessee shall remain fully liable on this lease and shall not be released from performing any of the terms, covenants and conditions of this lease.

14.1.1. The acceptance of rent from any other person shall not be deemed to be a waiver of any of the provisions of this lease or consent to the assignment of the demised premises. In the event any of the following are not satisfied in Lessor's sole and absolute discretion and Lessor chooses to withhold consent to such requested assignment or subletting, such withholding shall be deemed to be reasonable:

14.1.1.1. The intended use of the premises by such proposed assignee or sub-lessee:

14.1.1.1.1. Shall not conflict with any lease then in effect with respect to or with any other use of any other premises by any other occupant in the Business Park;

14.1.1.1.2. Shall conform with Lessor's desired "Lessee mix" within the Business Park;

14.1.1.1.3. Shall be in keeping with the quality or character of the Business Park or not constitute a nuisance;

14.1.1.1.4. Such proposed assignee or sub-lessee shall be of sound financial net worth; proposed assignee must be approved by Lessor prior to any closing of any transfer.

14.1.1.1.5. Such proposed assignee or sub-lessee shall satisfy Lessor that it has had not less than three (3) years of prior experience operating a successful business of the type intended to be operated in the premises;

14.1.1.1.6. The impact of such proposed assignee or sub-lessee would not have a disadvantageous impact on the Common Area or other occupants of the Business Park.

14.1.2. Any assignment or subletting to which Lessor has not consented (other than permitted above) shall be null and void, and at Lessor's option shall constitute a material default hereunder, permitting Lessor to terminate this Lease in addition to all other rights and remedies now or hereafter available to Lessor hereunder or at law or in equity.

14.1.3. Lessee shall forward to Lessor for Lessor's approval (1) financial statements of such proposed assignee or sub-lessee; (2) a history of the business experience of such proposed assignee or sub-lessee; and (3) a copy of the proposed assignment or sublease, pursuant to which such assignee or sub-lessee shall assume all obligations on Lessee's part to be performed hereunder and an agreement to observe all of the terms, provisions, covenants, conditions and agreements hereunder.

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15. WASTE, GOVERNMENTAL REGULATIONS

15.1. WASTE OR NUISANCE.

Lessee shall not commit or suffer to be committed any waste upon the leased premises or any nuisance or other act or thing which may disturb the quiet enjoyment of any other Lessee in the building in which the leased premises may be located, or in the Business Park, or which may disturb the quiet enjoyment of any person within five hundred feet of the boundaries of the Business Park.

15.2. GOVERNMENTAL REGULATIONS.

Lessee shall, at Lessee's sole cost and expense, comply with all of the requirements of all city, county, municipal, state, federal and other applicable governmental authorities, now in force, or which may hereafter be in force, pertaining to the said premises, including the installation of additional facilities as required for the conduct and continuance of Lessee's business, and shall faithfully observe in the use of the premises all municipal and county ordinances and state and federal statutes now in force or which may hereafter be in force.



16. DESTRUCTION OF LEASED PREMISES

16.1. RECONSTRUCTION OF DAMAGED PREMISES.

In the event the premises shall be rendered partially or totally unleaseable as a result of fire or other casualty covered by insurance carried by Lessor, then the premises shall be promptly repaired to the extent of the insurance proceeds received by Lessor therefor, unless Lessor shall elect not to rebuild as hereinafter provided, the fixed minimum rental shall be abated in proportion to the amount of the leased premises rendered unleaseable shall be pro ratably reduced until so repaired. Lessor shall be obligated to cause such repairs to be made Unless Lessor, at its sole option elect to cause Lessee to make such repairs, in which event Lessee shall promptly complete the same and Lessor will make available to Lessee for the sole purpose of reconstruction of the premises such portion of the insurance proceeds received by Lessor from its insurance carrier, allocated to the premises. Any amount expended by Lessee in excess of such insurance proceeds received by Lessor and made available to Lessee shall be the sole obligation of Lessee. In the event of reconstruction or repair by Lessor, any amount expended by Lessor in repairing the improvements to the premises in excess of the proceeds of insurance received by Lessor allocated to the premises shall be repayable by Lessee to Lessor within ten (10) days after receipt by Lessee from Lessor of a statement setting forth the amount of such excess, together with interest at the highest rate from the date Lessor incurred such amount to the date of payment by Lessee.

16.2. Lessor and Lessor's insurance carrier shall determine the amount of insurance proceeds attributable to the damage of such improvements which determination shall be binding upon Lessor and Lessee. The party required hereunder to repair the damage to the premises shall reconstruct such premises in accordance with the working drawings originally approved by Lessor. In no event shall Lessor be required to repair or replace Lessee's merchandise, trade fixtures, furnishings or equipment. If more than thirty-five percent (35%) of the Floor Area of the building in which the premises are located shall be damaged or destroyed by fire or other casualty, or if during the last three (3) years of the Term more than twenty-five percent (25%) of the premises or the Floor Area of the building in which the premises are located ("Building") shall be damaged or destroyed by fire or other casualty then Lessor may either elect that the Building and/or premises, as the case may be, be repaired or rebuilt or, at its election to so terminate. Such notice shall be given, if at all, within ninety (90) days after the occurrence of such damage or destruction. If Lessor is required or elects to repair or rebuild or requires the Lessee to repair or rebuild the premises as herein provided, Lessee shall repair or replace its merchandise, trade fixtures, furnishings and equipment in a manner and to at least a condition equal to that prior to its damage or destruction...

16.3. If the premises cannot be restored within 90 days of the loss, or the loss occurs during the last 3 months of the lease, this lease can be terminated by either party. During such 90 day period Lessee shall not be required to pay monthly lease/ rent to the Lessor.

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17. EMINENT DOMAIN

17.1. TOTAL CONDEMNATION.

If the whole of the leased premises shall be acquired or condemned by eminent domain for any public or quasi-public use or purpose, then the term of this lease shall cease and terminate as of the date of title vesting in such proceeding and all rentals shall be paid up to that date and Lessee shall have no claim against Lessor for the value of any unexpired term of this lease.

17.2. TOTAL PARKING AREA.

If the whole of the common parking areas in the Business Park shall be acquired or condemned by eminent domain for any public or quasi-public use or purpose, then the term of this lease shall cease and terminate as of the date of title vesting in such proceeding unless Lessor shall take immediate steps to provide other parking facilities substantially equal to the previously existing ratio between the common parking areas and the leased premises, and such substantially equal parking facilities shall be provided by Lessor at its own expense within ninety (90) days from the date of acquisition. In the event that Lessor shall provide such other substantially equal parking facilities, then this lease shall continue in full force and effect. In any event, Lessee shall have no claim against Lessor for the value of any unexpired term of this lease.

17.3. PARTIAL CONDEMNATION.

If any part of the leased premises shall be acquired or condemned by eminent domain for any public or quasi-public use or purpose, and in the event that such partial taking or condemnation shall render the leased premises unsuitable for the business of the Lessee, then the term of this lease shall cease and terminate as of the date of title vesting in such proceeding and Lessee shall have no claim against Lessor for the value of any unexpired term of this lease and the Lessee shall not have any payment obligations for the remainder term of the lease from the date of such Partial Condemnation. In the event of a partial taking or condemnation which is not extensive enough and is mutually agreed upon as suitable for the business of the Lessee, then Lessor shall promptly restore the leased premises to a condition comparable to its condition at the time of such condemnation less the portion lost in the taking, and this lease shall continue in full force and effect.

17.4. LESSOR'S DAMAGES.

In the event of any condemnation or taking as hereinabove provided, whether whole or partial, the Lessee shall not be entitled to any part of the award, as damages or otherwise, for such condemnation and Lessor is to receive the full amount of such award, the Lessee hereby expressly waiving any right or claim to any part thereof.

17.5. LESSEE'S DAMAGES.

Although all damages in the event of any condemnation are to belong to the Lessor whether such damages are awarded as compensation for diminution in value of the leasehold or to the fee of the leased premises, Lessee shall have the right to claim and recover from the condemning authority, but not from Lessor, such compensation as may be separately awarded or recoverable by Lessee in Lessee's own right on account of any and all damage to Lessee's business by reason of the condemnation and for or on account of any cost or loss to which Lessee might be put in removing Lessee's merchandise, furniture, fixtures, leasehold improvements and equipment.

18. DEFAULT OF LESSEE

18.1. RIGHT TO RE-ENTER.

In the event of any failure of Lessee to pay any rental due hereunder within ten (10) days after the same shall be due, or any failure to perform any other of the terms, conditions or covenants of this lease to be observed or performed by Lessee for more than THREE (3) days after written notice of such default shall have been received by Lessee, or if Lessee shall become bankrupt or insolvent, or file any debtor proceedings, or take or have taken against Lessee in any court pursuant to any statute either of the United States or of any State a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of Lessee's property, or if Lessee makes an assignment for the benefit of creditors, or petitions for or enters into an arrangement, or if Lessee shall abandon said premises, or suffer this lease to be taken under any writ of execution, then Lessor besides other rights

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or remedies it may have, shall have the immediate right of re-entry and may remove all persons and property from the leased premises and such property may be removed and stored in a public warehouse or elsewhere at the cost of, and for the account of Lessee, all without service of notice or resort to legal process and without being deemed guilty of trespass, or becoming liable for any loss or damage which may be occasioned thereby.

18.2. RIGHT TO RELET.

Pursuant to 18.1, Should Lessor elect to re-enter, as above provided, or should it take possession pursuant to legal proceedings or pursuant to any notice provided for by law, it may either terminate this lease or it may from time to time without terminating this lease, make such reasonable alterations and repairs as may be necessary in order to relet the premises, and relet said premises or any part thereof for such term or terms (which may be for a term extending beyond the term of this lease) and at such rental or rentals and upon such other terms and conditions as Lessor in its sole discretion may deem advisable; upon each such reletting all rentals received by the Lessor from such reletting shall be applied, first, to the payment of any indebtedness other than rent due hereunder from Lessee to Lessor; second, to the payment of any costs and expenses of such reletting, including brokerage fees and attorney's fees and of costs of such alterations and repairs; third, to the payment of rent due and unpaid hereunder, and the residue, if any, shall be held by Lessor and applied in payment of future rent as the same may become due and payable hereunder. If such rentals received from such reletting during any month be less than that to be paid during that month by Lessee hereunder, Lessee shall pay any such deficiency to Lessor. Such deficiency shall be calculated and paid monthly. No such re-entry or taking possession of said premises by Lessor shall be construed as an election on its part to terminate this lease unless a written notice of such intention is given to Lessee or unless the termination thereof is decreed by a court of competent jurisdiction. Notwithstanding any such reletting without termination, Lessor may at any time thereafter elect to terminate this lease for such previous breach. Should Lessor at any time terminate this lease for any breach, in addition to any other remedies it may have, it may recover from Lessee all damages it may incur by reason of such breach, including the cost of recovering the leased premises, reasonable attorney's fees, and including the worth at the time of such termination of the excess, if any, of the amount of rent and charges equivalent to rent reserved in this lease for the remainder of the stated term over the currently agreed rental value of the leased premises as described in section 2.3 for the remainder of the stated term, all of which amounts shall be immediately due and payable from Lessee to Lessor.

18.3. LEGAL EXPENSES.

In the event of any action or proceeding brought by either party against the other under this lease, each party shall bear their own costs and fees of its attorneys in such action or proceeding, including costs of appeal, if any.



18.4. WAIVER OF RIGHTS OF REDEMPTION.

Lessee hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event of Lessee being evicted or dispossessed for any cause, or in the event of Lessor obtaining possession of the leased premises, by reason of the violation by Lessee or any of the covenants or conditions of this lease, or otherwise.

19. ACCESS BY LESSOR

19.1. RIGHT OF ENTRY.

Given 24 hours notice, Lessor or Lessor's agents shall have the right to enter the leased premises during normal business hours and make reasonable efforts not to impact the business of the Lessee to examine the same, and to show them to prospective purchasers or lessees of the building, and to make such repairs, alterations improvements or additions as Lessor may deem necessary or desirable, and Lessor shall be allowed to take all material into and upon said premises that may be required therefore without the same constituting an eviction of Lessee in whole or in part and the rent reserved shall in no wise abate while said repairs, alterations, improvements, or additions are being made, in the event it is necessary to temporarily close the business office during such repairs. During the six months prior to the expiration of the term of this lease or any renewal term, Lessor may exhibit the premises to prospective Lessees or purchasers, and place upon the premises the usual notices "To Let" or "For Sale" which notices Lessee shall permit to remain thereon without molestation. Lessor will take all appropriate measures to attempt to make repairs during times that does not impede on the Lessee's Business.

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20. LESSEE'S PROPERTY

20.1. TAXES ON LEASEHOLD.

Lessee shall be responsible for and shall pay before delinquency all municipal, county or state taxes assessed during the term of this lease against any leasehold interest or lessee's personal property of any kind, owned by or placed in, upon or about the leased premises by the Lessee.

20.2. LOSS AND DAMAGE.

Lessor shall not be liable for any damage to property of Lessee or of others located on the leased premises, nor for the loss of or damage to any property of Lessee or of others by theft or otherwise. Lessor shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain or leaks from any part of the leased premises or from the pipes, appliances or plumbing works or from the roof, street or sub-surface or from any other place or by dampness or by any other cause of whatsoever nature. Lessor shall not be liable for any such damage caused by other Lessees or persons in the leased premises, occupants of adjacent property, of the Business Park, or the public, or caused by operations in construction of any private, public or quasi-public work. All property of Lessee kept or stored on the leased premises shall be so kept or stored at the risk of Lessee only and Lessee shall hold Lessor harmless from any claims arising out of damage to the same, including subrogation claims by Lessee's Insurance carriers, unless such damage shall be caused by the willful act or gross neglect of Lessor.

20.3. NOTICE BY LESSEE.

Lessee shall give immediate notice to Lessor in case of fire or accidents in the leased premises or in the building of which the premises are a part or of defects therein or in any fixtures or equipment.

21. HOLDING OVER, SUCCESSORS

21.1. HOLDING OVER.

Any holding over after the expiration of the term hereof, with the consent of the Lessor, shall be construed to be a tenancy from month to month at the rents herein specified (prorated on a monthly basis) and shall otherwise be on the terms and conditions herein specified, so far as applicable.

21.2. SUCCESSORS.

All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several respective heirs, executors, administrators, successors, and assigns of the said parties; and if there shall be more than one Lessee, they shall all be bound jointly and severally by the terms, covenants and agreements herein. No rights, however, shall inure to the benefit of any assignee of Lessee unless the assignment to such assignee has been approved by Lessor in writing as provided in Section 16.1 hereof.

22. QUIET ENJOYMENT

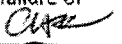

22.1. LESSOR'S COVENANT.

Upon payment by the Lessee of the rents herein provided, and upon the observance and performance of all the covenants, terms and conditions on Lessee's part to be observed and performed, Lessee shall peaceably and quietly hold and enjoy the leased premises for the term hereby demised without hindrance or interruption by Lessor or any other person or persons lawfully or equitably claiming by, through or under the Lessor, subject, nevertheless, to the terms and conditions of this lease.

23. MISCELLANEOUS

23.1. WAIVER.

The waiver by Lessor of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by Lessor shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant or condition of this lease, other than the failure of

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Lessee to pay the particular rental so accepted, regardless of Lessor's knowledge of such preceding breach at the time of acceptance of such rent. No covenant, term or condition of this lease shall be deemed to have been waived by Lessor, unless such waiver is in writing by Lessor.

23.2. ACCORD AND SATISFACTION.

No payment by Lessee or receipt by Lessor of a lesser amount than the monthly rent herein stipulated shall be deemed to be other than on account (of the earliest stipulated rent, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Lessor may accept such check or payment without prejudice to Lessor's right to recover the balance of such rent or pursue any other remedy in this lease period.

23.3. ENTIRE AGREEMENT.

This lease and the Exhibits, and Rider, if any, attached hereto and forming a part hereof, set forth all the covenants, promises, agreements, conditions or understandings, either oral, or written, between them other than are herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this lease shall be binding upon Lessor or Lessee unless reduced to writing and signed by them.

23.4. NO PARTNERSHIP.

Lessor does not, in any way or for any purpose, become a partner of Lessee in the conduct of its business, or otherwise, or joint adventurer or a member of a joint enterprise with Lessee. The provisions of this lease relating to the percentage rent payable hereunder are included solely for the purpose of providing a method whereby the rent is to be measured and ascertained.

23.5. FORCE MAJEURE.

In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this lease, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. The provisions of this Section 24.5 shall not operate to excuse Lessee from the prompt payment of rent, percentage rent, additional rent or any other payments required by the terms of this lease.

23.6. NOTICES.

(a) Any notice by Lessee to Lessor must be served by certified or registered mail, postage prepaid, addressed to Lessor at the address first hereinabove given or at such other address as Lessor may designate by written notice.

(b) Any notice by Lessor to Lessee must be served by Certified or registered mail, postage prepaid, addressed to Lessee at the leased premises or at such other address as Lessee shall designate by written notice.

23.7. CAPTIONS AND SECTION NUMBERS.

The captions, section numbers, article numbers, and index appearing in this lease are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of such sections or articles of this lease nor in any way affect this lease.

23.8. LESSEE DEFINED, USE OF PRONOUN.

The word "Lessee" shall be deemed and taken to mean each and every person or party mentioned as a Lessee herein, be the same one or more; and if there shall be more than one Lessee, any notice required or permitted by the terms of this lease may be given by or to any one thereof, and shall have the same force and effect as if given by or to all thereof. The use of the neuter singular pronoun to refer to Lessor or Lessee shall be deemed a proper reference even though Lessor or Lessee may be an individual, a partnership, a corporation, or a group of two or more individuals or corporations. The necessary grammatical changes required to make the provisions of this lease apply in the plural sense where there is more than one Lessor or Lessee and to either corporations; associations, partnerships, or individuals, males or females, shall in all instances be assumed as though in each case fully expressed.

23.9. PARTIAL INVALIDITY. If any term, covenant or condition of this lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this lease, or the application of such

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term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this lease shall be valid and be enforced to the fullest extent permitted by law.

24. RECORDING

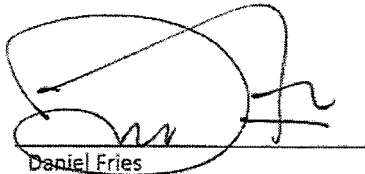
24.1. Lessee shall not record this lease without the written consent of Lessor.

25. OPTION

25.1. If all terms and conditions have been carried out successfully, Lessor hereby grants Lessee the right, option and privilege of extending and renewing the term of the Lease for One (1) additional period(s) of Two (2) year(s) beginning on the termination date of the lease. Lessee shall notify Lessor no later than 90 days prior to expiration of this lease to inform Lessor of Lessee's intent to exercise the option. If notice is not received within the time specified, it will be assumed that Tenant will not exercise the option and the option shall be forfeited.


25.2. If assignee timely exercises the option to renew the term, the term shall thereafter automatically be extended and renewed for an additional two (2) year(s), which the extended and renewed term shall be on all of the same covenants, terms, and conditions as are contained in the Lease, except for the Base Rent which at the beginning of the first full calendar month in the option term, and if applicable, at one year intervals thereafter, the monthly rental shall increase, but not decrease, in proportion to any percentage increase in the Consumer Price Index as published by the Bureau of Labor Statistics (U.S. Cities Average for all Urban Consumers) between (i) the amount of that Index as last published prior to the beginning of the preceding 12-month period, and (ii) the amount of that Index as last published prior to the date on which the rental increase is to occur. In any event, the rent for any lease year shall be increased by not less than two (2%) per annum and shall not be increased by more than four (4%) per annum. In no event shall the monthly rental, as adjusted hereunder, be less than the applicable minimum rental set forth in section 2.01 above.

25.3. In the event that Lessee and Lessor cannot arrive at an agreement within 30 days after the expiration of this lease, all terms shall be considered on a month to month tenancy and the option shall be forfeited.



Daniel Fries
Lessor, Lessor's Agent
Fries Properties Inc.
39678 Mission Blvd.
Fremont, Ca 94539

4/27/14
Date



Chris Floethe
Lessee
Construction Craft Training
26200 Industrial Blvd
Hayward, CA 94545

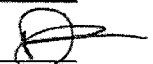
4/18/2014
Date

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Date

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**APPENDIX III
TO
DONATION AGREEMENT**

26206 Hayward Lease

See attached.

May 28, 2015

Construction Craft Training
26200 Industrial Blvd
Hayward, CA 94545

Dear Chris Floethe,

We have received your request to active the two year option term on your lease agreement for 26200 and 26206 Industrial Blvd. in Hayward, California. As further provided, the Option period shall be on the same terms and conditions as the lease agreement, with exception for the following terms:

The commencement date of the option begins June 1, 2015 and the option term ends May 31, 2017.

Per the option clause in the lease, Base Rent for 26200 Industrial Blvd will be increased by 2% in accordance with the Consumer Price Index clause to \$3055.00. It will be adjusted in accordance with the consumer price index on the commencement of the second year of the option term.

Base Rent for 26206 Industrial Blvd will be increased by 2% in accordance with the Consumer Price Index clause to \$2142.00. It will be adjusted in accordance with the consumer price index on the commencement of the second year of the option term.

Sincerely,



Kelsey Pressnall
Administration
Kelsey@friesproperties.com

Hayward Business Park Lease Agreement

Hayward Business Park Inc., herein called "Lessor" whose address is 26250 Industrial Boulevard, Hayward CA 94545 and Chris Floethe dba Construction Craft Training "Lessee" whose address is 26200 Industrial Blvd, Hayward, CA 94545, agree to the following terms and conditions relating to the lease of land and improvements within the Hayward Business Park.

1. GRANT AND TERM

1.1. LEASED PREMISES.

In consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of Lessee to be observed and performed, the Lessor demises and leases to the Lessee and Lessee rents from Lessor, those certain premises, now in the Hayward Business Park (herein called the "Business Park"), commonly known as 26200 Industrial Blvd., in the City of Hayward, County of Alameda, California, premises consists of a store having approximately 3650 square feet herein called the "leased premises".

1.2. USE OF ADDITIONAL AREAS.

The use and occupation by the Lessee of the leased premises shall include the use in common with others entitled thereto of the common areas, employees' parking areas, service roads, loading facilities, sidewalks and customer car parking areas, and other facilities as may be designated from time to time by the Lessor, subject however to the terms and conditions of this agreement and to reasonable rules and regulations for the use thereof as prescribed from time to time by Lessor.

1.3. COMMENCEMENT OF TERM.

The term of this lease, and Lessee's obligation to pay rent, shall commence on June 1, 2014. In the event that the fixed date above does not occur on the first day of the month, Lessee shall pay rent for the fractional month on a per diem basis (calculated on the basis of a thirty day month) until the first day of the month when the term hereunder commences; and thereafter the minimum rent shall be paid in equal monthly installments on the first day of each and every month in advance.

1.4. ACCEPTANCE

Lessee shall, by entering into and occupying the demised premises be conclusively deemed to have accepted the same and to have acknowledged that said demised premises are in good order, condition and repair.

1.5. LENGTH OF TERM.

The term of this lease shall be for one (1) year and commencement of the term as provided in Section 1.3 hereof and lease shall expire on May 31, 2015.

