

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS, APPROVING A LEASE AGREEMENT BETWEEN THE TOWN OF ADDISON AND KENNINGTON PARKWAY, LTD. FOR THE PROPERTY LOCATED A 4950 KELLER SPRINGS ROAD, SUITE 155, ADDISON, TEXAS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE LEASE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the City Council finds it presently necessary to lease additional short-term commercial office space for use by Town staff for general administrative purposes; and

**WHEREAS**, Town staff has identified a suitable commercial office space consisting of approximately 1,604 square feet in the Parkway Place building located at 4950 Keller Springs Road, Suite 155, Addison, Texas 75001 (the "Subject Property"); and

**WHEREAS**, the City Council desires to approve a commercial office lease between the Town and Kennington Parkway Ltd. for the Subject Property for a term of five (5) years (the "Lease")

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:**

**SECTION 1.** The City Council hereby approves the above-referenced Lease for the Subject Property, a copy of which is attached to this Resolution as **Exhibit A.** The City Manager, or designee, is hereby authorized to execute the Lease and all other documents necessary to effectuate the same.

**SECTION 2.** This Resolution shall take effect from and after its date of passage.

**PASSED AND APPROVED** by the City Council of the Town of Addison, Texas, this the **28<sup>th</sup>** day of **FEBRUARY** 2023.

**TOWN OF ADDISON, TEXAS**

\_\_\_\_\_  
Joe Chow, Mayor

**ATTEST:**

\_\_\_\_\_  
Irma Parker, City Secretary

**EXHIBIT A**

**LEASE AGREEMENT**

**BETWEEN**

**KENNINGTON PARKWAY, LTD.,**

**AS LANDLORD,**

**AND**

**TOWN OF ADDISON, TEXAS,**

**AS TENANT**

**DATED \_\_\_\_\_, 2023**

**PARKWAY PLACE  
ADDISON, DALLAS COUNTY, TEXAS**

**BASIC LEASE INFORMATION**

Lease Date: \_\_\_\_\_, 2023

Landlord KENNINGTON PARKWAY, LTD., a Texas limited partnership d/b/a Kennington Commercial

Tenant TOWN OF ADDISON, TEXAS, a home rule municipal corporation of the State of Texas

Premises: Suite No. 155, containing 1,604 rentable square feet, in the building commonly known as Parkway Place and located at 4950 Keller Springs Road, Addison, Texas 75001 (the "**Building**"). The Premises are outlined on the plan attached to this Lease as Exhibit A. The land on which the Building is located (the "**Land**") is described on Exhibit B. The term "**Project**" shall collectively refer to the Building, the Land, and the driveways, parking facilities, and similar improvements and easements associated with the foregoing or the operation thereof.

Term: Sixty (60) full calendar months, plus any partial month from the Commencement Date to the end of the month in which the Commencement Date falls, starting on the Commencement Date and ending at 5:00 p.m. local time on the last day of the 60th full calendar month following the Commencement Date, subject to adjustment and earlier termination as provided in the Lease. The "**Commencement Date**" means the earlier of the following dates:

- (a) the date upon which Tenant opens the Premises to the public for business, or
- (b) the earlier of:
  - (i) February 1, 2023, or
  - (ii) one (1) business day after the earlier of (1) the date on which the Work is Substantially Completed (as such terms are defined in Exhibit D hereto), or (2) the date on which the Work would have been Substantially Completed but for the occurrence of any Tenant Delay Days (as defined in Exhibit D hereto).

Minimum Rent: Minimum Rent shall be the following amounts for the following periods of time:

Lease Month	Annual Minimum Rent	Monthly Minimum Rent
	Rate Per Rentable Square Foot	
01 – 12	\$16.21	\$2,166.74
13 – 24	\$16.70	\$2,232.23
25 – 36	\$17.20	\$2,299.07
37 – 48	\$17.71	\$2,367.24
49 – 60	\$18.24	\$2,438.08

As used herein, the term "**Lease Month**" means each calendar month during the Term (and if the Commencement Date does not occur on the first day of a calendar month, the period from the Commencement Date to the first day of the next calendar month shall be included in the first Lease Month for purposes of determining the duration of the Term and the monthly Minimum Rent rate applicable for such partial month).

Security Deposit: \$2,674.67.

Rent: Minimum Rent, Additional Rent and all other sums that Tenant may owe to Landlord or otherwise be required to pay under the Lease.