1.6. EXCUSE OF LESSOR'S PERFORMANCE.



Anything in this agreement to the contrary notwithstanding, providing such cause is not due to the willful act or neglect of the Lessor, the Lessor shall not be deemed in default with respect to the performance of any of the terms, covenants and conditions of this lease if same shall be due to any strike, lockout, civil commotion, war-like operation, invasion, rebellion, hostilities, military or usurped power, sabotage, governmental regulations or controls, inability to obtain any material, service or financing rain or muddy conditions, through Act of God or other cause beyond the control of the Lessor.

2. RENT

2.1. MINIMUM RENT.

The fixed minimum rent during the term of this lease shall be payable by Lessee in monthly installments, on or before the first day of each month in advance, at the office of the Lessor or at such other place designated by Lessor, without any prior demand therefore, and without any deduction or set-off whatsoever, and shall be as follows:

Base Rent per month, is two thousand, nine hundred and ninety-five (\$2995.00) dollars.

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In the event the fixed minimum monthly rent is not paid to Lessor by Lessee within 10 (ten) days of the date on which it is due Lessee agrees to pay to Lessor as additional rent, a late-charge of 10% of rental amount due. Lessee further agrees to pay Lessor any costs incurred by Lessor in effecting the collection of such past due rent and late-charge including but not limited to reasonable fees of an attorney or collection agency. The parties hereto agree that all late charges shall be deemed additional rent and shall be due and payable as such within five (5) days of Lessee's receipt of a statement itemizing the same. Nothing herein contained shall limit any other remedy of Lessor.

2.2. REAL ESTATE TAXES

Lessee agrees to pay Lessee's pro rata share of all real property taxes and assessments which may be levied or assessed by any lawful authority against the land on which buildings are located and improvements thereon in the Business Park. Lessee shall pay said taxes monthly upon receipt from Lessor of a statement delineating Lessee share of said taxes and said share shall be paid within five (5) days after receipt of said statement. Lessee's pro rata share shall be apportioned according to the floor area of the demised premises as it relates to the total floor area of the building or buildings including the demised premises. All taxes for the year in which this lease commences shall be apportioned and adjusted.

As used herein, the term "real property tax" shall include any form of real estate tax or assessment, general, special, ordinary or extra ordinary, and license fee, commercial rental tax, improvement bond or bonds, levy or tax [other than inheritance, personal income or estate taxes] imposed upon the premises by any authority having the direct or indirect powers of tax, including any city, state or federal government, or any school, sanitary, fire, street, drainage or other improvement district thereof as against any legal or equitable interest of Lessor in the premises or in the real property of which the premises are a part, as against Lessor's business of leasing the premises. The term "real property tax" shall also include any tax, fee, levy, assessment or charge [1] in substitution of partially or totally, any tax, fee, levy, assessment or charge hereinabove included within the definition of real property tax or [2] the nature of which was hereinbefore included within the definition of real property tax or [3] which is imposed for a service or right not charged prior to June 1, 1978, or if previously charged has been increased since June 1, 1978.

2.3. ADDITIONAL RENT.

The Lessee shall pay as additional rent money required to be paid pursuant to sections 2.2, 8.1, 10.1, 11.2, 11.4, and 12.1, and all other sums of money or charges required to be paid by Lessee under this lease, without any deductions or setoffs whatsoever, whether or not the same shall be designated "additional rent." If such amounts or charges are not paid at the time provided in this lease, the Lessee further agrees to pay to Lessor any cost incurred by Lessor in effectuating the collection of such past due amounts or charges including but not limited to fees of an attorney or a collection agency. The parties hereto agree that all of the hereinabove mentioned charges shall be deemed additional rent and shall be all due and payable as such within five (5) days of Lessee's receipt of a statement itemizing the same. Nothing herein contained shall limit any other remedy of Lessor.

2.4. ADJUSTMENTS TO MINIMUM RENT.

2.4.1. Commencing with the end of the first lease year, the minimum rent may be adjusted and after the end of each subsequent lease year during the term of this lease in accordance with the Consumer Price Index, hereinafter called "CPI" as published by the Bureau of Labor Statistics (U.S. Cities Average for all Urban Consumers) between (i) the amount of that Index as last published prior to the beginning of the preceding 12-month period, and (ii) the amount of that Index as last published prior to the date on which the rental increase is to occur

2.4.2. The CPI as of the first month shall be designated as the Beginning Index;

2.4.3. Promptly after the end of the first Lease Year and each year thereafter, the annual rental shall be adjusted as follows. If the CPI has increased over the beginning index, the minimum monthly rent payable during the next lease year shall be set by multiplying the minimum rent set forth in paragraph 4.1 by a fraction, the numerator of which is the CPI and the denominator is the beginning index. As soon as the minimum monthly rent for the next lease year is set, the Lessor shall give Lessee notice of the amount of the new minimum monthly rent. If the index is changed so that the base year differs from that used as of the date most immediately preceding the date the first lease year commences, the CPI shall be converted in accordance with conversion factors

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published by the United States Department of Labor Statistics. If the index is discontinued or revised during the term, such other government index with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the index were not discontinued. In no event shall the annual increase be less than 2% or more than 4%.

3. CONSTRUCTION OF LEASED PREMISES

3.1. CHANGES AND ADDITIONS TO BUILDINGS.

Lessor hereby reserves the right at any time to make alterations or additions to and to build additional stories on the building in which the premises are contained and to build adjoining the same. Lessor also reserves the right to construct other buildings or improvements in the Business Park from time to time and to make alterations thereof or additions thereto and to build additional stories on any such building or buildings and to build adjoining same. Easements for light and air are not included in the leasing of these premises to Lessee. Lessor further reserves the exclusive right to the roof except as provided in this lease agreement.

3.2. RIGHT TO RELOCATE.

Lessor reserves the right at any time to vary and adjust the size of the various buildings, co-Lessees, automobile parking areas, and other common areas as described in this lease, provided, however, that said parking area (including landscaped and common areas) shall at all times be in compliance with the minimum requirements of the City of Hayward, County of Alameda, State of California.

4. CONDUCT OF BUSINESS BY LESSEE

4.1. USE OF PREMISES.

Lessee shall use the leased premises for the purpose of conducting the business of: Office & Classroom. Lessee shall occupy the leased premises within thirty (30) days after the date of the notice provided for in Section 1.3 hereof, and shall conduct continuously in the leased premises the business above stated. Lessee will not use or permit, or suffer the use of the leased premises for any other business or purpose without Lessor's approval.

4.2. CONDUCT OF BUSINESS.

Lessee acknowledges that Lessor makes no representations as to the present or future condition of the demised premises, or to the fitness, desirability or zoning hereof for any particular purpose, and Lessor shall not be liable for any charges therein or additions thereto required by any public authority. Any permits or requirements of any kind pertaining to the operation of Lessee's business will be Lessee's responsibility and any construction or special equipment required by public authority to enable Lessee to conduct his business shall likewise be Lessee's sole cost and responsibility.

4.3. ACCEPTANCE OF PREMISES

Acceptance of demised premises except as may be otherwise herein provided, Lessees shall be entering into and occupying the demised premises shall be deemed to have accepted the demised premises "as is" and to have acknowledged that the same are as represented by Lessor and in good order, condition and repair. Lessee acknowledges that it has reviewed and examined the demised premises prior to the execution hereof to its complete satisfaction.

4.4. OPERATION OF BUSINESS.

Lessee shall operate one hundred percent (100%) of the leased premises during the entire term of this lease with due diligence and efficiency unless prevented from doing so by causes beyond Lessee's control. Subject to inability by reason of strikes or labor disputes, Lessee shall carry at all times in said premises a stock of merchandise of such size, character and quality as shall be reasonably designed to produce the maximum return to Lessee. Lessee shall conduct its business in the leased premises during the regular customary days and hours for such type of business in the City or trade area in which the Business Park is located.

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4.5. STORAGE

Lessee shall warehouse, store and/or stock in the leased premises only such goods, wares and merchandise as Lessee intends to offer for sale at retail at, in, from or upon the leased premises. No auction, fire or bankruptcy sales may be conducted in the leased premises without the previous written consent of Lessor.

5. GRANT OF CONCESSIONS

5.1. CONDITIONS TO GRANT.

The provision against subletting elsewhere contained in this lease shall not prohibit Lessee from granting concessions for the operation of one or more departments of the business which Lessee is permitted by Section 4.1 to conduct in or upon the leased premises; provided, however that [a] each such concession may be granted only upon receipt by Lessee of the written consent of the Lessor and shall be subject to all terms and provisions of this lease; [b] at least seventy-five percent (75%) of the sales floor area of the leased premises shall be at all times devoted to the business of and be operated by Lessee.

6. SECURITY DEPOSIT

6.1. AMOUNT OF DEPOSIT.

Lessee, contemporaneously with the execution of this lease, will deposit with Lessor the sum of seven hundred and seventy-seven dollars and fifty cents (\$777.50). Said deposit shall be held by Lessor, without liability for interest, as security for the faithful performance by Lessee of all of the terms, covenants, and conditions of this lease by said Lessee to be kept and performed during the term hereof. If at any time during the term of this lease any of the rent herein reserved shall be overdue and unpaid, or any other sum payable by Lessee to Lessor hereunder shall be overdue and unpaid then Lessor may, at the option of Lessor (but Lessor shall not be required to), appropriate and apply any portion of said deposit to the payment of any such overdue rent or other sum. It is expressly understood that this sum does not apply toward rent.

6.2. USE AND RETURN OF DEPOSIT.

In the event of the failure of Lessee to keep and perform any of the terms, covenants and conditions of this lease to be kept and performed by Lessee, then the Lessor at its option may, after terminating this lease, appropriate and apply said entire deposit, or so much thereof as may be necessary, to compensate the Lessor for all loss or damage sustained or suffered by Lessor due to such breach on the part of Lessee. Should the entire deposit, or any portion thereof, be appropriated and applied by Lessor for the payment of overdue rent or other sums due and payable to Lessor by Lessee hereunder, then Lessee shall, upon the written demand of Lessor, forthwith remit to Lessor a sufficient amount in cash to restore said security to the original sum deposited and Lessee's failure to do so within five (5) days after receipt of such demand shall constitute a breach of this lease. Should Lessee comply with all of said terms, covenants and conditions and promptly pay all of the rental herein provided for as it falls due, and all other sums payable by Lessee to Lessor hereunder, the said deposit shall be returned in full to Lessee within two weeks from the end of the term of this lease, or upon the earlier termination of this lease.

6.3. TRANSFER OF DEPOSIT.

Lessor may deliver the funds deposited hereunder by Lessee to the purchaser of Lessor's interest in the leased premises, in the event that such interest is sold, and thereupon Lessor shall be discharged from any further liability with respect to such deposit.

7. PARKING AND COMMON USE AREAS AND FACILITIES

7.1. CONTROL OF COMMON AREAS BY LESSOR.

All automobile parking areas, driveways, entrances and exits thereto, and other facilities furnished by Lessor in or near the Business Park, including employee parking areas, the truck way or ways, loading docks, package pick-up stations, pedestrian sidewalks and ramps, landscaped areas, exterior stairways, first-aid stations, comfort stations and other areas and improvements provided by Lessor for the general use, in common, of Lessees, their officers, agents,

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employees and customers, shall at all times be subject to the exclusive control and management of Lessor, and Lessor shall have the right from time to time to establish, modify and enforce reasonable rules and regulations with respect to all facilities and areas mentioned in this Article. Lessor shall have the right to construct, maintain and operate lighting facilities on all said areas and improvements, to police the same, from time to time to change the area, level, location and arrangement of parking areas and other facilities hereinabove referred to; to restrict parking by Lessees, their officers, agents and employees to employee parking areas; to enforce parking charges (by operation of meters or otherwise), with appropriate provisions for free parking ticket validating by Lessees; to close all or any portion of said areas or facilities to such extent as may, in the opinion of Lessor's council, be legally sufficient to prevent a dedication thereof or the accrual of any rights to any person or the public therein; to close temporarily all or any portion of the parking areas or facilities; to discourage non-customer parking; and to do and perform such other acts in and to said areas and improvements as, in the use of good business judgment, the Lessor shall determine to be advisable with a view to the improvement of the convenience and use thereof by Lessees, their officers, agents, employees and customers. Lessor will operate and maintain the common facilities referred to above in such a manner as Lessor, in its sole discretion, shall determine from time to time. Without limiting the scope of such discretion, Lessor shall have the full right and authority to employ all personnel and to make all rules and regulations pertaining to and necessary for the proper operation and maintenance of the common areas and facilities.

7.2. LICENSE.

All common areas and facilities not within the leased premises, which Lessee may be permitted to use and occupy, are to be used and occupied under a revocable license, and if any such license be revoked, or if the amount of such areas be diminished, Lessor shall not be subject to any liability nor shall Lessee be entitled to any compensation or diminution or abatement of rent, nor shall such revocation or diminution of such areas be deemed constructive or actual eviction.

8. COST OF MAINTENANCE OF COMMON AREAS [NNN]

8.1. LESSEE TO BEAR PRO RATA SHARE OF EXPENSE.

8.1.1. In each lease year, as defined in Section 2.1 hereof, Lessee will pay to Lessor, in addition to the rentals specified in Article II hereof, as further additional rent, subject to the limitation hereinafter set forth, a proportion of the Business Park's operating cost, hereinafter defined, based upon the ratio of the square feet of all the building space in the Business Park.

8.1.2. For the purpose of this Section 8.1 the "Business Park's operating cost" means the total cost and expense incurred in operating and maintaining the common facilities, hereinafter defined, actually used or available for use by Lessee and the employees, agents, servants, customers and other invitees of Lessee, specifically including without limitation, gardening and landscaping, the cost of public liability and property damage insurance, fire and extended coverage insurance, joint utilities, painting, and repairs (not capital in nature), property management, employment of security guards, bookkeeping, real estate property taxes and assessments thereon, and the cost of personnel to implement such services, to direct parking, and to police the common facilities. "Common Facilities" means all areas, space, equipment, and special services provided by Lessor for the common or joint use and benefit of the occupants of the Business Park, their employees, agents, servants, customers and other invitees, including without limitation parking areas, access roads, driveways, retaining walls, landscaped areas, truck service ways or tunnels, loading docks, pedestrian malls, courts, stairs, ramps and sidewalks, comfort and first aid stations, washrooms, parcel pick-up stations and Business Park sign rental.

8.1.3. The additional rent to be paid in this Section 8.1 and also Sections 2.2, 11.1 and 11.2 shall be paid monthly in advance. The monthly charge shall be estimated for a twelve (12) month period and adjusted annually upwards or downwards to reflect the actual cost incurred. Lessee will then be credited or billed accordingly at year end to reflect this adjustment. Lessee shall have the right to review the breakdown on the operating costs that are incurred for the premises once a year, should Lessee request.

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- 8.1.4. Changes in any particular floor area occurring during any monthly period shall be effective on the first day of the next succeeding monthly period, and the amount of any floor area in effect for the whole of any monthly period shall be the average of the total amounts in effect on the first day of each calendar month in such monthly period.

9. SIGNS, AWNINGS, CANOPIES, FIXTURES, ALTERATIONS

9.1. INSTALLATION BY LESSEE.

All fixtures installed by Lessee shall be new or completely reconditioned. Lessee shall not make or cause to be made any alterations, additions or improvements or install or cause to be installed any trade fixtures, exterior signs, floor covering, interior or exterior lighting, plumbing fixtures, shades or awnings or make any changes to the store front without first obtaining Lessor's written approval and consent. Lessee shall present to the Lessor plans and specifications for such work at the time approval is sought.

9.2. REMOVAL AND INSURANCE BY LESSEE.

All alterations, decorations, additions and improvements made by the Lessee, or made by the Lessor on the Lessee's behalf by agreement under this lease, shall remain the property of the Lessee for the term of the lease, or any extension or renewal thereof. The Lessee shall at all times maintain fire insurance with extended coverage in the name of the Lessor and the Lessee, in an amount adequate to cover the cost of replacement of all alterations, decorations, additions or improvements in the event of fire or extended coverage loss. Lessee shall deliver to the Lessor certificates of such fire insurance policies which shall contain a clause requiring the insurer to give the Lessor ten (10) days notice of cancellation of such policies. Such alterations, decorations, additions and improvements shall not be removed from the premises without prior consent in writing from the Lessor. Upon expiration of this lease, or any renewal term thereof, the Lessee shall remove all such alterations, decorations, additions and improvements, and restore the leased premises as provided in Section 10.3 hereof. If the Lessee fails to remove such alterations, decorations, additions and improvements and restore the leased premises, then upon the expiration of this lease, or any renewal thereof, and upon the Lessee's removal from the premises, all such alterations, decorations, additions and improvements shall become the property of the Lessor.

9.3. LESSEE SHALL DISCHARGE ALL LIENS.

Lessee shall promptly pay all contractors and material men, if such were employed by Lessee or Lessee's agents for work or modifications in the leased premises, so as to minimize the possibility of a lien attaching to the leased premises, and should any such lien be made or filed, Lessee shall bond against or discharge the same within ten (10) days after written request by Lessor.

9.4. SIGNS, AWNINGS AND CANOPIES.

Lessee will not place or suffer to be placed or maintained on any exterior door, wall or window of the leased premises any sign, awning or canopy, or advertising matter or other thing of any kind, and will not place or maintain any decoration, lettering or advertising matter on the glass of any window or door of the leased premises without first obtaining Lessor's written approval and consent. Lessee further agrees to maintain such sign, awning, canopy, decoration, lettering, advertising matter or other thing as may be approved in good condition and repair at all times. Lessee agrees, at Lessee's sole cost, to obtain a sign in strict conformance with Lessor's sign criteria as to design, material, color, location, size, and letter style.

10. MAINTENANCE OF LEASED PREMISES

10.1. MAINTENANCE BY LESSEE.

10.1.1. Lessee shall at all times keep the leased premises (including maintenance of exterior entrances, all glass and show window moldings) and all partitions, doors, door jams, door closers, door hardware, fixtures, equipment and appurtenances thereof (including electrical, lighting, heating and plumbing fixtures, and any air conditioning system, including leaks around ducts, pipes, vents, or other parts of the air conditioning, heating or plumbing systems which protrude through the roof) in good order, condition and repair including

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replacements (including reasonably periodic painting as determined by Lessor), damage by unavoidable casualty excepted, except for structural portions of the premises, which shall be maintained by Lessor, but if Lessor is required to make repairs to structural portions by reason of Lessee's negligent acts or omission to act, Lessor may add the cost of such repairs to the rent which shall thereafter become due.

10.1.2. Lessee shall comply with all legal requirements now or hereafter affecting or applying to the premises at Lessee's sole cost and expense.

10.1.3. Lessee shall keep the premises and all other parts of the Business Park free from any and all liens arising out of any work performed, materials furnished or obligations incurred by Lessee or for Lessee by Lessee's Agents, and agrees to bond against, discharge any mechanic's or material men's lien, or post security with Lessor, satisfactory to Lessor, within ten (10) days after the filing of any such lien. In no event said bond and security shall be in an amount less than twice the amount of such lien. In the event Lessee fails to do any of the following within said ten (10) day period, Lessor may pay the underlying claim thereof, or otherwise discharge said lien, at Lessee's sole cost and expense. Lessee shall reimburse Lessor therefore, together with interest at the interest rate of ten percent (10%) within ten (10) days after Lessor's demand therefore.

10.1.4. Lessee expressly waives Sections 1941 and 1933(i) of the California Civil Code, and all other rights to make repairs at the expense of Lessor or deduct any amounts from rent as provided in any statute or law in effect during the term of this Lease in any.

10.2. MAINTENANCE BY LESSOR.

If Lessee refuses or neglects to repair properly as required hereunder and to the reasonable satisfaction of Lessor as soon as reasonably possible after written demand, Lessor may make such repairs without liability to Lessee for any loss or damage that may accrue to Lessee's merchandise, fixtures, or other property or to Lessee's business by reason thereof, and upon completion thereof, Lessee shall pay Lessor's reasonable costs for making such repairs, upon presentation of bill thereof, as additional rent. Said bill shall include interest at ten (10%) percent on said cost beginning fifteen (15) days after the date of completion and written notification of such completion of repairs by Lessor to the Lessee.

10.3. SURRENDER OF PREMISES.

At the expiration of the tenancy hereby created, Lessee shall surrender the leased premises in the same condition as the leased premises were in upon delivery of possession thereto under this lease, reasonable wear and tear excepted, and damage by unavoidable casualty excepted to the extent that the same is covered by Lessor's fire insurance policy with extended coverage endorsement, and shall surrender all keys for the leased premises to Lessor at the place then fixed for the payment of rent and shall inform Lessor of all combinations on locks, safes and vaults, if any, in the leased premises. Lessee shall remove all its trade fixtures, and any alterations or improvements as provided in Section 9.2 hereof, before surrendering the premises as aforesaid and shall repair any damage to the leased premises caused thereby. Lessee's obligation to observe or perform this covenant shall survive the expiration or other termination of the term of this lease.

10.4. RULES AND REGULATIONS.

10.4.1. The Lessee agrees as follows:

10.4.1.1. All loading and unloading of goods shall be done only at such times, in the areas, and through the entrances, designated for such purposes by Lessor.

10.4.1.2. The delivery or shipping of merchandise, supplies and fixtures to and from the leased premises shall be subject to such rules and regulations as in the judgment of the Lessor are necessary for the proper operation of the leased premises or Business Park.

10.4.1.3. All garbage and refuse shall be kept in the kind of container specified by Lessor, and shall be placed outside of the premises prepared for collection in the manner and at the times and places specified by Lessor. If Lessor shall provide or designate a service for picking up refuse and garbage, Lessee shall use same at Lessee's cost. Lessee shall pay the cost of removal of any of Lessee's refuse or rubbish.

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- 10.4.1.4. No aerial shall be erected on the roof or exterior walls of the premises, or on the grounds, without in each instance, the written consent of the Lessor any aerial so installed without such written consent shall be subject to removal without notice at any time.
- 10.4.1.5. No loud speakers, televisions, phonographs, radios or other devices shall be used in a manner so as to be heard or seen outside of the premises without the prior written consent of the Lessor.
- 10.4.1.6. The outside areas immediately adjoining the premises shall be kept clean and free from dirt and rubbish by the Lessee to the satisfaction of the Lessor and Lessee shall not place or permit any obstructions or merchandise in such areas.
- 10.4.1.7. Lessee and Lessee's employees shall park their cars only in those portions of the parking area designated for that purpose by Lessor. In the event the Lessee or its employees fail to park their cars in designated parking areas as aforesaid or parks illegally, then the Lessor at its option shall have the right to tow such vehicles, at vehicle Lessor expense, upon such infraction.
- 10.4.1.8. The plumbing facilities shall not be used for any other purpose than that for which they are constructed, and no foreign substance of any kind shall be thrown therein, and the expense of any breakage, stoppage, or damage resulting from a violation of this provision shall be borne by Lessee, who shall, or whose employees, agents or invitees shall have caused it.
- 10.4.1.9. Lessee shall not burn any trash or garbage of any kind in or about the leased premises, or the Business Park.
- 10.4.1.10. Lessee and Lessee's employees and agents shall not solicit business in the parking or other common areas, nor shall Lessee distribute any handbills or other advertising matter in automobiles parked in the parking area or in other common areas.
- 10.5. Lessor reserves the right from time to time to amend or supplement the foregoing rules and regulations, and to adopt and promulgate additional rules and regulations applicable to the leased premises. Notice of such rules and regulations and amendments and supplements thereto, if any, shall be given to the Lessee.
- 10.6. Lessee agrees to comply with all such rules and regulations upon notice to Lessee from Lessor, provided that such rules and regulations shall apply uniformly to all Lessees of the Business Park.