Permitted Use: General office, administration, and storage for animal services, including the temporary holding of stray or surrendered household pets for a maximum of seventy-two (72) hours. Tenant may hold periodic pet adoption events, subject to Landlord’s reasonable approval of hours and location; provided, however, that Tenant shall provide Landlord thirty (30) days’ advance written notice of such event.

Tenant's Proportionate Share: 1.315%, which is the percentage obtained by dividing (a) the number of rentable square feet in the Premises as stated above by (b) the 121,949 rentable square feet in the Project. Landlord and Tenant stipulate that the number of rentable square feet in the Premises and in the Project set forth above is conclusive and shall be binding upon them. Tenant's Proportionate Share is subject to adjustment as provided in Section 6(c) of the Lease.

Initial Liability Insurance Amount: \$1,000,000.

Initial Monthly Payment of Rent: The following shall constitute Tenant's initial monthly payment of Rent required pursuant to Sections 3, 6(b), 10(e) and 15(b) of the Lease, which shall be adjusted as and when required under the terms of the Lease:

Minimum Rent	\$2,166.74
Additional Rent	
Tenant's Proportionate Share of Common Area Costs	\$181.79
Tenant's Proportionate Share of Insurance Costs	\$54.80
Total Initial Monthly Payment	\$2,403.33

Tenant's Address:	Prior to Commencement Date:	Following Commencement Date:
	Town of Addison	Town of Addison
	4799 Airport Parkway	4950 Keller Springs Rd., Suite 155
	Addison, TX 75001	Addison, Texas 75001
	Attention: _____	Attention: _____
	Telephone: _____	Telephone: _____

Landlord's Address: For all Notices:  
  
Kennington Commercial  
P.O. Box 192269  
Dallas, Texas 75219  
Attention: Clayton Kennington

## LEASE

This Lease Agreement (this "**Lease**") is entered into as of the Lease Date, between KENNINGTON PARKWAY, LTD., a Texas limited partnership d/b/a Kennington Commercial ("**Landlord**"), and TOWN OF ADDISON, TEXAS, a home rule municipal corporation of the State of Texas ("**Tenant**").

1. **Definitions and Basic Provisions.** The definitions and basic provisions set forth in the Basic Lease Information (the "**Basic Lease Information**") executed by Landlord and Tenant contemporaneously herewith are incorporated herein by reference for all purposes. Additionally, the following terms shall have the following meanings when used in this Lease: "**Affiliate**" means any person or entity which, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the party in question; "**Building's Structure**" means the Building's exterior walls, roof, elevator shafts (if any), footings, foundations, structural portions of load-bearing walls, structural floors and subfloors, and structural columns and beams; "**Building's Systems**" means the Building's HVAC system (if it serves portions of the Building or Project in addition to or other than the Premises) and the Building's life-safety, plumbing, electrical and mechanical systems; "**including**" means including, without limitation; "**Laws**" means all federal, state, and local laws, ordinances, rules and regulations, all court orders, governmental directives, and governmental orders and all interpretations of the foregoing, and all restrictive covenants affecting this Lease or the Project, and "**Law**" means any of the foregoing; "**Tenant's Off-Premises Equipment**" means any of Tenant's equipment or other property that may be located on or about the Project (other than inside the Premises); "**Tenant Party**" means any of the following persons: Tenant; any assignees claiming by, through, or under Tenant; any subtenants claiming by, through, or under Tenant; and any of their respective agents, contractors, employees, licensees, guests and invitees' and "**Control**" means direct or indirect ownership of and the power to vote fifty percent (50%) or more of the voting stock of a corporation or fifty percent (50%) or more of the direct or indirect ownership interest in any partnership or other business entity.

2. **Premises; Construction.**

(a) **Lease Grant.** Subject to the terms of this Lease, Landlord leases to Tenant, and Tenant leases from Landlord, the Premises.

(b) **Construction and Acceptance of Premises.** If Exhibit D hereto provides for Work to be performed by Landlord, then Landlord shall construct improvements in the Premises to the extent provided in Exhibit D (such Work, if any, to be performed by Landlord being herein sometimes referred to as "**Landlord's Work**"). Tenant shall accept possession of the Premises upon Landlord's tender of possession thereof to Tenant (with Landlord's Work, if any, Substantially Completed) and shall diligently perform the Work, if any, required to be performed by Tenant pursuant to Exhibit D (such Work, if any, to be performed by Tenant being herein sometimes referred to as "**Tenant's Work**") in accordance with Section 7 and Exhibit D and install its fixtures, furniture and equipment. Tenant shall pay all utility and similar costs incurred in performing Tenant's Work. By initiating Tenant's Work in the Premises (or if no Tenant's Work is to be performed by Tenant, then by occupying the Premises), Tenant shall be deemed to have accepted the Premises in their condition as of the date of such initiation of Tenant's Work (or the date of such occupancy, as the case may be), subject to the performance of punch-list items that remain to be performed by Landlord, if any. Occupancy of the Premises by Tenant prior to the Commencement Date shall be subject to all of the provisions of this Lease excepting only those requiring the payment of Minimum Rent and Additional Rent.