11. INSURANCE AND INDEMNITY

11.1. LIABILITY INSURANCE.

Lessee shall, during the entire term hereof, keep in full force and effect a policy of public liability and property damage insurance with respect to the leased premises, the sidewalks in front of the leased premises, and the business operated by Lessee and any sub-Lessees of Lessee in the leased premises in which the limits of public liability shall be not less than \$1,000,000.00 for each occurrence and in which the property damage liability shall be not less than \$500,000.00 for each occurrence. The policy shall name Lessor, any person, firms or corporations designated by Lessor, and Lessee as insured, and shall contain a clause that the insurer will not cancel or change the insurance without first giving the Lessor ten (10) days prior written notice. The insurance shall be in the insurance company approved by Lessor and a copy of the policy or a certificate of insurance shall be delivered to Lessor.

11.2. FIRE INSURANCE PREMIUM.

Lessor shall, at its cost and expense, maintain fire and extended coverage insurance throughout the term of this lease in an amount equal to at least ninety percent (90%) of the replacement value (exclusive of foundation and excavation costs) of the leased premises and/or the building of which the leased premises are a part. However, Lessee agrees to reimburse Lessor for Lessee's prorata share of any premiums for said fire and extended coverage insurance that may be charged during the term of this lease on the amount of such insurance which may be carried by Lessor on said premises or the building of which they are a part. This reimbursement charge will be paid monthly in advance as specified in Section 8.1.

11.3. PLATE GLASS

Lessee shall be responsible for any and all plate and other glass damaged or broken from any cause whatsoever in and about the leased premises. Lessee may elect to be self-insured for plate glass breakage of damage

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11.4. INDEMNIFICATION OF LESSOR.

Lessee will indemnify Lessor and save it harmless from and against any and all claims, actions, damages, liability and expense in connection with loss of life, personal injury and/or damage to property arising from or out of any occurrence in, upon or at the leased premises, or the occupancy or use by Lessee of the leased premises or any part thereof, or occasioned wholly or in part by any act or omission of Lessee, its agents, contractors, employees, servants, lessees or concessionaires. In case Lessor shall, without fault on its part, be made a party to any litigation commenced solely by or against Lessee, then Lessee shall protect and hold Lessor harmless and shall pay all costs, expenses and reasonable attorney's fees that may be incurred or paid by Lessor in enforcing the covenants and agreements in this lease.

12. UTILITIES

12.1. UTILITY SERVICES.

It is the Lessee's responsibility to arrange for gas, electrical, and any telecommunication service required.

12.2. UTILITY CHARGES.

Lessee shall be solely responsible for and promptly pay all charges for heat, water, gas electricity or any other utility used or consumed in the leased premises. Should Lessor elect to supply the water gas, heat, electricity or any other utility used or consumed in the leased premises, Lessee agrees to purchase and pay for the same as additional rent as apportioned by the Lessor. In no event shall Lessor be liable for an interruption or failure in supply of any such utilities to the leased premises

12.3. Lessor does NOT cover, include or guarantee any communication service or communication infrastructure, capacity, bandwidth or speed of said service including, but not limited to internet service, cable services, T-1 lines, or telephone services, and or service and distribution lines within the interior or exterior of the building.

13. OFFSET STATEMENT, ATTORNMENT SUBORDINATION

13.1. OFFSET STATEMENT

Estoppel certificate: Lessee shall at any time, and from time to time, upon not less than ten (10) days prior written request by Lessor execute, acknowledge, and deliver to Lessor a statement in writing certifying that this lease is unmodified and in full force and effect (or, that there shall have been modifications, that the lease is modified and in full force and effect as modified and stating the modifications) and the dates to which the fixed rent and any other charges or payments have been paid in advance. It is expressly understood and agreed that any such statement delivered pursuant to this paragraph may be relied upon by Lessor or any prospective purchaser, mortgagee, assignee of any mortgagee, or the trustee or beneficiary of any deed of trust placed upon the demised premises or the real property of which the demised premises are a part.

13.2. ATTORNMENT.

Lessee shall, in the event any proceedings are brought for the foreclosure of, or in the event of exercise of the power of sale under any mortgage made by the Lessor covering the leased premises, attorn to the purchaser upon any such foreclosure or sale and recognize such purchaser as the Lessor under this lease.

13.3. SUBORDINATION.

Upon request of the Lessor, Lessee will subordinate its rights hereunder to the lien of any mortgage or mortgages or the lien resulting from any other method of financing or refinancing, now or hereafter in force against the land and buildings of which the leased premises are a part or upon any buildings hereafter placed upon the land of which the lease premises are a part, and to all advances made or hereafter to be made upon the security thereof. This section shall be self-operative and no further instrument of subordination shall be required by any mortgagee.

13.4. ATTORNEY-IN-FACT.

The Lessee, upon request of any party in interest, shall execute promptly such instruments or certificates to carry out the intent of Sections 13.2 and 13.3 above as shall be requested by the Lessor. The Lessee hereby irrevocably appoints the Lessor as attorney-in-fact for the Lessee with full power and authority to execute and deliver in the

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name of the Lessee any such instruments or certificates. If fifteen (15) days after the date of a written request by Lessor to execute such instruments, the Lessee shall not have executed the same, the Lessor may, at its option, cancel this lease without incurring any liability on account thereof, and the term hereby granted is expressly limited accordingly.

14. ASSIGNMENT AND SUBLETTING

14.1. CONSENT REQUIRED.

Lessee will not assign this lease in whole or in part, nor sublet all or any part of the leased premises, without the prior written consent of Lessor in each instance. The consent by Lessor to any assignment or subletting shall not constitute a waiver of the necessity for such consent to any subsequent assignment or subletting. This prohibition against assigning or subletting shall be construed to include a prohibition against any assignment or subletting by operation of law. If this lease be assigned, or if the leased premises or any part thereof be underlet or occupied by anybody other than Lessee, Lessor may collect rent from the assignee, under-Lessee or occupant, and apply the net amount collected to the rent herein reserved, but no such assignment, underletting, occupancy or collection shall be deemed a waiver of this covenant, or the acceptance of the assignee, under-Lessee or occupant as Lessee, or a release of Lessee from the further performance by Lessee of covenants on the part of Lessee herein contained. Notwithstanding any assignment or sublease, Lessee shall remain fully liable on this lease and shall not be released from performing any of the terms, covenants and conditions of this lease.

14.1.1. The acceptance of rent from any other person shall not be deemed to be a waiver of any of the provisions of this lease or consent to the assignment of the demised premises. In the event any of the following are not satisfied in Lessor's sole and absolute discretion and Lessor chooses to withhold consent to such requested assignment or subletting, such withholding shall be deemed to be reasonable:

14.1.1.1. The intended use of the premises by such proposed assignee or sub-lessee:

14.1.1.1.1. Shall not conflict with any lease then in effect with respect to or with any other use of any other premises by any other occupant in the Business Park;

14.1.1.1.2. Shall conform with Lessor's desired "Lessee mix" within the Business Park;

14.1.1.1.3. Shall be in keeping with the quality or character of the Business Park or not constitute a nuisance;

14.1.1.1.4. Such proposed assignee or sub-lessee shall be of sound financial net worth; proposed assignee must be approved by Lessor prior to any closing of any transfer.

14.1.1.1.5. Such proposed assignee or sub-lessee shall satisfy Lessor that it has had not less than three [3] years of prior experience operating a successful business of the type intended to be operated in the premises;

14.1.1.1.6. The impact of such proposed assignee or sub-lessee would not have a disadvantageous impact on the Common Area or other occupants of the Business Park.

14.1.2. Any assignment or subletting to which Lessor has not consented (other than permitted above) shall be null and void, and at Lessor's option shall constitute a material default hereunder, permitting Lessor to terminate this Lease in addition to all other rights and remedies now or hereafter available to Lessor hereunder or at law or in equity.

14.1.3. Lessee shall forward to Lessor for Lessor's approval (1) financial statements of such proposed assignee or sub-lessee; (2) a history of the business experience of such proposed assignee or sub-lessee; and (3) a copy of the proposed assignment or sublease, pursuant to which such assignee or sub-lessee shall assume all obligations on Lessee's part to be performed hereunder and an agreement to observe all of the terms, provisions, covenants, conditions and agreements hereunder.

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15. WASTE, GOVERNMENTAL REGULATIONS

15.1. WASTE OR NUISANCE.

Lessee shall not commit or suffer to be committed any waste upon the leased premises or any nuisance or other act or thing which may disturb the quiet enjoyment of any other Lessee in the building in which the leased premises may be located, or in the Business Park, or which may disturb the quiet enjoyment of any person within five hundred feet of the boundaries of the Business Park.

15.2. GOVERNMENTAL REGULATIONS.

Lessee shall, at Lessee's sole cost and expense, comply with all of the requirements of all city, county, municipal, state, federal and other applicable governmental authorities, now in force, or which may hereafter be in force, pertaining to the said premises, including the installation of additional facilities as required for the conduct and continuance of Lessee's business, and shall faithfully observe in the use of the premises all municipal and county ordinances and state and federal statutes now in force or which may hereafter be in force.

16. DESTRUCTION OF LEASED PREMISES

16.1. RECONSTRUCTION OF DAMAGED PREMISES.

In the event the premises shall be rendered partially or totally unleaseable as a result of fire or other casualty covered by insurance carried by Lessor, then the premises shall be promptly repaired to the extent of the insurance proceeds received by Lessor therefor, unless Lessor shall elect not to rebuild as hereinafter provided, the fixed minimum rental shall be abated in proportion to the amount of the leased premises rendered unleaseable shall be pro ratably reduced until so repaired. Lessor shall be obligated to cause such repairs to be made Unless Lessor, at its sole option elect to cause Lessee to make such repairs, in which event Lessee shall promptly complete the same and Lessor will make available to Lessee for the sole purpose of reconstruction of the premises such portion of the insurance proceeds received by Lessor from its insurance carrier, allocated to the premises. Any amount expended by Lessee in excess of such insurance proceeds received by Lessor and made available to Lessee shall be the sole obligation of Lessee. In the event of reconstruction or repair by Lessor, any amount expended by Lessor in repairing the improvements to the premises in excess of the proceeds of insurance received by Lessor allocated to the premises shall be repayable by Lessee to Lessor within ten (10) days after receipt by Lessee from Lessor of a statement setting forth the amount of such excess, together with interest at the highest rate from the date Lessor incurred such amount to the date of payment by Lessee.

16.2. Lessor and Lessor's insurance carrier shall determine the amount of insurance proceeds attributable to the damage of such improvements which determination shall be binding upon Lessor and Lessee. The party required hereunder to repair the damage to the premises shall reconstruct such premises in accordance with the working drawings originally approved by Lessor. In no event shall Lessor be required to repair or replace Lessee's merchandise, trade fixtures, furnishings or equipment. If more than thirty-five percent (35%) of the Floor Area of the building in which the premises are located shall be damaged or destroyed by fire or other casualty, or if during the last three (3) years of the Term more than twenty-five percent (25%) of the premises or the Floor Area of the building in which the premises are located ("Building") shall be damaged or destroyed by fire or other casualty then Lessor may either elect that the Building and/or premises, as the case may be, be repaired or rebuilt or, at its election to so terminate. Such notice shall be given, if at all, within ninety (90) days after the occurrence of such damage or destruction. If Lessor is required or elects to repair or rebuild or requires the Lessee to repair or rebuild the premises as herein provided, Lessee shall repair or replace its merchandise, trade fixtures, furnishings and equipment in a manner and to at least a condition equal to that prior to its damage or destruction...

16.3. If the premises cannot be restored within 90 days of the loss, or the loss occurs during the last 3 months of the lease, this lease can be terminated by either party. During such 90 day period Lessee shall not be required to pay monthly lease/ rent to the Lessor.

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17. EMINENT DOMAIN

17.1. TOTAL CONDEMNATION.

If the whole of the leased premises shall be acquired or condemned by eminent domain for any public or quasi-public use or purpose, then the term of this lease shall cease and terminate as of the date of title vesting in such proceeding and all rentals shall be paid up to that date and Lessee shall have no claim against Lessor for the value of any unexpired term of this lease.

17.2. TOTAL PARKING AREA.

If the whole of the common parking areas in the Business Park shall be acquired or condemned by eminent domain for any public or quasi-public use or purpose, then the term of this lease shall cease and terminate as of the date of title vesting in such proceeding unless Lessor shall take immediate steps to provide other parking facilities substantially equal to the previously existing ratio between the common parking areas and the leased premises, and such substantially equal parking facilities shall be provided by Lessor at its own expense within ninety (90) days from the date of acquisition. In the event that Lessor shall provide such other substantially equal parking facilities, then this lease shall continue in full force and effect. In any event, Lessee shall have no claim against Lessor for the value of any unexpired term of this lease.

17.3. PARTIAL CONDEMNATION.

If any part of the leased premises shall be acquired or condemned by eminent domain for any public or quasi-public use or purpose, and in the event that such partial taking or condemnation shall render the leased premises unsuitable for the business of the Lessee, then the term of this lease shall cease and terminate as of the date of title vesting in such proceeding and Lessee shall have no claim against Lessor for the value of any unexpired term of this lease and the Lessee shall not have any payment obligations for the remainder term of the lease from the date of such Partial Condemnation. In the event of a partial taking or condemnation which is not extensive enough and is mutually agreed upon as suitable for the business of the Lessee, then Lessor shall promptly restore the leased premises to a condition comparable to its condition at the time of such condemnation less the portion lost in the taking, and this lease shall continue in full force and effect.

17.4. LESSOR'S DAMAGES.

In the event of any condemnation or taking as hereinabove provided, whether whole or partial, the Lessee shall not be entitled to any part of the award, as damages or otherwise, for such condemnation and Lessor is to receive the full amount of such award, the Lessee hereby expressly waiving any right or claim to any part thereof.

17.5. LESSEE'S DAMAGES.

Although all damages in the event of any condemnation are to belong to the Lessor whether such damages are awarded as compensation for diminution in value of the leasehold or to the fee of the leased premises, Lessee shall have the right to claim and recover from the condemning authority, but not from Lessor, such compensation as may be separately awarded or recoverable by Lessee in Lessee's own right on account of any and all damage to Lessee's business by reason of the condemnation and for or on account of any cost or loss to which Lessee might be put in removing Lessee's merchandise, furniture, fixtures, leasehold improvements and equipment.

18. DEFAULT OF LESSEE

18.1. RIGHT TO RE-ENTER.

In the event of any failure of Lessee to pay any rental due hereunder within ten (10) days after the same shall be due, or any failure to perform any other of the terms, conditions or covenants of this lease to be observed or performed by Lessee for more than THREE (3) days after written notice of such default shall have been received by Lessee, or if Lessee shall become bankrupt or insolvent, or file any debtor proceedings, or take or have taken against Lessee in any court pursuant to any statute either of the United States or of any State a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of Lessee's property, or if Lessee makes an assignment for the benefit of creditors, or petitions for or enters into an arrangement, or if Lessee shall abandon said premises, or suffer this lease to be taken under any writ of execution, then Lessor besides other rights

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or remedies it may have, shall have the immediate right of re-entry and may remove all persons and property from the leased premises and such property may be removed and stored in a public warehouse or elsewhere at the cost of, and for the account of Lessee, all without service of notice or resort to legal process and without being deemed guilty of trespass, or becoming liable for any loss or damage which may be occasioned thereby.

18.2. RIGHT TO RELET.

Pursuant to 18.1, Should Lessor elect to re-enter, as above provided, or should it take possession pursuant to legal proceedings or pursuant to any notice provided for by law, it may either terminate this lease or it may from time to time without terminating this lease, make such reasonable alterations and repairs as may be necessary in order to relet the premises, and relet said premises or any part thereof for such term or terms (which may be for a term extending beyond the term of this lease) and at such rental or rentals and upon such other terms and conditions as Lessor in its sole discretion may deem advisable; upon each such reletting all rentals received by the Lessor from such reletting shall be applied, first, to the payment of any indebtedness other than rent due hereunder from Lessee to Lessor; second, to the payment of any costs and expenses of such reletting, including brokerage fees and attorney's fees and of costs of such alterations and repairs; third, to the payment of rent due and unpaid hereunder, and the residue, if any, shall be held by Lessor and applied in payment of future rent as the same may become due and payable hereunder. If such rentals received from such reletting during any month be less than that to be paid during that month by Lessee hereunder, Lessee shall pay any such deficiency to Lessor. Such deficiency shall be calculated and paid monthly. No such re-entry or taking possession of said premises by Lessor shall be construed as an election on its part to terminate this lease unless a written notice of such intention is given to Lessee or unless the termination thereof is decreed by a court of competent jurisdiction. Notwithstanding any such reletting without termination, Lessor may at any time thereafter elect to terminate this lease for such previous breach. Should Lessor at any time terminate this lease for any breach, in addition to any other remedies it may have, it may recover from Lessee all damages it may incur by reason of such breach, including the cost of recovering the leased premises, reasonable attorney's fees, and including the worth at the time of such termination of the excess, if any, of the amount of rent and charges equivalent to rent reserved in this lease for the remainder of the stated term over the currently agreed rental value of the leased premises as described in section 2.3 for the remainder of the stated term, all of which amounts shall be immediately due and payable from Lessee to Lessor.

18.3. LEGAL EXPENSES.

In the event of any action or proceeding brought by either party against the other under this lease, each party shall bear their own costs and fees of its attorneys in such action or proceeding, including costs of appeal, if any.

18.4. WAIVER OF RIGHTS OF REDEMPTION.

Lessee hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event of Lessee being evicted or dispossessed for any cause, or in the event of Lessor obtaining possession of the leased premises, by reason of the violation by Lessee or any of the covenants or conditions of this lease, or otherwise.

19. ACCESS BY LESSOR

19.1. RIGHT OF ENTRY.

Given 24 hours notice, Lessor or Lessor's agents shall have the right to enter the leased premises during normal business hours and make reasonable efforts not to impact the business of the Lessee to examine the same, and to show them to prospective purchasers or lessees of the building, and to make such repairs, alterations improvements or additions as Lessor may deem necessary or desirable, and Lessor shall be allowed to take all material into and upon said premises that may be required therefore without the same constituting an eviction of Lessee in whole or in part and the rent reserved shall in no wise abate while said repairs, alterations, improvements, or additions are being made, in the event it is necessary to temporarily close the business office during such repairs. During the six months prior to the expiration of the term of this lease or any renewal term, Lessor may exhibit the premises to prospective Lessees or purchasers, and place upon the premises the usual notices "To Let" or "For Sale" which notices Lessee shall permit to remain thereon without molestation. Lessor will take all appropriate measures to attempt to make repairs during times that does not impede on the Lessee's Business.

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20. LESSEE'S PROPERTY

20.1. TAXES ON LEASEHOLD.

Lessee shall be responsible for and shall pay before delinquency all municipal, county or state taxes assessed during the term of this lease against any leasehold interest or lessee's personal property of any kind, owned by or placed in, upon or about the leased premises by the Lessee.

20.2. LOSS AND DAMAGE.

Lessor shall not be liable for any damage to property of Lessee or of others located on the leased premises, nor for the loss of or damage to any property of Lessee or of others by theft or otherwise. Lessor shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain or leaks from any part of the leased premises or from the pipes, appliances or plumbing works or from the roof, street or sub-surface or from any other place or by dampness or by any other cause of whatsoever nature. Lessor shall not be liable for any such damage caused by other Lessees or persons in the leased premises, occupants of adjacent property, of the Business Park, or the public, or caused by operations in construction of any private, public or quasi-public work. All property of Lessee kept or stored on the leased premises shall be so kept or stored at the risk of Lessee only and Lessee shall hold Lessor harmless from any claims arising out of damage to the same, including subrogation claims by Lessee's Insurance carriers, unless such damage shall be caused by the willful act or gross neglect of Lessor.

20.3. NOTICE BY LESSEE.

Lessee shall give immediate notice to Lessor in case of fire or accidents in the leased premises or in the building of which the premises are a part or of defects therein or in any fixtures or equipment.

21. HOLDING OVER, SUCCESSORS

21.1. HOLDING OVER.

Any holding over after the expiration of the term hereof, with the consent of the Lessor, shall be construed to be a tenancy from month to month at the rents herein specified (prorated on a monthly basis) and shall otherwise be on the terms and conditions herein specified, so far as applicable.

21.2. SUCCESSORS.

All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several respective heirs, executors, administrators, successors, and assigns of the said parties; and if there shall be more than one Lessee, they shall all be bound jointly and severally by the terms, covenants and agreements herein. No rights, however, shall inure to the benefit of any assignee of Lessee unless the assignment to such assignee has been approved by Lessor in writing as provided in Section 16.1 hereof.

22. QUIET ENJOYMENT

22.1. LESSOR'S COVENANT.

Upon payment by the Lessee of the rents herein provided, and upon the observance and performance of all the covenants, terms and conditions on Lessee's part to be observed and performed, Lessee shall peaceably and quietly hold and enjoy the leased premises for the term hereby demised without hindrance or interruption by Lessor or any other person or persons lawfully or equitably claiming by, through or under the Lessor, subject, nevertheless, to the terms and conditions of this lease.

23. MISCELLANEOUS

23.1. WAIVER.

The waiver by Lessor of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by Lessor shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant or condition of this lease, other than the failure of

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Lessee to pay the particular rental so accepted, regardless of Lessor's knowledge of such preceding breach at the time of acceptance of such rent. No covenant, term or condition of this lease shall be deemed to have been waived by Lessor, unless such waiver is in writing by Lessor.

23.2. ACCORD AND SATISFACTION.

No payment by Lessee or receipt by Lessor of a lesser amount than the monthly rent herein stipulated shall be deemed to be other than on account (of the earliest stipulated rent, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Lessor may accept such check or payment without prejudice to Lessor's right to recover the balance of such rent or pursue any other remedy in this lease period.

23.3. ENTIRE AGREEMENT.

This lease and the Exhibits, and Rider, if any, attached hereto and forming a part hereof, set forth all the covenants, promises, agreements, conditions or understandings, either oral, or written, between them other than are herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this lease shall be binding upon Lessor or Lessee unless reduced to writing and signed by them.

23.4. NO PARTNERSHIP.

Lessor does not, in any way or for any purpose, become a partner of Lessee in the conduct of its business, or otherwise, or joint adventurer or a member of a joint enterprise with Lessee. The provisions of this lease relating to the percentage rent payable hereunder are included solely for the purpose of providing a method whereby the rent is to be measured and ascertained.

23.5. FORCE MAJEURE.

In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this lease, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. The provisions of this Section 24.5 shall not operate to excuse Lessee from the prompt payment of rent, percentage rent, additional rent or any other payments required by the terms of this lease.