(c) **Tender of Possession.** Landlord and Tenant presently anticipate that possession of the Premises will be tendered to Tenant in the condition required by this Lease on or about February 1, 2023 (the "**Estimated Delivery Date**"). If Landlord is unable to tender possession of the Premises in such condition to Tenant by the Estimated Delivery Date, then (1) the validity of this Lease shall not be affected or impaired thereby, (2) Landlord shall not be in default hereunder or be liable for damages therefor, and (3) Tenant shall accept possession of the Premises when Landlord tenders possession thereof to Tenant. Prior to occupying the Premises, Tenant shall execute and deliver to Landlord a letter substantially in the form of Exhibit F hereto confirming (A) the Commencement Date and the expiration date of the initial Term, (B) that Tenant has accepted the Premises, and (C) that Landlord has performed all of its obligations (if any) with respect to the Premises (except for punch-list items, if any, specified in such letter); however, the failure of the parties to execute such letter shall not defer the

Commencement Date or otherwise invalidate this Lease. Tenant shall furnish to Landlord a certificate of occupancy from applicable authorities before commencing business in the Premises.

3. **Rent.**

(a) **Payment.** Tenant shall timely pay to Landlord Rent, without notice, demand, deduction or set-off by good and sufficient funds at Landlord's address provided for in this Lease or as otherwise specified by Landlord, and all payments shall be accompanied by all applicable state and local sales or use taxes. The obligations of Tenant to pay Minimum Rent and other sums to Landlord and the obligations of Landlord under this Lease are independent obligations.

(b) **Minimum Rent.** Minimum Rent shall be payable monthly in advance. The first monthly installment of Minimum Rent shall be payable contemporaneously with the execution of this Lease; thereafter, Minimum Rent shall be payable on the first day of each month beginning on the first day of the second full calendar month of the Term. The monthly Minimum Rent for any partial month at the beginning of the Term shall be prorated for the number of days in the partial month, and shall be due on the Commencement Date. Payment of Minimum Rent for any fractional calendar month at the end of the Term shall be similarly prorated. Tenant shall pay Additional Rent at the same time and in the same manner as Minimum Rent. If Tenant has not opened for business in the Premises by the Commencement Date, then the daily Minimum Rent shall be increased by 50% until Tenant does open for business.

(c) **Additional Rent.** In addition to Minimum Rent, Tenant shall pay, as "**Additional Rent**" hereunder: (1) Tenant's Proportionate Share of Common Area Costs, as set forth in Section 6(b), (2) Tenant's Proportionate Share of Insurance Costs, as set forth in Section 10(e), and (3) Tenant's Proportionate Share of Taxes, as set forth in Section 15(b).

4. **Delinquent Payment; Handling Charges.** All past due payments required of Tenant hereunder shall bear interest from the date due until paid at the lesser of eighteen percent per annum or the maximum lawful rate of interest (such lesser amount is referred to herein as the "**Default Rate**"); additionally, Landlord, in addition to all other rights and remedies available to it, may charge Tenant a fee equal to five percent of the delinquent payment to reimburse Landlord for its cost and inconvenience incurred as a consequence of Tenant's delinquency. In no event, however, shall the charges permitted under this Section 4 or elsewhere in this Lease, to the extent they are considered to be interest under applicable Law, exceed the maximum lawful rate of interest. Notwithstanding the foregoing, the late fee referenced above shall not be charged with respect to the first occurrence (but not any subsequent occurrence) during any 12-month period that Tenant fails to make payment when due, until five days after Landlord delivers written notice of such delinquency to Tenant.