23.6. NOTICES.

(a) Any notice by Lessee to Lessor must be served by certified or registered mail, postage prepaid, addressed to Lessor at the address first hereinabove given or at such other address as Lessor may designate by written notice.

(b) Any notice by Lessor to Lessee must be served by Certified or registered mail, postage prepaid, addressed to Lessee at the leased premises or at such other address as Lessee shall designate by written notice.

23.7. CAPTIONS AND SECTION NUMBERS.

The captions, section numbers, article numbers, and index appearing in this lease are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of such sections or articles of this lease nor in any way affect this lease.

23.8. LESSEE DEFINED, USE OF PRONOUN.

The word "Lessee" shall be deemed and taken to mean each and every person or party mentioned as a Lessee herein, be the same one or more; and if there shall be more than one Lessee, any notice required or permitted by the terms of this lease may be given by or to any one thereof, and shall have the same force and effect as if given by or to all thereof. The use of the neuter singular pronoun to refer to Lessor or Lessee shall be deemed a proper reference even though Lessor or Lessee may be an individual, a partnership, a corporation, or a group of two or more individuals or corporations. The necessary grammatical changes required to make the provisions of this lease apply in the plural sense where there is more than one Lessor or Lessee and to either corporations, associations, partnerships, or individuals, males or females, shall in all instances be assumed as though in each case fully expressed.

23.9. PARTIAL INVALIDITY, If any term, covenant or condition of this lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this lease, or the application of such

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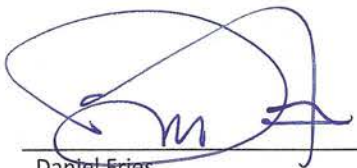
term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this lease shall be valid and be enforced to the fullest extent permitted by law.

24. RECORDING

24.1. Lessee shall not record this lease without the written consent of Lessor.

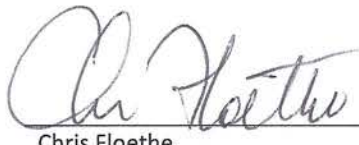
25. OPTION

- 25.1. If all terms and conditions have been carried out successfully, Lessor hereby grants Lessee the right, option and privilege of extending and renewing the term of the Lease for One (1) additional period(s) of Two (2) year(s) beginning on the termination date of the lease. Lessee shall notify Lessor no later than 90 days prior to expiration of this lease to inform Lessor of Lessee's intent to exercise the option. If notice is not received within the time specified, it will be assumed that Tenant will not exercise the option and the option shall be forfeited.
- 25.2. If assignee timely exercises the option to renew the term, the term shall thereafter automatically be extended and renewed for an additional two (2) year(s), which the extended and renewed term shall be on all of the same covenants, terms, and conditions as are contained in the Lease, except for the Base Rent which at the beginning of the first full calendar month in the option term, and if applicable, at one year intervals thereafter, the monthly rental shall increase, but not decrease, in proportion to any percentage increase in the Consumer Price Index as published by the Bureau of Labor Statistics (U.S. Cities Average for all Urban Consumers) between (i) the amount of that Index as last published prior to the beginning of the preceding 12-month period, and (ii) the amount of that Index as last published prior to the date on which the rental increase is to occur. In any event, the rent for any lease year shall be increased by not less than two (2%) per annum and shall not be increased by more than four (4%) per annum. In no event shall the monthly rental, as adjusted hereunder, be less than the applicable minimum rental set forth in section 2.01 above.
- 25.3. In the event that Lessee and Lessor cannot arrive at an agreement within 30 days after the expiration of this lease, all terms shall be considered on a month to month tenancy and the option shall be forfeited.



Daniel Fries
Lessor, Lessor's Agent
Fries Properties Inc.
39678 Mission Blvd.
Fremont, Ca 94539

5/22/14
Date



Chris Floethe
Lessee
Construction Craft Training
26200 Industrial Blvd
Hayward, CA 94545

May 7, 2014
Date

None

Date

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**APPENDIX IV
TO
DONATION AGREEMENT**

Assignment of Leases

See attached.

ASSIGNMENT OF REAL PROPERTY LEASE

This ASSIGNMENT OF REAL PROPERTY LEASE (the "Assignment") is made as of _____, 2016 by and between Chris Floethe dba Construction Craft Training ("Assignor") and Construction Craft Training Center, a California nonprofit public benefit corporation ("Assignee"). Assignor and Assignee are referred to collectively as the "Parties".

RECITALS

- A. Assignor and Hayward Business Park Inc. ("Lessor") entered into that certain Hayward Business Park Lease Agreement commenced June 1, 2014, with respect to the premises located at 26200 Industrial Blvd., Hayward, California 94545 (the "26200 Lease").
- B. Assignor and Lessor entered into that certain Hayward Business Park Lease Agreement commenced June 1, 2014, with respect to the premises located at 26206 Industrial Blvd., Hayward, California 94545 (the "26206 Lease") and together with the 26200 Lease, the "Leases").
- C. Assignee intends to transfer the operation of its existing Electrician Training Program to Eden Area Regional Occupational Program, a California joint venture of Castro Valley, Hayward, San Leandro, and San Lorenzo Unified School Districts ("Eden Area ROP") by making a contribution to Eden Area ROP of all of its assets, including any rights under real property leases for the premises at which Assignee operates the Electrician Training Program, pursuant to the terms of a Donation Agreement (the "Donation").
- D. In connection with the Donation, Assignor and Assignee mutually desire (a) that Assignor assign all of his right, title, and interest in, under, and to the Leases to Assignee and (b) that Assignee assume all of Assignor's obligations under the Leases.

AGREEMENT

In consideration of the agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Effective Date.

For all purposes under this Assignment, the term "Effective Date" shall mean the effective date of the Donation.

2. Assignment and Assumption.

(a) Effective as of the Effective Date, Assignor hereby assigns, transfers, and sets over unto Assignee all of Assignor's right, title, and interest in, under, and to the Leases.

(b) Assignee hereby accepts the foregoing assignment and assumes and agrees to perform when due the obligations of Assignor pursuant to the Leases in accordance with the terms thereof.

3. Governing Law.

This Assignment shall be governed by and construed in accordance with the laws of the State of California.

4. Counterparts.

This Assignment may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument. Any counterpart may be delivered by facsimile or electronic transmission, each of which shall be deemed an original.

5. Successors and Assigns; Amendments.

This Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. No amendment of any provision of this Assignment shall be valid unless the same shall be in writing and signed by Assignor and Assignee.

- Signature Page Follows This Page -

IN WITNESS WHEREOF, the parties hereto have executed this Assignment of Real Property Lease as of the date first written above.

ASSIGNOR:

ASSIGNEE:

Construction Craft Training Center

Chris Floethe
dba Construction Craft Training

By:

Chris Floethe, Executive Director

August __, 2016

L & M Investments
P.O. Box 766
Turlock, CA 95381

Re: Request for Consent to Assignment of Lease

To Whom It May Concern:

Reference is made to that certain Standard Industrial/Commercial Multi-Tenant Lease - Gross commenced April 1, 2001 (the "Lease") by and between Construction Craft Training Center, a California nonprofit public benefit corporation ("CCTC"), as tenant, and L & M Investments ("L&M"), as landlord, with respect to the premises located at 2480 Acme Ct., Building B (north half), Turlock, California 95380 (the "Premises"). CCTC is providing this letter to request L&M's consent to an assignment of the Lease as described further below.

CCTC is currently planning a contribution of all of its assets to Eden Area Regional Occupational Program, a California joint venture of Castro Valley, Hayward, San Leandro, and San Lorenzo Unified School Districts ("Eden Area ROP") net the assumption of certain liabilities of CCTC by Eden Area ROP.

The purpose of this letter, therefore, is to advise L&M of the pending contribution and assignment, and, to the extent required under Section 12 of the Lease, obtain L&M's consent to such assignment of the Lease.

By executing this letter as provided below, L&M hereby:

1. consents to and approves the assignment for all purposes of the Lease;
2. acknowledges that the Lease is in full force and effect and is not aware of any existing default under the Lease or of any event or circumstance that with the giving of notice or passage of time, or both, could result in a default under the Lease;
3. to L&M's knowledge, has neither given notice to CCTC nor received notice from CCTC of a currently existing dispute regarding the Lease;
4. confirms that CCTC has paid all rent and other amounts due and owing as of the date of this letter; and
5. confirms that attached hereto is a true, correct, and complete copy of the Lease and that the Lease has not been amended or modified, except as attached hereto.

If L&M is agreeable to the contents of this letter, please execute this letter where indicated below and email an executed copy to the undersigned at chris@cctc.edu. Please also return one executed original by mail to the following address: 26200 Industrial Blvd., Hayward, CA 94545.

If you have any questions, please feel free to contact me at 510-506-1532.

Sincerely,

Chris Floethe
Executive Director
Construction Craft Training Center

Acknowledged and Agreed:

L & M Investments

By: _____

Name: _____

Title: _____

Date: _____

August __, 2016

Fries Properties Inc.
39678 Mission Blvd.
Fremont, CA 94539

Re: Request for Consent to Assignment of Leases

To Whom It May Concern:

Reference is made to (i) that certain Hayward Business Park Lease Agreement commenced June 1, 2014 by and between Chris Floethe dba Construction Craft Training (“Floethe”), as tenant, and Lessor Business Park Inc. (“Lessor”), as landlord, with respect to the premises located at 26200 Industrial Blvd., Lessor, California 94545 (the “26200 Lease”), and (ii) that certain Lessor Business Park Lease Agreement commenced June 1, 2014 by and between Floethe, as tenant, and Lessor, as landlord, with respect to the premises located at 26206 Industrial Blvd., Lessor, California 94545 (the “26206 Lease” and together with the 26200 Lease, the “Leases”). Floethe is providing this letter to request Lessor’s consent to an assignment of the Leases as described further below.

Construction Craft Training Center, a California nonprofit public benefit corporation (“CCTC”), is currently planning a contribution of all of its assets to Eden Area Regional Occupational Program, a California joint venture of Castro Valley, Hayward, San Leandro, and San Lorenzo Unified School Districts (“Eden Area ROP”) net the assumption of certain liabilities of CCTC by Eden Area ROP. In conjunction with such contribution, Floethe will assign his rights under the Leases to CCTC, which will in turn assign such rights to Eden Area ROP.

The purpose of this letter, therefore, is to advise Lessor of the pending contribution and assignment, and, to the extent required under Section 14 of the Leases, obtain Lessor’s consent to such assignment of the Leases.

By executing this letter as provided below, Lessor hereby:

1. consents to and approves the assignment for all purposes of both the 26200 Lease and the 26206 Lease;
2. acknowledges that each of the 26200 Lease and 26206 Lease is in full force and effect and that Lessor is not aware of any existing default under either the 26200 Lease or the 26206 Lease or of any event or circumstance that with the giving of notice or passage of time, or both, could result in a default under either the 26200 Lease or the 26206 Lease;
3. to Lessor’s knowledge, has neither given notice to Floethe nor received notice from Floethe of a currently existing dispute regarding either the 26200 Lease or the 26206 Lease;

4. confirms that Floethe has paid all rent and other amounts due and owing under the Leases as of the date of this letter; and
5. confirms that attached hereto is a true, correct, and complete copy of the Leases and that neither the 26200 Lease nor the 26206 Lease has been amended or modified, except as attached hereto.

If Lessor is agreeable to the contents of this letter, please execute this letter where indicated below and email an executed copy to the undersigned at chris@cctc.edu. Please also return one executed original by mail to the following address: 26200 Industrial Blvd., Hayward, CA 94545.

If you have any questions, please feel free to contact me at 510-506-1532.

Sincerely,

Chris Floethe

Acknowledged and Agreed:

Lessor Business Park Inc.

By: _____

Name: _____

Title: _____

Date: _____

**APPENDIX V
TO
DONATION AGREEMENT**

Turlock Lease

See attached.

Addendum "A" to lease Agreement
Dated February 23, 2001

By and between: (Lessor) L & M Investments
(Lessee) Construction Craft Training Ctr.

Property Address: 2480 Acme Court
Turlock, CA

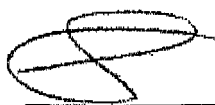
Lessee agrees to extend the afore-mentioned lease for an additional year from October 1, 2015 through September 30, 2016 with 5% rent increase to \$1,405.69/month.

All terms and conditions of the afore-mentioned lease will apply to this lease addendum as well.

Lessor and Lessee have hereunto subscribed their names below in agreement with the above terms.

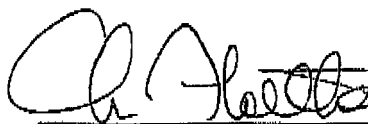
L & M Investments

Construction Craft Training Ctr.



7-28-15

Date



10/21/2015

Date



**STANDARD INDUSTRIAL/COMMERCIAL
MULTI-TENANT LEASE - GROSS
AMERICAN INDUSTRIAL REAL ESTATE ASSOCIATION**

1. **Basic Provisions ("Basic Provisions").**
- 1.1 **Parties:** This Lease ("Lease"), dated for reference purposes only February 23, 2001, is made by and between I & M Investments ("Lessor") and Construction Craft Training Center ("Lessee"), (collectively the "Parties", or individually a "Party").
- 1.2(a) **Premises:** That certain portion of the Project (as defined below), including all improvements therein or to be provided by Lessor under the terms of this Lease, commonly known by the street address of 2480 Acme Ct., Building B (north half), located in the City of Turlock, County of Stanislaus, State of CA, with zip code 95380, as outlined on Exhibit attached hereto ("Premises") and generally described as (describe briefly the nature of the Premises): One half of a 6000 sf building, deemed to be 3000 sq. ft.
- In addition to Lessee's rights to use and occupy the Premises as hereinafter specified, Lessee shall have non-exclusive rights to the Common Areas (as defined in Paragraph 2.7 below) as hereinafter specified, but shall not have any rights to the roof, exterior walls or utility raceways of the building containing the Premises ("Building") or to any other buildings in the Project. The Premises, the Building, the Common Areas, the land upon which they are located, along with all other buildings and improvements thereon, are herein collectively referred to as the "Project." (See also Paragraph 2.)
- 1.2(b) **Parking:** Common area unreserved vehicle parking spaces ("Unreserved Parking Spaces"); and 0 reserved vehicle parking spaces ("Reserved Parking Spaces"). (See also Paragraph 2.6.)
- 1.3 **Term:** 3 years and — months ("Original Term") commencing April 1, 2001 ("Commencement Date") and ending March 31, 2004 ("Expiration Date"). (See also Paragraph 3.)
- 1.4 **Early Possession:** by agreement ("Early Possession Date"). (See also Paragraphs 3.2 and 3.3.)
- 1.5 **Base Rent:** \$ 1,110 per month ("Base Rent"), payable on the first day of each month commencing April 1, 2001. (See also Paragraph 4.)
- ☐ If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted.
- 1.6 **Lessee's Share of Common Area Operating Expenses:** — percent (—%) ("Lessee's Share").
- 1.7 **Base Rent and Other Monies Paid Upon Execution:**
- (a) **Base Rent:** \$ 1110 for the period April 1, 2001 - April 30, 2001.
- (b) **Common Area Operating Expenses:** \$ — for the period —.
- (c) **Security Deposit:** \$ 1,110 ("Security Deposit"). (See also Paragraph 5.)
- (d) **Other:** \$ — for —.
- (e) **Total Due Upon Execution of this Lease:** \$ 2,220.00.
- 1.8 **Agreed Use:** Construction Training Center. (See also Paragraph 6.)
- 1.9 **Insuring Party:** Lessor is the "Insuring Party". (See also Paragraph 8.)
- 1.10 **Real Estate Brokers:** (See also Paragraph 15.)
- (a) **Representation:** The following real estate brokers (the "Brokers") and brokerage relationships exist in this transaction (check applicable boxes):
- ☐ — represents Lessor exclusively ("Lessor's Broker");
- ☐ — represents Lessee exclusively ("Lessee's Broker"); or
- ☒ Coldwell Banker Commercial Endsley & Asso. represents both Lessor and Lessee ("Dual Agency").
- (b) **Payment to Brokers:** Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Brokers the brokerage fee agreed to in a separate written agreement (or if there is no such agreement, the sum of — or — % of the total Base Rent for the brokerage services rendered by the Brokers).
- 1.11 **Guarantor:** The obligations of the Lessee under this Lease are to be guaranteed by — ("Guarantor"). (See also Paragraph 37.)
- 1.12 **Addenda and Exhibits:** Attached hereto is an Addendum or Addenda consisting of Paragraphs 50 through 51 and Exhibits — through —, all of which constitute a part of this Lease.
2. **Premises.**
- 2.1 **Letting.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. Unless otherwise provided herein, any statement of size set forth in this Lease, or that may have been used in calculating Rent, is an approximation which the Parties agree is reasonable and any payments based thereon are not subject to revision whether or not the actual size is more or less.
- 2.2 **Condition.** Lessor shall deliver that portion of the Premises contained within the Building ("Unit") to Lessee broom clean and free of debris on the Commencement Date or the Early Possession Date, whichever first occurs ("Start Date"), and, so long as the required service contracts described in Paragraph 7.1(b) below are obtained by Lessee and in effect within thirty days following the Start Date, warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems ("HVAC"), loading doors, if any, and all other such elements in the Unit, other than those constructed by Lessee, shall be in good operating condition on said date and that the structural elements of the roof, bearing walls and foundation of the Unit shall be free of material defects. If a non-compliance with such warranty exists as of the Start Date, or if one of such systems or elements should malfunction or fail within the appropriate warranty period, Lessor shall, as Lessor's sole obligation with respect to such matter, except as otherwise provided in this Lease, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, malfunction or failure, rectify same at Lessor's expense. The warranty periods shall be as follows: (i) 6 months as to the HVAC systems, and (ii) 30 days as to the remaining systems and other elements of the Unit. If Lessee does not give Lessor the required notice within the appropriate warranty period, correction of any such non-compliance, malfunction or failure shall be the obligation of Lessee at Lessee's sole cost and expense (except for the repairs to the fire sprinkler systems, roof, foundations, and/or bearing walls - see Paragraph 7).

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2.3 **Compliance** Lessor warrants that the improvements on the Premises and the Common Areas comply with the building codes that were in effect at the time that each such improvement, or portion thereof, was constructed, and also with all applicable laws, covenants or restrictions of record, regulations, and ordinances in effect on the Start Date ("Applicable Requirements"). Said warranty does not apply to the use to which Lessee will put the Premises or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. NOTE: Lessee is responsible for determining whether or not the zoning is appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed. If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same at Lessor's expense. If Lessee does not give Lessor written notice of a non-compliance with this warranty within 6 months following the Start Date, correction of that non-compliance shall be the obligation of Lessee at Lessee's sole cost and expense. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Unit, Premises and/or Building, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Unit, Premises and/or Building ("Capital Expenditure"), Lessor and Lessee shall allocate the cost of such work as follows:

(a) Subject to Paragraph 2.3(c) below, if such Capital Expenditures are required as a result of the specific and unique use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof, provided, however, that if such Capital Expenditure is required during the last 2 years of this Lease and the cost thereof exceeds 6 months' Base Rent, Lessee may instead terminate this Lease unless Lessor notifies Lessee, in writing, within 10 days after receipt of Lessee's termination notice that Lessor has elected to pay the difference between the actual cost thereof and the amount equal to 6 months' Base Rent. If Lessee elects termination, Lessee shall immediately cease the use of the Premises which requires such Capital Expenditure and deliver to Lessor written notice specifying a termination date at least 90 days thereafter. Such termination date shall, however, in no event be earlier than the last day that Lessee could legally utilize the Premises without commencing such Capital Expenditure.

(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor and Lessee shall allocate the obligation to pay for the portion of such costs reasonably attributable to the Premises pursuant to the formula set out in Paragraph 7.1(d); provided, however, that if such Capital Expenditure is required during the last 2 years of this Lease or if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option to terminate this Lease upon 90 days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with interest, from Rent until Lessor's share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days written notice to Lessor.

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to non-voluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall be fully responsible for the cost thereof, and Lessee shall not have any right to terminate this Lease.

2.4 **Acknowledgements.** Lessee acknowledges that: (a) It has been advised by Lessor and/or Brokers to satisfy itself with respect to the condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements and the Americans with Disabilities Act), and their suitability for Lessee's intended use, (b) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises, and (c) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (ii) It is Lessor's sole responsibility to investigate the financial capability and/or suitability of all proposed tenants.

2.5 **Lessee as Prior Owner/Occupant.** The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective work.

2.6 **Vehicle Parking.** Lessee shall be entitled to use the number of Unreserved Parking Spaces and Reserved Parking Spaces specified in Paragraph 1.2(b) on those portions of the Common Areas designated from time to time by Lessor for parking. Lessee shall not use more parking spaces than said number. Said parking spaces shall be used for parking by vehicles no larger than full-size passenger automobiles or pick-up trucks, herein called "Permitted Size Vehicles." Lessor may regulate the loading and unloading of vehicles by adopting Rules and Regulations as provided in Paragraph 2.9. No vehicles other than Permitted Size Vehicles may be parked in the Common Areas without the prior written permission of Lessor.

(a) Lessee shall not permit or allow any vehicles that belong to or are controlled by Lessee or Lessee's employees, suppliers, shippers, customers, contractors or invitees to be loaded, unloaded, or parked in areas other than those designated by Lessor for such activities.

(b) Lessee shall not service or store any vehicles in the Common Areas.

(c) If Lessee permits or allows any of the prohibited activities described in this Paragraph 2.6, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove or tow away the vehicle involved and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

2.7 **Common Areas - Definition.** The term "Common Areas" is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Project and interior utility raceways and installations within the Unit that are provided and designated by the Lessor from time to time for the general non-exclusive use of Lessor, Lessee and other tenants of the Project and their respective employees, suppliers, shippers, customers, contractors and invitees, including parking areas, loading and unloading areas, trash areas, roadways, walkways, driveways and landscaped areas.

2.8 **Common Areas - Lessee's Rights.** Lessor grants to Lessee, for the benefit of Lessee and its employees, suppliers, shippers, contractors, customers and invitees, during the term of this Lease, the non-exclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by Lessor under the terms hereof or under the terms of any rules and regulations or restrictions governing the use of the Project. Under no circumstances shall the right herein granted to use the Common Areas be deemed to include the right to store any property, temporarily or permanently, in the Common Areas. Any such storage shall be permitted only by the prior written consent of Lessor or Lessor's designated agent, which consent may be revoked at any time. In the event that any unauthorized storage shall occur, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove the property and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

2.9 **Common Areas - Rules and Regulations.** Lessor or such other person(s) as Lessor may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to establish, modify, amend and enforce reasonable rules and regulations ("Rules and Regulations") for the management, safety, care, and cleanliness of the grounds, the parking and unloading of vehicles and the preservation of good order, as well as for the convenience of other occupants or tenants of the Building and the Project and their invitees. Lessee agrees to abide by and conform to all such Rules and Regulations, and to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Lessor shall not be responsible to Lessee for the non-compliance with said Rules and Regulations by other tenants of the Project.