5. **Security Deposit.** Contemporaneously with the execution of this Lease, Tenant shall pay to Landlord the Security Deposit by good and sufficient funds at Landlord's address provided for in this Lease or as otherwise specified by Landlord, which shall be held by Landlord to secure Tenant's performance of its obligations under this Lease. The Security Deposit is not an advance payment of Rent or a measure or limit of Landlord's damages upon an Event of Default (as defined herein). Landlord may, from time to time following an Event of Default and without prejudice to any other remedy, use all or a part of the Security Deposit to perform any obligation Tenant fails to perform hereunder. Following any such application of the Security Deposit, Tenant shall pay to Landlord on demand the amount so applied in order to restore the Security Deposit to its original amount. Subject to the requirements of, and conditions imposed by, Laws applicable to security deposits under commercial leases, Landlord shall, within the time required by applicable Law, return to Tenant the portion of the Security Deposit remaining after deducting all damages, charges and other amounts permitted by Law. Landlord and Tenant agree that such deductions shall include, without limitation, all damages and losses that Landlord has suffered or that Landlord reasonably estimates that it will suffer as a result of any breach of this Lease by Tenant. The Security Deposit may be commingled with other funds, and no interest shall be paid thereon. If Landlord transfers its interest in the Premises, Landlord may assign the Security Deposit to the transferee and, upon such transfer and the delivery to Tenant of an acknowledgement of the transferee's responsibility for the Security Deposit as provided by Law, Landlord thereafter shall have no further liability for the return of the Security Deposit.

6. **Common Area.**

(a) **Common Area.** As used herein, the "**Common Area**" means the part of the Project designated by Landlord from time to time for the common use of all tenants, including parking areas, sidewalks, landscaping, curbs, loading areas, private streets and alleys, lighting facilities, hallways, malls, and restrooms, all of which are subject to Landlord's sole control. Landlord may from time to time: change the dimensions and location of the Common Area, as well as the location, dimensions, identity and type of buildings; construct additional buildings or additional stories on existing buildings or other improvements in the Project; and eliminate buildings. Tenant and its employees, customers, subtenants, licensees and concessionaires shall have a non-exclusive license to use the Common Area in common with Landlord, other tenants of the Project and other persons permitted by Landlord to use the same. Landlord may promulgate and modify from time to time rules and regulations for the safety, care or cleanliness of the Project which shall be complied with by Tenant and its employees, agents, visitors and invitees. Landlord may temporarily close any part of the Common Area for such periods of time as may be necessary to prevent the public from obtaining prescriptive rights or to make repairs or alterations. Landlord may designate areas in which Tenant's employees shall be required to park, and Tenant shall cause its employees to park in such areas.

(b) **Common Area Costs.** Tenant shall pay its Proportionate Share of the costs incurred by Landlord in owning, operating, administering, repairing, replacing, improving and maintaining the Common Area, plus an administrative charge of fifteen percent (15%) of all such costs (collectively, "**Common Area Costs**"). Common Area Costs shall include the items specified on Exhibit C. Tenant's Proportionate Share of Common Area Costs shall be paid in monthly installments, concurrently with Minimum Rent, based upon Landlord's good faith estimate, from time to time, of Common Area Costs. Tenant's initial payment is based upon Landlord's estimate of Common Area Costs for the year in question, and the monthly payments thereof (and future payments) are subject to increase or decrease as determined by Landlord from time to time to reflect an accurate estimate of actual Common Area Costs. Within 120 days (or a reasonable time thereafter) after the end of each calendar year, Landlord shall deliver to Tenant a statement of Common Area Costs for such calendar year (the "**Reconciliation Statement**"). The Reconciliation Statement shall be reasonably detailed and, if requested in writing by Tenant, Landlord shall provide any back-up documentation within ten (10) Business Days following Tenant's written request therefor. Landlord shall answer any questions Tenant may have with respect to such Reconciliation Statement and use commercially reasonable efforts to resolve any issues that Tenant may have with respect to such Reconciliation Statement. Tenant shall pay Landlord or Landlord shall credit Tenant (or, if such adjustment is at the end of the Term, pay Tenant), within 30 days of Tenant's receipt of Reconciliation Statement, the amount of any excess or deficiency in Tenant's payment of its Proportionate Share of Common Area Costs for such calendar year.