2.10 **Common Areas - Changes.** Lessor shall have the right, in Lessor's sole discretion, from time to time:

(a) To make changes to the Common Areas, including, without limitation, changes in the location, size, shape and number of driveways, entrances, parking spaces, parking areas, loading and unloading areas, ingress, egress, direction of traffic, landscaped areas, walkways and utility raceways;

(b) To close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available;

(c) To designate other land outside the boundaries of the Project to be a part of the Common Areas;

(d) To add additional buildings and improvements to the Common Areas;

(e) To use the Common Areas while engaged in making additional improvements, repairs or alterations to the Project, or any portion thereof; and

(f) To do and perform such other acts and make such other changes in, to or with respect to the Common Areas and Project as Lessor may, in the exercise of sound business judgment, deem to be appropriate.

3. Term.

3.1 **Term.** The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 **Early Possession.** If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such early possession. All other terms of this Lease (including but not limited to the obligations to pay Lessee's Share of Common Area Operating Expenses, Real Property Taxes and Insurance premiums and to maintain the Premises) shall, however, be in effect during such period. Any such early possession shall not affect the Expiration Date.

3.3 **Delay in Possession.** Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession as agreed, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until it receives possession of the Premises. If possession is not delivered within 60 days after the Commencement Date, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. Except as otherwise provided, if possession is not tendered to Lessee by the Start Date and Lessee does not terminate this Lease, as aforesaid, any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession of the Premises is not delivered within 4 months after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

3.4 **Lessee Compliance.** Lessor shall not be required to tender possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Paragraph 8.5). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance.

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Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date occur but Lessor may elect to withhold possession until such conditions are satisfied.

4. **Rent.**
4.1. **Rent Defined.** All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent ("Rent").

4.2. **Common Area Operating Expenses.** Lessee shall pay to Lessor during the term hereof, in addition to the Base Rent, Lessee's Share (as specified in Paragraph 1.6.) of all Common Area Operating Expenses, as hereinafter defined, during each calendar year of the term of this Lease, in accordance with the following provisions:

(a) "Common Area Operating Expenses" are defined, for purposes of this Lease, as all costs incurred by Lessor relating to the ownership and operation of the Project, including, but not limited to, the following:

(i) The operation, repair and maintenance, in neat, clean, good order and condition, but not the replacement (see subparagraph (e)), of the following:

(aa) The Common Areas and Common Area improvements, including parking areas, loading and unloading areas, trash areas, roadways, parkways, walkways, driveways, landscaped areas, bumpers, irrigation systems, Common Area lighting facilities, fences and gates, elevators, roofs, and roof drainage systems.

(bb) Exterior signs and any tenant directories.

(cc) Any fire sprinkler systems.

The cost of water, gas, electricity and telephone to service the Common Areas and any utilities not separately metered.

(iii) Trash disposal, pest control services, property management, security services, and the costs of any environmental inspections.

(iv) Reserves set aside for maintenance and repair of Common Areas.

(v) Any increase above the Base Real Property Taxes (as defined in Paragraph 10).

(vi) Any "Insurance Cost Increase" (as defined in Paragraph 8).

(vii) Any deductible portion of an insured loss concerning the Building or the Common Areas.

(viii) The cost of any Capital Expenditure to the Building or the Project not covered under the provisions of Paragraph 2.3 provided; however, that Lessor shall allocate the cost of any such Capital Expenditure over a 12 year period and Lessee shall not be required to pay more than Lessee's Share of 1/144th of the cost of such Capital Expenditure in any given month.

(ix) Any other services to be provided by Lessor that are stated elsewhere in this Lease to be a Common Area Operating Expense.

(b) Any Common Area Operating Expense and Real Property Taxes that are specifically attributable to the Unit, the Building or to any other building in the Project or to the operation, repair and maintenance thereof, shall be allocated entirely to such Unit, Building, or other building. However, any Common Area Operating Expenses and Real Property Taxes that are not specifically attributable to the Building or to any other building or to the operation, repair and maintenance thereof, shall be equitably allocated by Lessor to all buildings in the Project.

(c) The inclusion of the improvements, facilities and services set forth in Subparagraph 4.2(e) shall not be deemed to impose an obligation upon Lessor to either have said improvements or facilities or to provide those services unless the Project already has the same, Lessor already provides the services, or Lessor has agreed elsewhere in this Lease to provide the same or some of them.

(d) Lessee's Share of Common Area Operating Expenses shall be payable by Lessee within 10 days after a reasonably detailed statement of actual expenses is presented to Lessee. At Lessor's option, however, an amount may be estimated by Lessor from time to time of Lessee's Share of annual Common Area Operating Expenses and the same shall be payable monthly or quarterly, as Lessor shall designate, during each 12 month period of the Lease term, on the same day as the Base Rent is due hereunder. Lessor shall deliver to Lessee within 60 days after the expiration of each calendar year a reasonably detailed statement showing Lessee's Share of the actual Common Area Operating Expenses incurred during the preceding year. If Lessee's payments under this Paragraph 4.2(d) during the preceding year exceed Lessee's Share as indicated on such statement, Lessor shall be credited the amount of such over-payment against Lessee's Share of Common Area Operating Expenses next becoming due. If Lessee's payments under this Paragraph 4.2(d) during the preceding year were less than Lessee's Share as indicated on such statement, Lessee shall pay to Lessor the amount of the deficiency within 10 days after delivery by Lessor to Lessee of the statement.

(e) When a capital component such as the roof, foundations, exterior walls or a Common Area capital improvement, such as the parking lot paving, elevators, fences, etc. requires replacement, rather than repair or maintenance, Lessor shall, at Lessor's expense, be responsible for such replacement. Such expenses and/or costs are not Common Area Operating Expenses.

4.3 **Payment.** Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States, without offset or deduction (except as specifically permitted in this Lease), on or before the day on which it is due. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of \$25.

5. **Security Deposit.** Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount due Lessor or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the Initial Security Deposit bore to the Initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 14 days after the expiration or termination of this Lease, if Lessor elects to apply the Security Deposit only to unpaid Rent, and otherwise within 30 days after the Premises have been vacated pursuant to Paragraph 7.4(c) below, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease.

8. Use.

8.1 **Use.** Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the improvements on the Premises or the mechanical or electrical systems therein, and/or is not significantly more burdensome to the Premises. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in the Agreed Use.

8.2 Hazardous Substances.

(a) **Reportable Uses Require Consent.** The term "Hazardous Substance" as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, by-products or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "Reportable Use" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) **Duty to Inform Lessor.** If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.


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(c) **Lessee Remediation.** Lessee shall not cause or permit any Hazardous Substance spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, cause all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

(d) **Lessee Indemnification.** Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from areas outside of the Project). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.

(e) **Lessor Indemnification.** Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which existed as a result of Hazardous Substances on the Premises prior to the Start Date or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

(f) **Investigations and Remediations.** Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to the Start Date, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

(g) **Lessor Termination Option.** If a Hazardous Substance Condition (see Paragraph 8.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Rent or \$100,000, whichever is greater, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent or \$100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

6.3 **Lessee's Compliance with Applicable Requirements.** Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to the Premises, without regard to whether said requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements.

6.4 **Inspection; Compliance.** Lessor and Lessor's "Lender" (as defined in Paragraph 30) and consultants shall have the right to enter into Premises at any time, in the case of an emergency, and otherwise at reasonable times, for the purpose of inspecting the condition of the Premises and for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a contamination is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination.

7. Maintenance; Repairs; Utility Installations; Trade Fixtures and Alterations.

7.1 Lessee's Obligations.

(a) **In General.** Subject to the provisions of Paragraph 2.2 (Condition), 2.3 (Compliance), 6.3 (Lessee's Compliance with Applicable Requirements), 7.2 (Lessor's Obligations), 9 (Damage or Destruction), and 14 (Condemnation), Lessee shall, at Lessee's sole expense, keep the Premises, Utility Installations (intended for Lessee's exclusive use, no matter where located), and Alterations in good order, condition and repair (whether or not the portion of the Premises requiring repairs, or the means of repairing the same, are reasonably or readily accessible to Lessee, and whether or not the need for such repairs occurs as a result of Lessee's use, any prior use, the elements or the age of such portion of the Premises), including, but not limited to, all equipment or facilities, such as plumbing, HVAC equipment, electrical, lighting facilities, boilers, pressure vessels, fixtures, interior walls, interior surfaces of exterior walls, ceilings, floors, windows, doors, plate glass, and skylights but excluding any items which are the responsibility of Lessor pursuant to Paragraph 7.2. Lessee, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices, specifically including the procurement and maintenance of the service contracts required by Paragraph 7.1(b) below. Lessee's obligations shall include restorations, replacements or renewals when necessary to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair.

(b) **Service Contracts.** Lessee shall, at Lessee's sole expense, procure and maintain contracts, with copies to Lessor, in customary form and substance for, and with contractors specializing and experienced in the maintenance of the following equipment and improvements, if any, if and when installed on the Premises: (i) HVAC equipment, (ii) boiler and pressure vessels, (iii) clarifiers, and (iv) any other equipment, if reasonably required by Lessor. However, Lessor reserves the right, upon notice to Lessee, to procure and maintain any or all of such service contracts, and if Lessor so elects, Lessee shall reimburse Lessor, upon demand, for the cost thereof.

(c) **Failure to Perform.** If Lessee fails to perform Lessee's obligations under this Paragraph 7.1, Lessor may enter upon the Premises after 10 days' prior written notice to Lessee (except in the case of an emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf, and put the Premises in good order, condition and repair, and Lessee shall promptly reimburse Lessor for the cost thereof.

(d) **Replacement.** Subject to Lessee's indemnification of Lessor as set forth in Paragraph 8.7 below, and without relieving Lessee of liability resulting from Lessee's failure to exercise and perform good maintenance practices, if an item described in Paragraph 7.1(b) cannot be repaired other than at a cost which is in excess of 50% of the cost of replacing such item, then such item shall be replaced by Lessor, and the cost thereof shall be prorated between the Parties and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease, on the date on which Base Rent is due, an amount equal to the product of multiplying the cost of such replacement by a fraction, the numerator of which is one, and the denominator of which is 144 (i.e. 1/144th of the cost per month). Lessee shall pay interest on the unamortized balance at a rate that is commercially reasonable in the judgment of Lessor's accountants. Lessee may, however, prepay its obligation at any time.

7.2 **Lessor's Obligations.** Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 4.2 (Common Area Operating Expenses), 6 (Use), 7.1 (Lessee's Obligations), 9 (Damage or Destruction) and 14 (Condemnation), Lessor, subject to reimbursement pursuant to Paragraph 4.2, shall keep in good order, condition and repair the foundations, exterior walls, structural condition of interior bearing walls, exterior roof, fire sprinkler system, Common Area fire alarm and/or smoke detection systems, fire hydrants, parking lots, walkways, parkways, driveways, landscaping, fences, signs and utility systems serving the Common Areas and all parts thereof, as well as providing the services for which there is a Common Area Operating Expense pursuant to Paragraph 4.2. Lessor shall not be obligated to paint the exterior or interior surfaces of exterior walls nor shall Lessor be obligated to maintain, repair or replace windows, doors or plate glass of the Premises. Lessee expressly waives the benefit of any statute now or hereafter in effect to the extent it is inconsistent with the terms of this Lease.

7.3 Utility Installations; Trade Fixtures; Alterations.

(a) **Definitions.** The term "Utility Installations" refers to all floor and window coverings, air lines, power panels, electrical distribution, security and fire protection systems, communication systems, lighting fixtures, HVAC equipment, plumbing, and fencing in or on the Premises. The term "Trade Fixtures" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "Alterations" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "Lessee Owned Alterations and/or Utility Installations" are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a).

(b) **Consent.** Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof or any existing walls, and the cumulative cost thereof during this Lease as extended does not exceed a sum equal to 3 months' Base Rent in the aggregate or a sum equal to one month's Base Rent in any one year. Notwithstanding the foregoing, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits; (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner.

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Any Alterations or Utility Installations be performed in a workmanlike manner with good and sufficient materials and shall promptly upon completion furnish Lessor with as-built plans and specifications. For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.

(c) **Indemnification.** Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialman's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

7.4 Ownership; Removal; Surrender; and Restoration.

(a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

(b) **Removal.** By delivery to Lessee of written notice from Lessor not earlier than 90 and not later than 30 days prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent.

(c) **Surrender; Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof broom clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing, if this Lease is for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures. Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall also completely remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Project) even if such removal would require Lessee to perform or pay for work that exceeds statutory requirements. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 28 below.

8. Insurance; Indemnity.

8.1 Payment of Premium Increases.

(a) As used herein, the term "Insurance Cost Increase" is defined as any increase in the actual cost of the insurance applicable to the Building and/or the Project and required to be carried by Lessor, pursuant to Paragraphs 8.2(b), 8.3(a) and 8.3(b), ("Required Insurance"), over and above the Base Premium, as hereinafter defined, calculated on an annual basis. Insurance Cost Increase shall include, but not be limited to, requirements of the holder of a mortgage or deed of trust covering the Premises, Building and/or Project, increased valuation of the Premises, Building and/or Project, and/or a general premium rate increase. The term Insurance Cost Increase shall not, however, include any premium increases resulting from the nature of the occupancy of any other tenant of the Building. If the parties insert a dollar amount in Paragraph 1.8, such amount shall be considered the "Base Premium." The Base Premium shall be the annual premium applicable to the 12 month period immediately preceding the Start Date. If, however, the Project was not insured for the entirety of such 12 month period, then the Base Premium shall be the lowest annual premium reasonably obtainable for the Required Insurance as of the Start Date, assuming the most nominal use possible of the Building. In no event, however, shall Lessee be responsible for any portion of the premium cost attributable to liability insurance coverage in excess of \$2,000,000 procured under Paragraph 8.2(b).

(b) Lessee shall pay any Insurance Cost Increase to Lessor pursuant to Paragraph 4.2. Premiums for policy periods commencing prior to, or extending beyond, the term of this Lease shall be prorated to coincide with the corresponding Start Date or Expiration Date.

8.2 Liability Insurance.

(a) **Carried by Lessee.** Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$1,000,000 per occurrence with an annual aggregate of not less than \$2,000,000, an "Additional Insured-Managers or Lessors of Premises Endorsement" and contain the "Amendment of the Pollution Exclusion Endorsement" for damage caused by heat, smoke or fumes from a hostile fire. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "insured contract" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. All insurance carried by Lessee shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

(b) **Carried by Lessor.** Lessor shall maintain liability insurance as described in Paragraph 8.2(a), in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.

8.3 Property Insurance - Building, Improvements and Rental Value.

(a) **Building and Improvements.** Lessor shall obtain and keep in force a policy or policies of insurance in the name of Lessor, with loss payable to Lessor, any ground-tenant, and to any Lender insuring loss or damage to the Premises. The amount of such insurance shall be equal to the full replacement cost of the Premises, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee under Paragraph 8.4. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed \$1,000 per occurrence.

(b) **Rental Value.** Lessor shall also obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year with an extended period of indemnity for an additional 180 days ("Rental Value Insurance"). Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12 month period.

(c) **Adjacent Premises.** Lessee shall pay for any increase in the premiums for the property insurance of the Building and for the Common Areas or other buildings in the Project if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.

(d) **Lessee's Improvements.** Since Lessor is the Insuring Party, Lessor shall not be required to insure Lessee Owned Alterations and Utility Installations unless the item in question has become the property of Lessor under the terms of this Lease.

8.4 Lessee's Property; Business Interruption Insurance.

(a) **Property Damage.** Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed \$1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations. Lessee shall provide Lessor with written evidence that such insurance is in force.

(b) **Business Interruption.** Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.

(c) **No Representation of Adequate Coverage.** Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

8.5 **Insurance Policies.** Insurance required herein shall be by companies duly licensed or admitted to transact business in the state where the Premises are located, and maintaining during the policy term a "General Policyholders Rating" of at least B+, V, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 30 days prior written notice to Lessor. Lessee shall, at least 30 days prior to the expiration of such policies, furnish Lessor with evidence of renewal or "insurance binders" evidencing renewal thereof, or Lessor may order such insurance and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.

8.6 **Waiver of Subrogation.** Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against

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herein. The effect of such release and waivers is not limited by the amount of insurance carried or required, or by deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.

8.7 Indemnity. Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' fees, expenses and/or liabilities arising out of, involving, or in connection with, the use and/or occupancy of the Premises by Lessee. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.8 Exemption of Lessor from Liability. Lessor shall not be liable for injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the Building, or from other sources or places. Lessor shall not be liable for any damages arising from any act or neglect of any other tenant of Lessor nor from the failure of Lessor to enforce the provisions of any other lease in the Project. Notwithstanding Lessor's negligence or breach of this Lease, Lessor shall under no circumstances be liable for injury to Lessee's business or for any loss of income or profit therefrom.

9. Damage or Destruction.

9.1 Definitions.

(a) "Premises Partial Damage" shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 3 months or less from the date of the damage or destruction, and the cost thereof does not exceed a sum equal to 6 months' Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(b) "Premises Total Destruction" shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in 3 months or less from the date of the damage or destruction and/or the cost thereof exceeds a sum equal to 6 months' Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(c) "Insured Loss" shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraph 8.3(a), irrespective of any deductible amounts or coverage limits involved.

(d) "Replacement Cost" shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

(e) "Hazardous Substance Condition" shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance as defined in Paragraph 8.2(a), in, on, or under the Premises.

9.2 Partial Damage - Insured Loss. If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's expense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is \$5,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, the insuring Party shall promptly contribute the shortage in proceeds as and when required to complete said repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within 10 days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said 10 day period, the party responsible for making the repairs shall complete them as soon as reasonably possible and this Lease shall remain in full force and effect. If such funds or assurance are not received, Lessor may nevertheless elect by written notice to Lessee within 10 days thereafter to: (i) make such restoration and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. Lessee shall not be entitled to reimbursement of any funds contributed by Lessee to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

9.3 Partial Damage - Uninsured Loss. If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may either: (i) repair such damage as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within 30 days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective 60 days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within 10 days after receipt of the termination notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage without reimbursement from Lessor. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days after making such commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

9.4 Total Destruction. Notwithstanding any other provision hereof, if a Premises Total Destruction occurs, this Lease shall terminate 60 days following such Destruction. If the damage or destruction was caused by the gross negligence or willful misconduct of Lessee, Lessor shall have the right to recover Lessor's damages from Lessee, except as provided in Paragraph 8.6.

9.5 Damage Near End of Term. If at any time during the last 6 months of this Lease there is damage for which the cost to repair exceeds one month's Base Rent, whether or not an Insured Loss, Lessor may terminate this Lease effective 60 days following the date of occurrence of such damage by giving a written termination notice to Lessee within 30 days after the date of occurrence of such damage. Notwithstanding the foregoing, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this Lease by, (a) exercising such option and (b) providing Lessor with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is 10 days after Lessee's receipt of Lessor's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. If Lessee duly exercises such option during such period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate on the date specified in the termination notice and Lessee's option shall be extinguished.

9.6 Abatement of Rent; Lessee's Remedies.

(a) **Abatement.** In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but not to exceed the proceeds received from the Rental Value Insurance. All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

(b) **Remedies.** If Lessor shall be obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after such obligation shall occur, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shall continue in full force and effect. "Commence" shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

9.7 Termination; Advance Payments. Upon termination of this Lease pursuant to Paragraph 8.2(g) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

9.8 Waive Statutes. Lessor and Lessee agree that the terms of this Lease shall govern the effect of any damage to or destruction of the Premises with respect to the termination of this Lease and hereby waive the provisions of any present or future statute to the extent inconsistent herewith.

10. Real Property Taxes.

10.1 Definitions.

(a) "Real Property Taxes." As used herein, the term "Real Property Taxes" shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Project, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Project address and where the proceeds so generated are to be applied by the city, county or other local taxing authority of a jurisdiction within which the Project is located. The term "Real Property Taxes" shall also include any

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tax, fee, levy, assessment or a or any increase therein, imposed by reason of events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Project or any portion thereof or a change in the improvements thereon.

(b) "Base Real Property Taxes." As used herein, the term "Base Real Property Taxes" shall be the amount of Real Property Taxes, which are assessed against the Premises, Building, Project or Common Areas in the calendar year during which the Lease is executed. In calculating Real Property Taxes for any calendar year, the Real Property Taxes for any real estate tax year shall be included in the calculation of Real Property Taxes for such calendar year based upon the number of days which such calendar year and tax year have in common.

10.2 **Payment of Taxes.** Lessor shall pay the Real Property Taxes applicable to the Project, and except as otherwise provided in Paragraph 10.3, any increase in such amounts over the Base Real Property Taxes shall be included in the calculation of Common Area Operating Expenses in accordance with the provisions of Paragraph 4.2.

10.3 **Additional Improvements.** Common Area Operating Expenses shall not include Real Property Taxes specified in the tax assessor's records and work sheets as being caused by additional improvements placed upon the Project by other lessees or by Lessor for the exclusive enjoyment of such other lessees. Notwithstanding Paragraph 10.2 hereof, Lessee shall, however, pay to Lessor at the time Common Area Operating Expenses are payable under Paragraph 4.2, the entirety of any increase in Real Property Taxes if assessed solely by reason of Alterations, Trade Fixtures or Utility Installations placed upon the Premises by Lessee or at Lessee's request.

10.4 **Joint Assessment.** If the Building is not separately assessed, Real Property Taxes allocated to the Building shall be an equitable proportion of the Real Property Taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available. Lessor's reasonable determination thereof, in good faith, shall be conclusive.

10.5 **Personal Property Taxes.** Lessee shall pay prior to delinquency all taxes assessed against and levied upon Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee contained in the Premises. When possible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

11. **Utilities.** Lessee shall pay for all water, gas, heat, light, power, telephone, trash disposal and other utilities and services supplied to the Premises, together with any taxes thereon. Notwithstanding the provisions of Paragraph 4.2, if at any time in Lessor's sole judgment, Lessor determines that Lessee is using a disproportionate amount of water, electricity or other commonly metered utilities, or that Lessee is generating such a large volume of trash as to require an increase in the size of the dumpster and/or an increase in the number of times per month that the dumpster is emptied, then Lessor may increase Lessee's Base Rent by an amount equal to such increased costs.

12. Assignment and Subletting.

12.1 Lessor's Consent Required.

(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "assign or assignment") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.

(b) A change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.

(c) The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buy-out or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the Net Worth of Lessee by an amount greater than 25% of such Net Worth as it was represented at the time of the execution of this Lease or at the time of the most recent assignment to which Lessor has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater, shall be considered an assignment of this Lease to which Lessor may withhold its consent. "Net Worth of Lessee" shall mean the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles.

(d) An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(c), or a noncurable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a noncurable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Lessee shall be subject to similar adjustment to 110% of the price previously in effect, and (ii) all fixed and non-fixed rental adjustments scheduled during the remainder of the Lease term shall be increased to 110% of the scheduled adjusted rent.

(e) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to compensatory damages and/or injunctive relief.

12.2 Terms and Conditions Applicable to Assignment and Subletting.

(a) Regardless of Lessor's consent, any assignment or subletting shall not: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

(b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for Lessee's Default or Breach.

(c) Lessor's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting.

(d) In the event of any Default or Breach by Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefore to Lessor, or any security held by Lessor.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of \$1,000 or 10% of the current monthly Base Rent applicable to the portion of the Premises which is the subject of the proposed assignment or sublease, whichever is greater, as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested.

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment or entering into such sublease, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented to in writing.

12.3 **Additional Terms and Conditions Applicable to Subletting.** The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. Lessor shall not, by reason of the foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

(b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to attorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

(c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.

(d) No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

13. Default; Breach; Remedies.

13.1 **Default; Breach.** A "Default" is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or Rules and Regulations under this Lease. A "Breach" is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period:

(a) The abandonment of the Premises; or the vacating of the Premises without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Paragraph 8.3 is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism.

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee.


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(c) The Lessee shall provide (i) reasonable written evidence of compliance with applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate, (v) a request for subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 41 (easements), or (viii) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

(d) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 2.9 hereof, other than those described in subparagraphs 13.1(a), (b) or (c), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(e) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a "debtor" as defined in 11 U.S.C. § 101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subparagraph (e) is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(f) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false.

(g) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security, which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.

13.2 Remedies. If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. The costs and expenses of any such performance by Lessor shall be due and payable by Lessee upon receipt of invoice therefor. If any check given to Lessor by Lessee shall not be honored by the bank upon which it is drawn, Lessor, at its option, may require all future payments to be made by Lessee to be by cashier's check. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of relating, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover damages under Paragraph 12. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

13.3 Inducement Recapture. Any agreement for free or abated rent or other charges, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "Inducement Provisions", shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

13.4 Late Charges. Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within 5 days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall pay to Lessor a one-time late charge equal to 10% of each such overdue amount or \$100, whichever is greater. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 Interest. Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due as to scheduled payments (such as Base Rent) or within 30 days following the date on which it was due for non-scheduled payment, shall bear interest from the date when due, as to scheduled payments, or the 31st day after it was due as to non-scheduled payments. The interest ("interest") charged shall be equal to the prime rate reported in the Wall Street Journal as published closest prior to the date when due plus 4%, but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 Breach by Lessor.

(a) Notice of Breach. Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph, a reasonable time shall in no event be less than 30 days after receipt by Lessor, and any Lender whose name and address shall have been furnished Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

(b) Performance by Lessee on Behalf of Lessor. In the event that neither Lessor nor Lender cures said breach within 30 days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent an amount equal to the greater of one month's Base Rent or the Security Deposit, and to pay an excess of such expense under protest, reserving Lessee's right to reimbursement from Lessor. Lessee shall document the cost of said cure and supply said documentation to Lessor.

14. Condemnation. If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively "Condemnation"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 10% of the floor area of the Unit, or more than 25% of Lessee's Reserved Parking Spaces, is taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to the Premises caused by such Condemnation.

15. Brokerage Fees.

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15.1 **Additional Confirmation.** In addition to the payments owed pursuant to Paragraph 1.10 above, Lessor and the Brokers otherwise agree in writing, Lessor agrees that: (a) Lessee exercises any Option, (b) If Lessee acquires from Lessor any rights, Premises or other premises owned by Lessor and located within the Project, (c) If Lessee remains in possession of the Premises, with the consent of Lessor, after the expiration of this Lease, or (d) If Base Rent is increased, whether by agreement or operation of an escalation clause herein, then, Lessor shall pay Brokers a fee in accordance with the schedule of the Brokers in effect at the time of the execution of this Lease.

15.2 **Assumption of Obligations.** Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's obligation hereunder. Brokers shall be third party beneficiaries of the provisions of Paragraphs 1.10, 15.22 and 31. If Lessor fails to pay to Brokers any amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue interest. In addition, if Lessor fails to pay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker for the limited purpose of collecting any brokerage fees owed.

15.3 **Representations and Indemnities of Broker Relationships.** Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker or finder (other than the Brokers, if any) in connection with this Lease, and that no one other than said named Brokers is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.

16. Estoppel Certificates.

(a) Each Party (as "Responding Party") shall within 10 days after written notice from the other Party (the "Requesting Party") execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current "Estoppel Certificate" form published by the American Industrial Real Estate Association, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate.

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17. **Definition of Lessor.** The term "Lessor" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Except as provided in Paragraph 15, upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined. Notwithstanding the above, and subject to the provisions of Paragraph 20 below, the original Lessor under this Lease, and all subsequent holders of the Lessor's interest in this Lease shall remain liable and responsible with regard to the potential duties and liabilities of Lessor pertaining to Hazardous Substances as outlined in Paragraph 6.2 above.

18. **Severability.** The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

19. **Days.** Unless otherwise specifically indicated to the contrary, the word "days" as used in this Lease shall mean and refer to calendar days.

20. **Limitation on Liability.** Subject to the provisions of Paragraph 17 above, the obligations of Lessor under this Lease shall not constitute personal obligations of Lessor, the individual partners of Lessor or its or their individual partners, directors, officers or shareholders, and Lessee shall look to the Premises, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against the individual partners of Lessor, or its or their individual partners, directors, officers or shareholders, or any of their personal assets for such satisfaction.

21. **Time of Essence.** Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

22. **No Prior or Other Agreements; Broker Disclaimer.** This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party. The liability (including court costs and attorneys' fees), of any Broker with respect to negotiation, execution, delivery or performance by either Lessor or Lessee under this Lease or any amendment or modification hereto shall be limited to an amount up to the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

23. Notices.

23.1 **Notice Requirements.** All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

23.2 **Date of Notice.** Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 48 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantee next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices transmitted by facsimile transmission or similar means shall be deemed delivered upon telephone confirmation of receipt (confirmation report from fax machine is sufficient), provided a copy is also delivered via delivery or mail. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

24. **Waivers.** No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent. The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of monies or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.

25. Disclosures Regarding The Nature of a Real Estate Agency Relationship.

(a) When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessor or Lessee should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessor and Lessee acknowledge being advised by the Brokers in this transaction, as follows:

(i) **Lessor's Agent.** A Lessor's agent under a listing agreement with the Lessor acts as the agent for the Lessor only. A Lessor's agent or subagent has the following affirmative obligations: **To the Lessor:** A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor. **To the Lessee and the Lessor:** a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(ii) **Lessee's Agent.** An agent can agree to act as agent for the Lessee only. In these situations, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations: **To the Lessee:** A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. **To the Lessee and the Lessor:** a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to

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disclose all facts known to the agent materially affecting the value or desirability of the property that are not known within the diligent attention and observation of the Parties. An agent is not required to reveal to either Party any confidential information obtained from the Party which does not involve the affirmative duties set forth above.

(ii) **Agent Representing Both Lessor and Lessee.** A real estate agent, either acting directly or through one or more associate licensees, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: a. A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lessor or the Lessee. b. Other duties to the Lessor and the Lessee as stated above in subparagraphs (i) or (ii). In representing both Lessor and Lessee, the agent may not without the express permission of the respective Party, disclose to the other Party that the Lessor will accept rent in an amount less than that indicated in the listing or that the Lessee is willing to pay a higher rent than that offered. The above duties of the agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to ensure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

(b) Brokers have no responsibility with respect to any default or breach hereof by either Party. The liability (including court costs and attorneys' fees), of any Broker with respect to any breach of duty, error or omission relating to this Lease shall not exceed the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

(c) Buyer and Seller agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.

26. **No Right To Holdover.** Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then the Base Rent shall be increased to 150% of the Base Rent applicable immediately preceding the expiration or termination. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee.

27. **Cumulative Remedies.** No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28. **Covenants and Conditions; Construction of Agreement.** All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

29. **Binding Effect; Choice of Law.** This Lease shall be binding upon the parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

30. Subordination; Attornment; Non-Disturbance.

30.1 **Subordination.** This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, "Security Device"), now or hereafter placed upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in this Lease together referred to as "Lender") shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

30.2 **Attornment.** Subject to the non-disturbance provisions of Paragraph 30.3, Lessee agrees to attorn to a Lender or any other party who acquires ownership of the Premises by reason of a foreclosure of a Security Device, and that in the event of such foreclosure, such new owner shall not: (a) be liable for any act or omission of any prior Lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior Lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior Lessor.

30.3 **Non-Disturbance.** With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a "Non-Disturbance Agreement") from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises. Further, within 60 days after the execution of this Lease, Lessor shall use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said 60 days, then Lessee may, at Lessee's option, directly contact Lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.

30.4 **Self-Executing.** The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment and/or Non-Disturbance Agreement provided for herein.

31. **Attorneys' Fees.** If any Party or Broker brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "Prevailing Party" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach (\$200 is a reasonable minimum per occurrence for such services and consultation).

32. **Lessor's Access; Showing Premises; Repairs.** Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary. All such activities shall be without abatement of rent or liability to Lessee. Lessor may at any time place on the Premises any ordinary "For Sale" signs and Lessor may during the last 6 months of the term hereof place on the Premises any ordinary "For Lease" signs. Lessee may at any time place on the Premises any ordinary "For Sublease" sign.

33. **Auctions.** Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. **Signs.** Except for ordinary "For Sublease" signs which may be placed only on the Premises, Lessee shall not place any sign upon the Project without Lessor's prior written consent. All signs must comply with all Applicable Requirements.

35. **Termination; Merger.** Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, that Lessor may elect to continue any one or all existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

36. **Consents.** Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any Lessor consent, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

37. **Guarantor.**

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37.1 Execution. Guarantors, if any, shall each execute a guaranty in the form most recently provided by the American Industrial Real Estate Association, and each such Guarantor shall have the same obligations as Lessee under this Lease.

37.2 Default. It shall constitute a Default of the Lessee if any Guarantor fails or refuses, upon request to provide: (a) evidence of the execution of the guaranty, including the authority of the party signing on Guarantor's behalf to obligate Guarantor, and in the case of a corporate Guarantor, a certified copy of a resolution of its board of directors authorizing the making of such guaranty, (b) current financial statements, (c) an Estoppel Certificate, or (d) written confirmation that the guaranty is still in effect.

38. Quiet Possession. Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.

39. Options. If Lessee is granted an option, as defined below, then the following provisions shall apply.

39.1 Definition. "Option" shall mean: (a) the right to extend the term of or renew this Lease or to extend or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase or the right of first refusal to purchase the Premises or other property of Lessor.

39.2 Options Personal To Original Lessee. Any Option granted to Lessee in this Lease is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and, if requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subletting.

39.3 Multiple Options. In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.

39.4 Effect of Default on Options.

(a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given 3 or more notices of separate Default, whether or not the Defaults are cured, during the 12 month period immediately preceding the exercise of the Option.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).

(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term, (i) Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof), (ii) Lessor gives to Lessee 3 or more notices of separate Default during any 12 month period, whether or not the Defaults are cured, or (iii) if Lessee commits a Breach of this Lease.

40. Security Measures. Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties.

41. Reservations. Lessor reserves the right: (i) to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, (ii) to cause the recordation of parcel maps and restrictions, and (iii) to create and/or install new utility raceways, so long as such easements, rights, dedications, maps, restrictions, and utility raceways do not unreasonably interfere with the use of the Premises by Lessee. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate such rights.

42. Performance Under Protest. If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay.

43. Authority. If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each party shall, within 30 days after request, deliver to the other party satisfactory evidence of such authority.

44. Conflict. Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

45. Offer. Preparation of this Lease by either party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

46. Amendments. This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

47. Multiple Parties. If more than one person or entity is named herein as either Lessor or Lessee, such multiple Parties shall have joint and several responsibility to comply with the terms of this Lease.

48. Waiver of Jury Trial. The Parties hereby waive their respective rights to trial by jury in any action or proceeding involving the Property or arising out of this Agreement.

49. Mediation and Arbitration of Disputes. An Addendum requiring the Mediation and/or the Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease ☐ is ☒ is not attached to this Lease.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE AMERICAN INDUSTRIAL REAL ESTATE ASSOCIATION OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.
2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES, SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING OF THE PREMISES, THE STRUCTURAL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE.

WARNING: IF THE PREMISES ARE LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES ARE LOCATED.

The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

Executed at: Surlock, CA
on: February 26, 2001

By LESSOR:
L & M Industrial Park

Executed at: Hayward, CA
on: March 7, 2001

By LESSEE:
Construction Craft Training Center

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By: _____
Name Printed: Frank Lopez
Title: _____
By: _____
Name Printed: _____
Title: _____
Address: P. O. Box 677
Turlock, CA 95381
Telephone: (209) 667-2851
Facsimile: ()
Federal ID No. _____

By: Chris Floet
Name Printed: _____
Title: _____
By: _____
Name Printed: _____
Title: _____
Address: _____
Telephone: (510) 785-2282
Facsimile: (510) 785-9136
Federal ID No. _____

These forms are often modified to meet changing requirements of law and needs of the industry. Always write or call to make sure you are utilizing the most current form: American Industrial Real Estate Association, 700 South Flower Street, Suite 900, Los Angeles, CA 90017. (213) 687-8777.

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RENT ADJUSTMENT(S)

STANDARD LEASE ADDENDUM

Dated February 23, 2001

By and Between (Lessor) L & M Investments

(Lessee) Construction Craft Training Center

Address of Premises: 2480 Acme Ct., Turlock, CA

Paragraph 50

A. RENT ADJUSTMENTS:

The monthly rent for each month of the adjustment period(s) specified below shall be increased using the method(s) indicated below:

(Check Method(s) to be Used and Fill In Appropriately)

☒ I. Cost of Living Adjustment(s) (COLA)

a. On (Fill In COLA Dates): April 1 of each year of lease

the Base Rent shall be adjusted by the change, if any, from the Base Month specified below, in the Consumer Price Index of the Bureau of Labor Statistics of the U.S. Department of Labor for (select one): ☒ CPI W (Urban Wage Earners and Clerical Workers) or ☐ CPI U (All Urban Consumers), for (Fill In Urban Area): San Francisco - Oakland - San Jose, All Items (1982-1984 = 100), herein referred to as "CPI".

b. The monthly rent payable in accordance with paragraph A.I.a. of this Addendum shall be calculated as follows: the Base Rent set forth in paragraph 1.5 of the attached Lease, shall be multiplied by a fraction the numerator of which shall be the CPI of the calendar month two months prior to the month(s) specified in paragraph A.I.a. above during which the adjustment is to take effect, and the denominator of which shall be the CPI of the calendar month which is two months prior to (select one): ☒ the first month of the term of this Lease as set forth in paragraph 1.3 ("Base Month") or ☐ (Fill In Other "Base Month"):

The sum so calculated shall constitute the new monthly rent hereunder, but in no event, shall any such new monthly rent be less than the rent payable for the month immediately preceding the rent adjustment.

c. In the event the compilation and/or publication of the CPI shall be transferred to any other governmental department or bureau or agency or shall be discontinued, then the Index most nearly the same as the CPI shall be used to make such calculation. In the event that the Parties cannot agree on such alternative index, then the matter shall be submitted for decision to the American Arbitration Association in accordance with the then rules of said Association and the decision of the arbitrators shall be binding upon the parties. The cost of said Arbitration shall be paid equally by the Parties.

☐ II. Market Rental Value Adjustment(s) (MRV)

a. On (Fill In MRV Adjustment Date(s)):

the Base Rent shall be adjusted to the "Market Rental Value" of the property as follows:

1) Four months prior to each Market Rental Value Adjustment Date described above, the Parties shall attempt to agree upon what the new MRV will be on the adjustment date. If agreement cannot be reached within thirty days, then:

(a) Lessor and Lessee shall immediately appoint a mutually acceptable appraiser or broker to establish the new MRV within the next thirty days. Any associated costs will be split equally between the Parties, or

(b) Both Lessor and Lessee shall each immediately make a reasonable determination of the MRV and submit such determination, in writing, to arbitration in accordance with the following provisions:

(i) Within fifteen days thereafter, Lessor and Lessee shall each select an ☐ appraiser or ☐ broker ("Consultant" - check one) of their choice to act as an arbitrator. The two arbitrators so appointed shall immediately select a third mutually acceptable Consultant to act as a third arbitrator.

(ii) The Three arbitrators shall within thirty days of the appointment of the third arbitrator reach a decision as to what the actual MRV for the Premises is, and whether Lessor's or Lessee's submitted MRV is the closest thereto. The decision of a majority of the arbitrators shall be binding on the Parties. The submitted MRV which is determined to be the closest to the actual MRV shall thereafter be used by the Parties.

(iii) If either of the Parties fails to appoint an arbitrator within the specified fifteen days, the arbitrator timely appointed by one of them shall reach a decision on his or her own, and said decision shall be binding on the Parties.

(iv) The entire cost of such arbitration shall be paid by the party whose submitted MRV is not selected, i.e. the one that is NOT the closest to the actual MRV.

2) Notwithstanding the foregoing, the new MRV shall not be less than the rent payable for the month immediately preceding the rent adjustment.

b. Upon the establishment of each New Market Rental Value:

- 1) the new MRV will become the new "Base Rent" for the purpose of calculating any further Adjustments, and
- 2) the first month of each Market Rental Value term shall become the new "Base Month" for the purpose of calculating any further Adjustments.

Initials: EL

Initials: CMP

RENT ADJUSTMENTS
Page 1 of 2

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REVISED

FORM RA-2-3/97E

☐ III. Fixed Rental Adjustments RA)

The Base Rent shall be increased to the following amounts on the dates set forth below:

On (Fill in FRA Adjustment Date(s)): The New Base Rent shall be:

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

B. NOTICE:

Unless specified otherwise herein, notice of any such adjustments, other than Fixed Rental Adjustments, shall be made as specified in paragraph 23 of the Lease.

C. BROKER'S FEE:

The Brokers specified in paragraph 1.10 shall be paid a Brokerage Fee for each adjustment specified above in accordance with paragraph 16 of the Lease.

Initials:

Initials:

RENT ADJUSTMENTS
Page 2 of 2

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FORM RA-2-3/97E

VE EJ

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OPTION(S) TO EXTEND STANDARD LEASE ADDENDUM

Dated February 23, 2001By and Between (Lessor) L & M Investments(Lessee) Construction Craft Training CenterAddress of Premises: 2480 Acme Ct., Turlock, CA 93561Paragraph 51**A. OPTION(S) TO EXTEND:**

Lessor hereby grants to Lessee the option to extend the term of this Lease for 1 additional 24 month period(s) commencing when the prior term expires upon each and all of the following terms and conditions:

(i) In order to exercise an option to extend, Lessee must give written notice of such election to Lessor and Lessor must receive the same at least 3 but not more than 6 months prior to the date that the option period would commence, time being of the essence. If proper notification of the exercise of an option is not given and/or received, such option shall automatically expire. Options (if there are more than one) may only be exercised consecutively.

(ii) The provisions of paragraph 39, including those relating to Lessee's Default set forth in paragraph 39.4 of this Lease, are conditions of this Option.

(iii) Except for the provisions of this Lease granting an option or options to extend the term, all of the terms and conditions of this Lease except where specifically modified by this option shall apply.

(iv) This Option is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and without the intention of thereafter assigning or subletting.

(v) The monthly rent for each month of the option period shall be calculated as follows, using the method(s) indicated below:
(Check Method(s) to be Used and Fill in Appropriately)

☒ **I. Cost of Living Adjustment(s) (COLA)**

a. On (Fill in COLA Date): April 1 of each year

the Base Rent shall be adjusted by the change, if any, from the Base Month specified below, in the Consumer Price Index of the Bureau of Labor Statistics of the U.S. Department of Labor for (select one): ☒ CPI W (Urban Wage Earners and Clerical Workers) or ☐ CPI U (All Urban Consumers), for (Fill in Urban Area): San Francisco - Oakland - San Jose
All Items (1982-1984 = 100), herein referred to as "CPI".

b. The monthly rent payable in accordance with paragraph A.I.a. of this Addendum shall be calculated as follows: the Base Rent set forth in paragraph 1.5 of the attached Lease, shall be multiplied by a fraction the numerator of which shall be the CPI of the calendar month two months prior to the month(s) specified in paragraph A.I.a. above during which the adjustment is to take effect, and the denominator of which shall be the CPI of the calendar month which is two months prior to (select one): ☒ the first month of the term of this Lease as set forth in paragraph 1.3 ("Base Month") or ☐ (Fill in Other "Base Month"):

The sum so calculated shall constitute the new monthly rent hereunder, but in no event, shall any such new monthly rent be less than the rent payable for the month immediately preceding the rent adjustment.

c. In the event the compilation and/or publication of the CPI shall be transferred to any other governmental department or bureau or agency or shall be discontinued, then the index most nearly the same as the CPI shall be used to make such calculation. In the event that the Parties cannot agree on such alternative index, then the matter shall be submitted for decision to the American Arbitration Association in accordance with the then rules of said Association and the decision of the arbitrators shall be binding upon the parties. The cost of said Arbitration shall be paid equally by the Parties.

☐ **II. Market Rental Value Adjustment(s) (MRV)**

a. On (Fill in MRV Adjustment Date(s)) _____

the Base Rent shall be adjusted to the "Market Rental Value" of the property as follows:

1) Four months prior to each Market Rental Value Adjustment Date described above, the Parties shall attempt to agree upon what the new MRV will be on the adjustment date. If agreement cannot be reached, within thirty days, then:

(a) Lessor and Lessee shall immediately appoint a mutually acceptable appraiser or broker to establish the new MRV within the next thirty days. Any associated costs will be split equally between the Parties, or

(b) Both Lessor and Lessee shall each immediately make a reasonable determination of the MRV and submit such determination, in writing, to arbitration in accordance with the following provisions:

(i) Within fifteen days thereafter, Lessor and Lessee shall each select an ☐ appraiser or ☐ broker ("Consultant" - check one) of their choice to act as an arbitrator. The two arbitrators so appointed shall immediately select a third mutually acceptable Consultant to act as a third arbitrator.

Initials: ELInitials: DAE

(ii) The three arbitrators shall within thirty days of the appointment of the third arbitrator reach a decision as to what the actual MRV for the Premises is, and whether Lessor's or Lessee's submitted MRV is the closest thereto. The decision of a majority of the arbitrators shall be binding on the Parties. The submitted MRV which is determined to be the closest to the actual MRV shall thereafter be used by the Parties.

(iii) If either of the Parties fails to appoint an arbitrator within the specified fifteen days, the arbitrator timely appointed by one of them shall reach a decision on his or her own, and said decision shall be binding on the Parties.

(iv) The entire cost of such arbitration shall be paid by the party whose submitted MRV is not selected, i.e. the one that is NOT the closest to the actual MRV.

2) Notwithstanding the foregoing, the new MRV shall not be less than the rent payable for the month immediately preceding the rent adjustment.

b. Upon the establishment of each New Market Rental Value:

- 1) the new MRV will become the new "Base Rent" for the purpose of calculating any further Adjustments, and
- 2) the first month of each Market Rental Value term shall become the new "Base Month" for the purpose of calculating any further Adjustments.

☐ III. Fixed Rental Adjustment(s) (FRA)

The Base Rent shall be increased to the following amounts on the dates set forth below:

On (Fill in FRA Adjustment Date(s)):	The New Base Rent shall be:
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

B. NOTICE:

Unless specified otherwise herein, notice of any rental adjustments, other than Fixed Rental Adjustments, shall be made as specified in paragraph 23 of the Lease.

C. BROKER'S FEE:

The Brokers specified in paragraph 1.10 shall be paid a Brokerage Fee for each adjustment specified above in accordance with paragraph 15 of the Lease.

Initials: AL

Initials: CLP

**APPENDIX VI
TO
DONATION AGREEMENT**

Assumed Liabilities

1. Liabilities under the 26200 Lease
2. Liabilities under the 26206 Lease
3. Liabilities under the Turlock Lease
4. *[Accounts Payable as listed on attached list]*

Construction Craft Training Center
Balance Sheet
June 30,2016

Assets

Current Assets:

Cash	22580	\$22,580	
Accounts Receivable	\$51,875		
Less: Reserve for Bad Debts	<u>2,594</u>	49,281	
Merchandise Inventory		4,300	
Prepaid Expenses		11,512	
Notes Receivable		<u>0</u>	
Total Current Assets			\$87,673

Fixed Assets:

Vehicles	0		
Less: Accumulated Depreciation	<u>0</u>	0	
Furniture and Fixtures	22,500		
Less: Accumulated Depreciation	<u>2,250</u>	20,250	
Equipment	135,000		
Less: Accumulated Depreciation	<u>13,500</u>	121,500	
Buildings	0		
Less: Accumulated Depreciation	<u>0</u>	0	
Land		<u>0</u>	
Total Fixed Assets			141,750

Other Assets:

Goodwill		<u>0</u>	
Total Other Assets			0

Total Assets			\$229,423
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Liabilities and Capital

Current Liabilities:

Accounts Payable	\$8,300		
2410 - Credit Card #8885	\$368		
2420- Credit Card #0339	\$11,401		
Payroll Liabilities	5,212		
Payroll wages	34,829		
Unearned Revenues	0		
Short-Term Notes Payable	0		
Short-Term Bank Loan Payable	<u>0</u>		
Total Current Liabilities			\$60,110



DATE: October 6, 2016
TO: ROP Governing Board
FROM: Linda Granger, Superintendent
PREPARED BY: Marites Fermin, Business Manager
SUBJECT: Request the Governing Board to approve the Lease Agreement with L&M Investments for the Electrical Trainee Program–Turlock

BACKGROUND

The Eden Area ROP's Governing Board approved the assumption of the Construction Craft Training Center (CCTC) operations on September 1, 2016. As stated in the assumption agreement converting the existing lease agreements with CCTC for instructional space needs to transition to a lease agreement with the Eden Area ROP.

CURRENT SITUATION

In order to continue providing services, the Eden Area ROP recommends that we continue to lease the Turlock facility to provide electrical training to adults. The attached contract is the lease agreement between L& M Investments and the Eden Area ROP for the property located at:

2430 Acme Court, Turlock, CA 95380

The lease agreement will commence from October 1, 2016 to September 30, 2018.

CONSENT CALENDAR



COMMERCIAL LEASE AGREEMENT
(C.A.R. Form CL, Revised 12/15)

Date (For reference only): September 26, 2016

L & M Investments
Eden Area ROP

____ ("Landlord") and
____ ("Tenant") agree as follows:

1. **PROPERTY:** Landlord rents to Tenant and Tenant rents from Landlord, the real property and improvements described as: 2480 Acme Court,
Turlock, CA 95380 ("Premises"), which
comprise approximately 50.000 % of the total square footage of rentable space in the entire property. See exhibit _____ for a further
description of the Premises.

2. **TERM:** The term begins on (date) October 1, 2016 ("Commencement Date"),
(Check A or B):

- ☒ A. **Lease:** and shall terminate on (date) September 30, 2018 at 11:59 ☐ AM ☒ PM. Any holding over after the
term of this agreement expires, with Landlord's consent, shall create a month-to-month tenancy that either party may terminate as specified in
paragraph 2B. Rent shall be at a rate equal to the rent for the immediately preceding month, payable in advance. All other terms and
conditions of this agreement shall remain in full force and effect.
- ☐ B. **Month-to-month:** and continues as a month-to-month tenancy. Either party may terminate the tenancy by giving written notice to the other at
least 30 days prior to the intended termination date, subject to any applicable laws. Such notice may be given on any date.
- ☐ C. **RENEWAL OR EXTENSION TERMS:** See attached addendum _____.

3. **BASE RENT:**

A. Tenant agrees to pay Base Rent at the rate of (CHECK ONE ONLY):

- ☐ (1) \$ _____ per month, for the term of the agreement.
- ☐ (2) \$ _____ per month, for the first 12 months of the agreement. Commencing with the 13th month, and upon expiration of
each 12 months thereafter, rent shall be adjusted according to any increase in the U.S. Consumer Price Index of the Bureau of Labor
Statistics of the Department of Labor for All Urban Consumers ("CPI") for _____
(the city nearest the location of the Premises), based on the following formula: Base Rent will be multiplied by the most current CPI
preceding the first calendar month during which the adjustment is to take effect, and divided by the most recent CPI preceding the
Commencement Date. In no event shall any adjusted Base Rent be less than the Base Rent for the month immediately preceding the
adjustment. If the CPI is no longer published, then the adjustment to Base Rent shall be based on an alternate index that most closely
reflects the CPI.
- ☒ (3) \$ 1,475.00 per month for the period commencing October 1, 2016 and ending September 30, 2017 and
\$ 1,550.00 per month for the period commencing October 1, 2017 and ending September 30, 2018 and
\$ _____ per month for the period commencing _____ and ending _____.
- ☐ (4) In accordance with the attached rent schedule.
- ☐ (5) Other: _____.

B. Base Rent is payable in advance on the 1st (or ☐ _____) day of each calendar month, and is delinquent on the next day.

C. If the Commencement Date falls on any day other than the first day of the month, Base Rent for the first calendar month shall be prorated based
on a 30-day period. If Tenant has paid one full month's Base Rent in advance of Commencement Date, Base Rent for the second calendar month
shall be prorated based on a 30-day period.

4. **RENT:**

A. Definition: ("Rent") shall mean all monetary obligations of Tenant to Landlord under the terms of this agreement, except security deposit.

B. Payment: Rent shall be paid to (Name) L & M Investments at (address)
P.O. Box 766, Turlock, CA 95381, or at any other
location specified by Landlord in writing to Tenant.

C. Timing: Base Rent shall be paid as specified in paragraph 3. All other Rent shall be paid within 30 days after Tenant is billed by Landlord.

5. **EARLY POSSESSION:** Tenant is entitled to possession of the Premises on in possession.
If Tenant is in possession prior to the Commencement Date, during this time (i) Tenant is not obligated to pay Base Rent, and (ii) Tenant ☐ is
☐ is not obligated to pay Rent other than Base Rent. Whether or not Tenant is obligated to pay Rent prior to Commencement Date, Tenant is
obligated to comply with all other terms of this agreement.

6. **SECURITY DEPOSIT:**

A. Tenant agrees to pay Landlord \$ _____ as a security deposit. Tenant agrees not to hold Broker responsible for its return.
(IF CHECKED:) ☐ If Base Rent increases during the term of this agreement, Tenant agrees to increase security deposit by the same proportion
as the increase in Base Rent.

B. All or any portion of the security deposit may be used, as reasonably necessary, to: (i) cure Tenant's default in payment of Rent, late charges,
non-sufficient funds ("NSF") fees, or other sums due; (ii) repair damage, excluding ordinary wear and tear, caused by Tenant or by a guest or
licensee of Tenant; (iii) broom clean the Premises, if necessary, upon termination of tenancy; and (iv) cover any other unfulfilled obligation of
Tenant. **SECURITY DEPOSIT SHALL NOT BE USED BY TENANT IN LIEU OF PAYMENT OF LAST MONTH'S RENT.** If all or any portion of the
security deposit is used during tenancy, Tenant agrees to reinstate the total security deposit within 5 days after written notice is delivered to
Tenant. Within 30 days after Landlord receives possession of the Premises, Landlord shall: (i) furnish Tenant an itemized statement indicating the
amount of any security deposit received and the basis for its disposition, and (ii) return any remaining portion of security deposit to Tenant.
However, if the Landlord's only claim upon the security deposit is for unpaid Rent, then the remaining portion of the security deposit, after
deduction of unpaid Rent, shall be returned within 14 days after the Landlord receives possession.

C. No interest will be paid on security deposit, unless required by local ordinance.

Landlord's Initials (BL) (_____)

Tenant's Initials (_____) (_____)

7. PAYMENTS:

	<u>TOTAL DUE</u>	<u>PAYMENT RECEIVED</u>	<u>BALANCE DUE</u>	<u>DUE DATE</u>
A. Rent: From <u>10/01/2016</u> To <u>10/31/2016</u> Date Date	\$ <u>1,475.00</u>	\$ _____	\$ <u>1,475.00</u>	<u>10/01/2016</u>
B. Security Deposit	\$ _____	\$ _____	\$ _____	_____
C. Other: _____ Category	\$ _____	\$ _____	\$ _____	_____
D. Other: _____ Category	\$ _____	\$ _____	\$ _____	_____
E. Total:	\$ <u>1,475.00</u>	\$ _____	\$ <u>1,475.00</u>	

8. **PARKING:** Tenant is entitled to common area unreserved and _____ reserved vehicle parking spaces. The right to parking ☒ is ☐ is not included in the Base Rent charged pursuant to paragraph 3. If not included in the Base Rent, the parking rental fee shall be an additional \$ _____ per month. Parking space(s) are to be used for parking operable motor vehicles, except for trailers, boats, campers, buses or trucks (other than pick-up trucks). Tenant shall park in assigned space(s) only. Parking space(s) are to be kept clean. Vehicles leaking oil, gas or other motor vehicle fluids shall not be parked in parking spaces or on the Premises. Mechanical work or storage of inoperable vehicles is not allowed in parking space(s) or elsewhere on the Premises. No overnight parking is permitted.

9. **ADDITIONAL STORAGE:** Storage is permitted as follows: within warehouse and fenced yard. The right to additional storage space ☐ is ☒ is not included in the Base Rent charged pursuant to paragraph 3. If not included in Base Rent, storage space shall be an additional \$ _____ per month. Tenant shall store only personal property that Tenant owns, and shall not store property that is claimed by another, or in which another has any right, title, or interest. Tenant shall not store any improperly packaged food or perishable goods, flammable materials, explosives, or other dangerous or hazardous material. Tenant shall pay for, and be responsible for, the clean-up of any contamination caused by Tenant's use of the storage area.

10. **LATE CHARGE; INTEREST; NSF CHECKS:** Tenant acknowledges that either late payment of Rent or issuance of a NSF check may cause Landlord to incur costs and expenses, the exact amount of which are extremely difficult and impractical to determine. These costs may include, but are not limited to, processing, enforcement and accounting expenses, and late charges imposed on Landlord. If any installment of Rent due from Tenant is not received by Landlord within **5 calendar days** after date due, or if a check is returned NSF, Tenant shall pay to Landlord, respectively, \$ 150.00 as late charge, plus 10% interest per annum on the delinquent amount and \$25.00 as a NSF fee, any of which shall be deemed additional Rent. Landlord and Tenant agree that these charges represent a fair and reasonable estimate of the costs Landlord may incur by reason of Tenant's late or NSF payment. Any late charge, delinquent interest, or NSF fee due shall be paid with the current installment of Rent. Landlord's acceptance of any late charge or NSF fee shall not constitute a waiver as to any default of Tenant. Landlord's right to collect a Late Charge or NSF fee shall not be deemed an extension of the date Rent is due under paragraph 4, or prevent Landlord from exercising any other rights and remedies under this agreement, and as provided by law.

11. **CONDITION OF PREMISES:** Tenant has examined the Premises and acknowledges that Premise is clean and in operative condition, with the following exceptions: none. Items listed as exceptions shall be dealt with in the following manner: _____.

12. **ZONING AND LAND USE:** Tenant accepts the Premises subject to all local, state and federal laws, regulations and ordinances ("Laws"). Landlord makes no representation or warranty that Premises are now or in the future will be suitable for Tenant's use. Tenant has made its own investigation regarding all applicable Laws.

13. **TENANT OPERATING EXPENSES:** Tenant agrees to pay for all utilities and services directly billed to Tenant and reimburse Landlord for water, sewer, garbage and security, if not billed directly.

14. PROPERTY OPERATING EXPENSES:

A. Tenant agrees to pay its proportionate share of Landlord's estimated monthly property operating expenses, including but not limited to, common area maintenance, consolidated utility and service bills, insurance, and real property taxes, based on the ratio of the square footage of the Premises to the total square footage of the rentable space in the entire property. _____

OR B. ☒ (If checked) Paragraph 14 does not apply.

15. **USE:** The Premises are for the sole use as warehouse. No other use is permitted without Landlord's prior written consent. If any use by Tenant causes an increase in the premium on Landlord's existing property insurance, Tenant shall pay for the increased cost. Tenant will comply with all Laws affecting its use of the Premises.

16. **RULES/REGULATIONS:** Tenant agrees to comply with all rules and regulations of Landlord (and, if applicable, Owner's Association) that are at any time posted on the Premises or delivered to Tenant. Tenant shall not, and shall ensure that guests and licensees of Tenant do not, disturb, annoy, endanger, or interfere with other tenants of the building or neighbors, or use the Premises for any unlawful purposes, including, but not limited to, using, manufacturing, selling, storing, or transporting illicit drugs or other contraband, or violate any law or ordinance, or committing a waste or nuisance on or about the Premises.

17. MAINTENANCE:

A. Tenant OR ☐ (If checked, Landlord) shall professionally maintain the Premises including heating, air conditioning, electrical, plumbing and water systems, if any, and keep glass, windows and doors in operable and safe condition. Unless Landlord is checked, if Tenant fails to maintain the Premises, Landlord may contract for or perform such maintenance, and charge Tenant for Landlord's cost.

B. Landlord OR ☐ (If checked, Tenant) shall maintain the roof, foundation, exterior walls, common areas and _____.

Landlord's Initials (BL) (_____)

Tenant's Initials (_____) (_____)

- 18. ALTERATIONS:** Tenant shall not make any alterations in or about the Premises, including installation of trade fixtures and signs, without Landlord's prior written consent, which shall not be unreasonably withheld. Any alterations to the Premises shall be done according to Law and with required permits. Tenant shall give Landlord advance notice of the commencement date of any planned alteration, so that Landlord, at its option, may post a Notice of Non-Responsibility to prevent potential liens against Landlord's interest in the Premises. Landlord may also require Tenant to provide Landlord with lien releases from any contractor performing work on the Premises.
- 19. GOVERNMENT IMPOSED ALTERATIONS:** Any alterations required by Law as a result of Tenant's use shall be Tenant's responsibility. Landlord shall be responsible for any other alterations required by Law.
- 20. ENTRY:** Tenant shall make Premises available to Landlord or Landlord's agent for the purpose of entering to make inspections, necessary or agreed repairs, alterations, or improvements, or to supply necessary or agreed services, or to show Premises to prospective or actual purchasers, tenants, mortgagees, lenders, appraisers, or contractors. Landlord and Tenant agree that 24 hours notice (oral or written) shall be reasonable and sufficient notice. In an emergency, Landlord or Landlord's representative may enter Premises at any time without prior notice.
- 21. SIGNS:** Tenant authorizes Landlord to place a FOR SALE sign on the Premises at any time, and a FOR LEASE sign on the Premises within the 90 (or ☐ _____) day period preceding the termination of the agreement.
- 22. SUBLETTING/ASSIGNMENT:** Tenant shall not sublet or encumber all or any part of Premises, or assign or transfer this agreement or any interest in it, without the prior written consent of Landlord, which shall not be unreasonably withheld. Unless such consent is obtained, any subletting, assignment, transfer, or encumbrance of the Premises, agreement, or tenancy, by voluntary act of Tenant, operation of law, or otherwise, shall be null and void, and, at the option of Landlord, terminate this agreement. Any proposed sublessee, assignee, or transferee shall submit to Landlord an application and credit information for Landlord's approval, and, if approved, sign a separate written agreement with Landlord and Tenant. Landlord's consent to any one sublease, assignment, or transfer, shall not be construed as consent to any subsequent sublease, assignment, or transfer, and does not release Tenant of Tenant's obligation under this agreement.
- 23. POSSESSION:** If Landlord is unable to deliver possession of Premises on Commencement Date, such date shall be extended to the date on which possession is made available to Tenant. However, the expiration date shall remain the same as specified in paragraph 2. If Landlord is unable to deliver possession within 60 (or ☐ _____) calendar days after the agreed Commencement Date, Tenant may terminate this agreement by giving written notice to Landlord, and shall be refunded all Rent and security deposit paid.
- 24. TENANT'S OBLIGATIONS UPON VACATING PREMISES:** Upon termination of agreement, Tenant shall: (i) give Landlord all copies of all keys or opening devices to Premises, including any common areas; (ii) vacate Premises and surrender it to Landlord empty of all persons and personal property; (iii) vacate all parking and storage spaces; (iv) deliver Premises to Landlord in the same condition as referenced in paragraph 11; (v) clean Premises; (vi) give written notice to Landlord of Tenant's forwarding address; and (vii) _____.
- All improvements installed by Tenant, with or without Landlord's consent, become the property of Landlord upon termination. Landlord may nevertheless require Tenant to remove any such improvement that did not exist at the time possession was made available to Tenant.
- 25. BREACH OF CONTRACT/EARLY TERMINATION:** In event Tenant, prior to expiration of this agreement, breaches any obligation in this agreement, abandons the premises, or gives notice of tenant's intent to terminate this tenancy prior to its expiration, in addition to any obligations established by paragraph 24, Tenant shall also be responsible for lost rent, rental commissions, advertising expenses, and painting costs necessary to ready Premises for re-rental. Landlord may also recover from Tenant: (i) the worth, at the time of award, of the unpaid Rent that had been earned at the time of termination; (ii) the worth, at the time of award, of the amount by which the unpaid Rent that would have been earned after expiration until the time of award exceeds the amount of such rental loss the Tenant proves could have been reasonably avoided; and (iii) the worth, at the time of award, of the amount by which the unpaid Rent for the balance of the term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided. Landlord may elect to continue the tenancy in effect for so long as Landlord does not terminate Tenant's right to possession, by either written notice of termination of possession or by reletting the Premises to another who takes possession, and Landlord may enforce all Landlord's rights and remedies under this agreement, including the right to recover the Rent as it becomes due.
- 26. DAMAGE TO PREMISES:** If, by no fault of Tenant, Premises are totally or partially damaged or destroyed by fire, earthquake, accident or other casualty, Landlord shall have the right to restore the Premises by repair or rebuilding. If Landlord elects to repair or rebuild, and is able to complete such restoration within 90 days from the date of damage, subject to the terms of this paragraph, this agreement shall remain in full force and effect. If Landlord is unable to restore the Premises within this time, or if Landlord elects not to restore, then either Landlord or Tenant may terminate this agreement by giving the other written notice. Rent shall be abated as of the date of damage. The abated amount shall be the current monthly Base Rent prorated on a 30-day basis. If this agreement is not terminated, and the damage is not repaired, then Rent shall be reduced based on the extent to which the damage interferes with Tenant's reasonable use of the Premises. If total or partial destruction or damage occurs as a result of an act of Tenant or Tenant's guests, (i) only Landlord shall have the right, at Landlord's sole discretion, within 30 days after such total or partial destruction or damage to treat the lease as terminated by Tenant, and (ii) Landlord shall have the right to recover damages from Tenant.
- 27. HAZARDOUS MATERIALS:** Tenant shall not use, store, generate, release or dispose of any hazardous material on the Premises or the property of which the Premises are part. However, Tenant is permitted to make use of such materials that are required to be used in the normal course of Tenant's business provided that Tenant complies with all applicable Laws related to the hazardous materials. Tenant is responsible for the cost of removal and remediation, or any clean-up of any contamination caused by Tenant.
- 28. CONDEMNATION:** If all or part of the Premises is condemned for public use, either party may terminate this agreement as of the date possession is given to the condemner. All condemnation proceeds, exclusive of those allocated by the condemner to Tenant's relocation costs and trade fixtures, belong to Landlord.
- 29. INSURANCE:** Tenant's personal property, fixtures, equipment, inventory and vehicles are not insured by Landlord against loss or damage due to fire, theft, vandalism, rain, water, criminal or negligent acts of others, or any other cause. Tenant is to carry Tenant's own property insurance to protect Tenant from any such loss. In addition, Tenant shall carry (i) liability insurance in an amount of not less than \$ 1,000.00 and (ii) property insurance in an amount sufficient to cover the replacement cost of the property if Tenant is responsible for maintenance under paragraph 17B. Tenant's insurance shall name Landlord and Landlord's agent as additional insured. Tenant, upon Landlord's request, shall provide Landlord with a certificate of insurance establishing Tenant's compliance. Landlord shall maintain liability insurance insuring Landlord, but not Tenant, in an amount of at least \$ 1,000.00, plus property insurance in an amount sufficient to cover the replacement cost of the property unless Tenant is responsible for maintenance pursuant to paragraph 17B. Tenant is advised to carry business interruption insurance in an amount at least sufficient to cover Tenant's complete rental obligation to Landlord. Landlord is advised to obtain a policy of rental loss insurance. Both Landlord and Tenant release each other, and waive their respective rights to subrogation against each other, for loss or damage covered by insurance.

Landlord's Initials (PL) (_____)

Tenant's Initials (_____) (_____)

- 30. TENANCY STATEMENT (ESTOPPEL CERTIFICATE):** Tenant shall execute and return a tenancy statement (estoppel certificate), delivered to Tenant by Landlord or Landlord's agent, within 3 days after its receipt. The tenancy statement shall acknowledge that this agreement is unmodified and in full force, or in full force as modified, and state the modifications. Failure to comply with this requirement: (i) shall be deemed Tenant's acknowledgment that the tenancy statement is true and correct, and may be relied upon by a prospective lender or purchaser; and (ii) may be treated by Landlord as a material breach of this agreement. Tenant shall also prepare, execute, and deliver to Landlord any financial statement (which will be held in confidence) reasonably requested by a prospective lender or buyer.
- 31. LANDLORD'S TRANSFER:** Tenant agrees that the transferee of Landlord's interest shall be substituted as Landlord under this agreement. Landlord will be released of any further obligation to Tenant regarding the security deposit, only if the security deposit is returned to Tenant upon such transfer, or if the security deposit is actually transferred to the transferee. For all other obligations under this agreement, Landlord is released of any further liability to Tenant, upon Landlord's transfer.
- 32. SUBORDINATION:** This agreement shall be subordinate to all existing liens and, at Landlord's option, the lien of any first deed of trust or first mortgage subsequently placed upon the real property of which the Premises are a part, and to any advances made on the security of the Premises, and to all renewals, modifications, consolidations, replacements, and extensions. However, as to the lien of any deed of trust or mortgage entered into after execution of this agreement, Tenant's right to quiet possession of the Premises shall not be disturbed if Tenant is not in default and so long as Tenant pays the Rent and observes and performs all of the provisions of this agreement, unless this agreement is otherwise terminated pursuant to its terms. If any mortgagee, trustee, or ground lessor elects to have this agreement placed in a security position prior to the lien of a mortgage, deed of trust, or ground lease, and gives written notice to Tenant, this agreement shall be deemed prior to that mortgage, deed of trust, or ground lease, or the date of recording.
- 33. TENANT REPRESENTATIONS; CREDIT:** Tenant warrants that all statements in Tenant's financial documents and rental application are accurate. Tenant authorizes Landlord and Broker(s) to obtain Tenant's credit report at time of application and periodically during tenancy in connection with approval, modification, or enforcement of this agreement. Landlord may cancel this agreement: (i) before occupancy begins, upon disapproval of the credit report(s); or (ii) at any time, upon discovering that information in Tenant's application is false. A negative credit report reflecting on Tenant's record may be submitted to a credit reporting agency, if Tenant fails to pay Rent or comply with any other obligation under this agreement.
- 34. CONSTRUCTION-RELATED ACCESSIBILITY STANDARDS:** Landlord states that the Premises ☐ has, or ☒ has not been inspected by a Certified Access Specialist. If so, Landlord states that the Premises ☐ has, or ☐ has not been determined to meet all applicable construction-related accessibility standards pursuant to Civil Code Section 55.53.
- 35. DISPUTE RESOLUTION:**
- A. MEDIATION:** Tenant and Landlord agree to mediate any dispute or claim arising between them out of this agreement, or any resulting transaction, before resorting to arbitration or court action, subject to paragraph 35B(2) below. Paragraphs 35B(2) and (3) apply whether or not the arbitration provision is initialed. Mediation fees, if any, shall be divided equally among the parties involved. If for any dispute or claim to which this paragraph applies, any party commences an action without first attempting to resolve the matter through mediation, or refuses to mediate after a request has been made, then that party shall not be entitled to recover attorney fees, even if they would otherwise be available to that party in any such action. THIS MEDIATION PROVISION APPLIES WHETHER OR NOT THE ARBITRATION PROVISION IS INITIALED.
- B. ARBITRATION OF DISPUTES:** (1) Tenant and Landlord agree that any dispute or claim in Law or equity arising between them out of this agreement or any resulting transaction, which is not settled through mediation, shall be decided by neutral, binding arbitration, including and subject to paragraphs 35B(2) and (3) below. The arbitrator shall be a retired judge or justice, or an attorney with at least 5 years of real estate transactional law experience, unless the parties mutually agree to a different arbitrator, who shall render an award in accordance with substantive California Law. In all other respects, the arbitration shall be conducted in accordance with Part III, Title 9 of the California Code of Civil Procedure. Judgment upon the award of the arbitrator(s) may be entered in any court having jurisdiction. The parties shall have the right to discovery in accordance with Code of Civil Procedure §1283.05.
- (2) **EXCLUSIONS FROM MEDIATION AND ARBITRATION:** The following matters are excluded from Mediation and Arbitration hereunder: (i) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or installment land sale contract as defined in Civil Code §2985; (ii) an unlawful detainer action; (iii) the filing or enforcement of a mechanic's lien; (iv) any matter that is within the jurisdiction of a probate, small claims, or bankruptcy court; and (v) an action for bodily injury or wrongful death, or for latent or patent defects to which Code of Civil Procedure §337.1 or §337.15 applies. The filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a violation of the mediation and arbitration provisions.
- (3) **BROKERS:** Tenant and Landlord agree to mediate and arbitrate disputes or claims involving either or both Brokers, provided either or both Brokers shall have agreed to such mediation or arbitration, prior to, or within a reasonable time after the dispute or claim is presented to Brokers. Any election by either or both Brokers to participate in mediation or arbitration shall not result in Brokers being deemed parties to the agreement.

"NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY."

"WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION."

Landlord's Initials _____ / _____ Tenant's Initials _____ / _____

Landlord's Initials (*JK*) (_____)

Tenant's Initials (_____) (_____)



Premises: **2480 Acme Court, Turlock, CA 95380**

Date **September 26, 2016**

36. JOINT AND INDIVIDUAL OBLIGATIONS: If there is more than one Tenant, each one shall be individually and completely responsible for the performance of all obligations of Tenant under this agreement, jointly with every other Tenant, and individually, whether or not in possession.

37. NOTICE: Notices may be served by mail, facsimile, or courier at the following address or location, or at any other location subsequently designated:

Landlord: **L & M Investments**

Tenant: **Eden Area ROP**

P.O. Box 766

Linda Granger, Superintendent

Turlock, CA 95381

209-667-2851

Notice is deemed effective upon the earliest of the following: (i) personal receipt by either party or their agent; (ii) written acknowledgement of notice; or (iii) 5 days after mailing notice to such location by first class mail, postage pre-paid.

38. WAIVER: The waiver of any breach shall not be construed as a continuing waiver of the same breach or a waiver of any subsequent breach.

39. INDEMNIFICATION: Tenant shall indemnify, defend and hold Landlord harmless from all claims, disputes, litigation, judgments and attorney fees arising out of Tenant's use of the Premises.

40. OTHER TERMS AND CONDITIONS/SUPPLEMENTS:

The following ATTACHED supplements/exhibits are incorporated in this agreement: ☐ Option Agreement (C.A.R. Form OA)

41. ATTORNEY FEES: In any action or proceeding arising out of this agreement, the prevailing party between Landlord and Tenant shall be entitled to reasonable attorney fees and costs from the non-prevailing Landlord or Tenant, except as provided in paragraph 35A.

42. ENTIRE CONTRACT: Time is of the essence. All prior agreements between Landlord and Tenant are incorporated in this agreement, which constitutes the entire contract. It is intended as a final expression of the parties' agreement, and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. The parties further intend that this agreement constitutes the complete and exclusive statement of its terms, and that no extrinsic evidence whatsoever may be introduced in any judicial or other proceeding, if any, involving this agreement. Any provision of this agreement that is held to be invalid shall not affect the validity or enforceability of any other provision in this agreement. This agreement shall be binding upon, and inure to the benefit of, the heirs, assignees and successors to the parties.

43. BROKERAGE: Landlord and Tenant shall each pay to Broker(s) the fee agreed to, if any, in a separate written agreement. Neither Tenant nor Landlord has utilized the services of, or for any other reason owes compensation to, a licensed real estate broker (individual or corporate), agent, finder, or other entity, other than as named in this agreement, in connection with any act relating to the Premises, including, but not limited to, inquiries, introductions, consultations, and negotiations leading to this agreement. Tenant and Landlord each agree to indemnify, defend and hold harmless the other, and the Brokers specified herein, and their agents, from and against any costs, expenses, or liability for compensation claimed inconsistent with the warranty and representation in this paragraph 43.

44. AGENCY CONFIRMATION: The following agency relationships are hereby confirmed for this transaction:

Listing Agent: _____ (Print Firm Name) is the agent of (check one):

☐ the Landlord exclusively; or ☐ both the Tenant and Landlord.

Selling Agent: _____ (Print Firm Name) (if not same as Listing Agent) is the agent of (check one):

☐ the Tenant exclusively; or ☐ the Landlord exclusively; or ☐ both the Tenant and Landlord.

Real Estate Brokers are not parties to the agreement between Tenant and Landlord.

Landlord's Initials (BL) (_____)

Tenant's Initials (_____) (_____)



Landlord and Tenant acknowledge and agree that Brokers: (i) do not guarantee the condition of the Premises; (ii) cannot verify representations made by others; (iii) will not verify zoning and land use restrictions; (iv) cannot provide legal or tax advice; (v) will not provide other advice or information that exceeds the knowledge, education or experience required to obtain a real estate license. Furthermore, if Brokers are not also acting as Landlord in this agreement, Brokers: (vi) do not decide what rental rate a Tenant should pay or Landlord should accept; and (vii) do not decide upon the length or other terms of tenancy. Landlord and Tenant agree that they will seek legal, tax, insurance, and other desired assistance from appropriate professionals.

Tenant _____ Date _____

Eden Area ROP

(Print name)

Address _____ City _____ State _____ Zip _____

Tenant _____ Date _____

(Print name)

Address _____ City _____ State _____ Zip _____

☐ **GUARANTEE:** In consideration of the execution of this Agreement by and between Landlord and Tenant and for valuable consideration, receipt of which is hereby acknowledged, the undersigned ("Guarantor") does hereby: (i) guarantee unconditionally to Landlord and Landlord's agents, successors and assigns, the prompt payment of Rent or other sums that become due pursuant to this Agreement, including any and all court costs and attorney fees included in enforcing the Agreement; (ii) consent to any changes, modifications or alterations of any term in this Agreement agreed to by Landlord and Tenant; and (iii) waive any right to require Landlord and/or Landlord's agents to proceed against Tenant for any default occurring under this Agreement before seeking to enforce this Guarantee.

Guarantor (Print Name) _____

Guarantor _____ Date _____

Address _____ City _____ State _____ Zip _____

Telephone _____ Fax _____ E-mail _____

Landlord agrees to rent the Premises on the above terms and conditions.

Landlord _____ Date 9-22-16

(owner or agent with authority to enter into this agreement) **L & M Investments**

Address **P.O. Box 766** City **Turlock** State **CA** Zip **95381**

Landlord _____ Date _____

(owner or agent with authority to enter into this agreement)

Address _____ City _____ State _____ Zip _____

Agency relationships are confirmed as above. Real estate brokers who are not also Landlord in this agreement are not a party to the agreement between Landlord and Tenant.

Real Estate Broker (Leasing Firm) _____ CalBRE Lic. # _____

By (Agent) _____ CalBRE Lic. # _____ Date _____

Address _____ City _____ State _____ Zip _____

Telephone _____ Fax _____ E-mail _____

Real Estate Broker (Listing Firm) _____ CalBRE Lic. # _____

By (Agent) _____ CalBRE Lic. # _____ Date _____

Address _____ City _____ State _____ Zip _____

Telephone _____ Fax _____ E-mail _____

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Reviewed by _____ Date _____





DATE: October 6, 2016
TO: ROP Governing Board
FROM: Linda Granger, Superintendent
PREPARED BY: Marites Fermin, Business Manager
SUBJECT: Request the Governing Board to approve the Sublease Agreement with American Home Inspectors Training (AHIT)

BACKGROUND

The Eden Area ROP's Governing Board approved the Eden Area ROP's assumption of Construction Craft Training Center (CCTC) operations on September 1, 2016. CCTC annually subleases the campus located in 26200 Industrial Blvd., Hayward, CA.

CURRENT SITUATION

Previously, CCTC subleased the property on 26200 Industrial Boulevard, Hayward, CA 94545 to American Home Inspectors Training (AHIT) three times a year. They are interested in continuing this practice. The sublease agreement enables them to provide training on the following dates at the Hayward facility this year:

- February 10-12, 2017
- July 7-9, 2017
- October 27-29, 2017

Attached is the sublease contract with AHIT.

Fiscal Impact:

\$2,250 annual revenue received by the ROP.

CONSENT CALENDAR



REFERRAL AND CLASSROOM AGREEMENT

This strategic referral and classroom agreement between OnCourse Real Estate, Inc dba American Home Inspectors Training (“AHIT”) and Eden Area ROP (“EAROP”) outlines the responsibilities of each party and the payments by AHIT to EAROP.

In 2017, AHIT will teach classes at the location designated below on:

2.10-2.12.17;
7.7-7.9.17;
10.27-10.29.17.

I. AHIT Rights and Obligations

A. AHIT will provide the following:

1. instructors to teach the classroom course;
2. course materials;
3. confirmation letters to students;
4. marketing and advertising through national and local channels;
5. indemnity for AHIT students and instructors during class;
6. payment to homeowners for use of local homes during practice inspections (\$150 per home per day);
7. signs for display on classroom door(s) and walls as well as directional signs;
8. student and classroom fees paid to EAROP according to the fee schedule outlined below;
9. contact information for each student referred by EAROP to AHIT who AHIT enrolls in the home inspection course, including name, address, phone number, and email address.

B. AHIT shall retain all right, title, and interest in and to all of AHIT’s brands, logos, trademarks, course materials, and any and all copy or material that represents the creative effort of AHIT and/or the utilization of creativity, illustrations, labor, composition or material furnished by it. EAROP understands and agrees that it cannot authorize photographic or other reproduction, in whole or in part, of any such copy or material for use in any other medium without AHIT’s prior written consent.

C. In the event marketing efforts do not yield the minimum number (6) of students, AHIT shall have the right to cancel a scheduled class.

II. EAROP Rights and Obligations

A. EAROP will:

1. provide an appropriate classroom at EAROP’s campus located at 26200 Industrial Blvd. Hayward, CA 94545, that can accommodate up to 25 students, for the 3-day class, with Internet access, a whiteboard, and the ability to project video and PowerPoint presentations;

2. provide lockable storage for AHIT training materials in the building that houses the designated classroom;
 3. permit access to the building and classroom from 7am to 7pm for the 3-day period for each scheduled class; the classroom will be opened each morning no later than 7am and locked each evening no earlier than 7pm;
 4. permission for AHIT to post directional signage during class training sessions.
- B. EAROP shall retain all right, title, and interest in and to all of EAROP's brands, logos, and trademarks, course materials, and any and all copy or material that represents the creative effort of EAROP and/or the utilization of creativity, illustrations, labor, composition or material furnished by it. AHIT understands and agrees that it cannot authorize photographic or other reproduction, in whole or in part, of any such copy or material for use in any other medium without EAROP's prior written consent.

III. Fee Structure

- A. AHIT agrees to pay EAROP \$250 per day for use of the classroom facility for the 3 days of the classroom course. EAROP will invoice AHIT for this payment.

- IV. Term.** This agreement shall become effective on the date it has been signed by both parties and shall remain in effect until December 31, 2017.

Katie Nitzsche
Manager, School Administration
AHIT

DATE

Linda Granger
Superintendent
Eden Area ROP

DATE

Information Items





DATE: October 6, 2016
TO: ROP Governing Board
FROM: Linda Granger, Superintendent
PREPARED BY: Sheila Lawrence, Assistant Director of Offsite Programs
SUBJECT: CDE Course Review – Photography

BACKGROUND

Courses for regional occupational centers and programs (ROCPs) shall be developed with the cooperation of industry representatives from the occupation for which the courses are designed. The course outline will serve as the regional occupational center or program (ROCP) teacher's road map for providing learning experiences and opportunities for students to achieve career technical objectives effectively and efficiently. The outline helps the ROCP teacher ensure competency achievement.

CURRENT SITUATION

Attached is the Course Review for the following programs: Photography, the statistics provided are derived from the 2015-2016 C101 follow-up study completed June 2016.

RECOMMENDATION

Information only

EDEN AREA REGIONAL OCCUPATIONAL PROGRAM
Criteria for Course Approval and Expansion Annual Review
For Class Offerings 2015-2016 School Year

SCHOOL DISTRICT:		EDEN AREA ROP		LOCATION:		CV, SLZ, ARR, MTE, HAY	
PROGRAM:		Photography		INSTRUCTOR:		Vendsel, Gossett, Baughman ,Gurley, Koehler	
Course Name		Enrollment as of 15/16 Year to Date		Enrollment as of 14/15 Year to Date		Enrollment as of 13/14 Year to Date	
Photography		787		796		860	
Comments: <ul style="list-style-type: none"> Required enrollment: Class enrollment maintained to sustain agreed master schedule for offsite and staffing. <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO Retention rate (Active Enrollment divided by Year-to-date Enrollment): 							
Text Book: N/A		Author: N/A		Edition: N/A			
NO.	YES	NO					
1.	X		ENROLLMENT – Course meets current or future labor market news.				
			CLASS SCHEDULE: Block	SECTIONS PER YEAR:	MINS PER SECTION:	EXPECTED MINIMUM STUDENTS PER SECTION:	
			Varies	1	60 min.	25+	
2.	X		AVAILABILITY OF QUALIFIED INSTRUCTOR – Qualified/ Credentialed Instructor teaching course.				
3.	X		LEADERSHIP – Instructional leaders have sufficient time and resources to implement system improvements and work with their counterparts in other programs.				
4.	X		CURRICULUM and INSTRUCTION – Students are provided with a strong experience in and understanding of all aspects of industry.				
5.	X		SCHOOL-TO-CAREER AND CAREER PATHWAY DEVELOPMENT – Course is designed as part of a sequence of courses, career pathways, etc.				
6.	X		ADVISORY COMMITTEE – The course has been reviewed and recommended by a pre-established committee. <input checked="" type="checkbox"/> Yes, instructor was present at advisory meeting and minutes are on file at ROP <input type="checkbox"/> No, instructor was not present at advisory. Program was represented, at a joint industrial, by ROP personnel. Instructor MUST attend next advisory for program to meet compliance.				
			Comments:				
7.	X		LABOR MARKET NEEDS – Course meets current or future labor market needs.				
8.	X		WORK BASED LEARNING – Course incorporates work based learning opportunities (i.e. guest speakers, field trips, mock interviews, or student organizations)				
9.	X		COMMUNITY CLASSROOM AND COOPERATIVE VOCATIONAL EDUCATION – Course incorporates community classroom and cooperative vocational education (i.e., job training, internships, or job shadowing)				
10.	X		JOB PLACEMENT/FURTHER EDUCATION OPTIONS – Course has potential for student job placement in entry-level positions or course prepares students for further training opportunities within the designed career pathway.				
11.	X		FACILITIES AND EQUIPMENT ACCOMMODATION				
			<input checked="" type="checkbox"/> District will provide a facility which adequately accommodates the program.				
			<input type="checkbox"/> EAROP will provide a facility which adequately accommodates the program.				
			<input type="checkbox"/> District shares cost of equipment if program is cross utilized.				
OTHER CONSIDERATIONS:							
<input checked="" type="checkbox"/> A-G Credit for UC - "G" "F"				<input type="checkbox"/> State and National Licensing or Certification			
<input checked="" type="checkbox"/> Community College Articulation – Chabot & Ohlone College				<input checked="" type="checkbox"/> Strong Business or Industry Partnership			
<input type="checkbox"/> Dual Enrollment				<input type="checkbox"/> Emerging Technologies -			
COMPLIANCE CATEGORIES							
<input checked="" type="checkbox"/> R – Retain Program: Program meets all criteria.		<input type="checkbox"/> W - Watch Program: All criteria not met. See areas that need to be complied with.		<input type="checkbox"/> P - Probation: Criteria is not being met. Program in danger of suspension.		<input type="checkbox"/> R – Reduce Program: Downsizing program.	
						<input type="checkbox"/> S/T - Suspend/ Terminate program.	



DATE: October 6, 2016
TO: ROP Governing Board
FROM: Linda Granger, Superintendent
PREPARED BY: Craig Lang, Director
SUBJECT: Back to School Night

BACKGROUND INFORMATION

The Eden Area ROP has held an annual Back to School night for parents, family and friends to explore our programs at the Hayward Center Campus. Teachers have students demonstrate and explain what they are learning in their program.

CURRENT SITUATION

Back to School night was held on September 21, 2016.

RECOMMENDATION

Information only



DATE: October 6, 2016
TO: Governing Board
FROM: Linda Granger, Superintendent
PREPARED BY: Sheila Lawrence, Assistant Director of Offsite Programs
SUBJECT: Principals' Breakfast

BACKGROUND

It is the goal of the Eden Area Regional Occupational Program to continue to develop and implement career technical education course offerings and career pathways that encourage all students to enroll and stay enrolled in a rigorous course of study.

ROP administrators, faculty and staff work with students, parents, counselors, district and school site administrators to expand and improve practices and processes that will further build our partnership, as well as, build courses of study to meet career, academic and employability standards and competencies.

CURRENT SITUATION

On an ongoing basis, school site and ROP administrators meet to discuss goals, challenges, and strategies for student success. On September 29, 2016 high school principals from the 12 high schools were invited to meet, share and discuss college and career readiness.

RECOMMENDATION

Information only

Action Items



DATE: October 6, 2016
TO: ROP Governing Board
FROM: Linda Granger, Superintendent
SUBJECT: Request the Governing Board to approve the MOU with Leadership Public School (LPS)

BACKGROUND

Occasionally charter schools come to the Eden Area ROP wanting to partner with us to provide services to their students. Leadership Public School (LPS) is interested in providing their students with career technical education opportunities that are not possible given the size of their school.

CURRENT SITUATION

Leadership Public School in Hayward is interested in piloting a program in which no more than 2 students from their charter school attend classes at the center. They would be responsible for transporting the students to and from the classes at the center and we would provide staffing for the programs in which the students enroll. This pilot program would be for one year and reevaluated for effectiveness prior to committing to any future years.

Fiscal Impact

No additional cost to the ROP, fees would cover the cost of services.

RECOMMENDATION

It is recommended that the Governing Board approve the MOU with Leadership Public School (LPS).

MEMORANDUM OF UNDERSTANDING

The Eden Area Regional Occupation Program (EAROP) and Leadership Public School (LPS), a public charter school in Alameda County, agree to the following terms for a pilot program:

I. TERMS OF MEMORANDUM OF UNDERSTANDING (MOU):

This agreement shall commence on July 1, 2016 and shall extend through June 30, 2017.

II. CONTRACT AMOUNT:

The Leadership Public School will pay the Eden Area Regional Occupational Program \$2,933 per student up to 2 students who enroll in the programs offered at the EAROP center during the 2016-2017 school year.

III. PURPOSE:

This pilot program will provide up to 2 students enrolled in Leadership Public School the opportunity to take Career Technical Education (CTE) classes at the Eden Area ROP center.

IV. ROLE AND RESPONSIBILITIES OF EDEN AREA ROP:

- Provide up to 13 classroom spaces in programs offered at the EAROP center for students in grades 11 and 12 of LPS.
- Invoice LPS for services two times during the school year, (1) October 1, 2016 and (2) May 1, 2017.
- Maintain accurate student attendance and grading information for each student.
- Provide LPS with grades and attendance in accordance with the EAROP calendar.
- Provide one main point of contact as a liaison with LPS .

V. ROLES AND RESPONSIBILITIES OF LEADERSHIP PUBLIC SCHOOL:

- Provide accurate and timely student demographic information, including information for students possessing an IEP or Sect. 504 Plan.
- Be responsible for transporting students to and from the EAROP center programs.
- Provide one main point of contact as a liaison with EAROP.
- Remit payment for services within 30 days of receipt of invoice billing.

VI. TERMS OF AGREEMENT:

An effort will be directed by both parties to maintain the terms of the agreement as defined. However, if urgent circumstances beyond either parties control occur, making one party unable to fulfill its agreement, this agreement can be renegotiated or terminated with 30 days notice.

The Eden Area ROP shall indemnify, defend and hold harmless the Leadership Public School and its employees from and against any and all loss, liability, expense, claims, costs, suites and damages of every kind, nature and description directly or indirectly arising from the performance of the work. This paragraph shall not be construed to exempt Leadership Public School and its employees from its own fraud, willful injury or violation of law whether willful or negligent.

The Leadership Public School shall indemnify, defend and hold harmless the Eden Area ROP and its employees from and against any and all loss, liability, expense, claims, costs, suites and damages of every kind, nature and description directly or indirectly arising from the performance of the work. This paragraph shall not be construed to exempt Eden Area ROP and its employees from its own fraud, willful injury or violation of law whether willful or negligent.

Under penalty of perjury I agree to the statements above and I am designated to sign this agreement on behalf of my agency.

Date:

NAME

TITLE

Eden Area ROP



NAME

Sou ZEE PARK, CBO
TITLE

Leadership Public School