(c) **Tenant's Proportionate Share.** Notwithstanding any contrary provision herein, in calculating Tenant's Proportionate Share of certain items (or components thereof), the following provisions shall apply: (1) in the case of Common Area Costs, the rentable area of the Project (as used in the calculation of Tenant's Proportionate Share) shall exclude (A) the rentable square feet of premises occupied by ground lessees or owners of outparcels within the Project who do not contribute on a Proportionate Share basis to the Project's Common Area Costs because they are obligated to maintain separately certain common areas appurtenant to their ground leased or owned premises, and (B) with regard to specific Common Area Cost items, the rentable square feet of all other tenants in the Project who do not include such items within the calculation of such other tenant's share of Common Area Costs because such other tenants are individually responsible for the item in question (e.g., if an anchor tenant provides for its own landscaping and the cost of landscaping is not part of such tenant's Common Area Cost obligation, that tenant's rentable square feet shall be excluded from the rentable area of the Project in determining Tenant's Proportionate Share of landscaping costs); (2) in the case of Insurance Costs, Tenant's Proportionate Share of Landlord's cost of casualty insurance shall exclude from the rentable area of the Project (used in the calculation of Tenant's Proportionate Share) the rentable square feet of any building in the Project which is separately insured by the tenant of such building, and which tenant as a result does not contribute to Landlord's cost of casualty insurance; and (3) in the case of Taxes, Tenant's Proportionate Share of Taxes shall exclude from the rentable area of the Project (used in the calculation of Tenant's Proportionate Share) the rentable square feet of any leased building in the Project which is separately assessed and whose tenant pays such separately assessed tax amount pursuant to its lease in lieu of paying a Proportionate Share of Taxes assessed for the Project as a whole. If buildings are added to or removed from the Project, or additional areas are leased to tenants whose rentable square footage is excluded from the rentable area of the Project under the foregoing calculations, Tenant's Proportionate Share shall be appropriately adjusted.

7. **Improvements; Alterations; Repairs; Maintenance; Utilities.**

(a) **Improvements; Alterations.** Except for Landlord's Work (if any) to be performed pursuant to Exhibit D, all alterations and improvements to the Premises shall be installed at Tenant's expense only in accordance with plans and specifications which have been previously submitted to and approved in writing by Landlord, which approval shall be governed by the provisions set forth in this Section 7(a). No alterations or physical additions in or to the Premises may be made without Landlord's prior written consent, in Landlord's sole discretion. All alterations, additions, and improvements shall be constructed, maintained, and used by Tenant, at its risk and expense, in accordance with all Laws; Landlord's consent to or approval of any alterations, additions or improvements (or the plans therefor) shall not constitute a representation or warranty by Landlord, nor Landlord's acceptance, that the same comply with sound architectural and/or engineering practices or with all applicable Laws, and Tenant shall be solely responsible for ensuring all such compliance.

(b) **Repairs; Maintenance.** Tenant shall maintain the Premises in a good, clean, safe, and operable condition, and shall not permit or allow to remain any waste or damage to any portion of the Premises. Without limiting the foregoing, Tenant shall (1) maintain the interior walls and the interior surfaces of exterior walls (including painting and other treatment thereof), store fronts, plate glass windows, doors, door closure devices, window and door frames, molding, locks and hardware, floors, floor coverings and ceiling, (2) maintain, repair and replace all plate and other glass, (3) furnish, maintain and replace all electric light bulbs, tubes and tube casings, and (4) maintain all plumbing and electrical systems and all equipment (including all air conditioning, heating and ventilating equipment) and fixtures within or serving the Premises, Tenant's Off-Premises Equipment and all areas, improvements and systems exclusively serving the Premises, in each case, in good operating order and condition and in accordance with all Laws and the equipment manufacturers' suggested service programs; and Tenant shall, at its sole cost and expense, make all needed repairs and replacements to all of the foregoing items. Tenant shall enter into a preventive maintenance/service contract with a maintenance contractor approved by Landlord for servicing all air conditioning, heating and ventilating equipment serving the Premises (the "**HVAC Maintenance Agreement**"). If Tenant fails to provide Landlord with a copy of such HVAC Maintenance Agreement within ten (10) days after the Commencement Date, Landlord may enter into such HVAC Maintenance Agreement on Tenant's behalf, the cost of which will be charged to Tenant as Additional Rent. Additionally, at all times Landlord shall have the option, upon written notice to Tenant, to enter into such HVAC Maintenance Agreement covering Tenant's equipment along with other tenants of the Project, the cost of which will be included in Common Area Costs. Tenant shall, at Tenant's sole cost and expense, obtain and maintain in effect at all times a pest control service to regularly exterminate the Premises for all pests. Such service shall exterminate the Premises as necessary to keep the Premises reasonably free from pests. If Tenant fails to provide such service to Landlord's reasonable satisfaction, Landlord shall have the right, but not the obligation, to provide such pest control as Landlord, in its sole discretion, deems appropriate, and Tenant shall be liable for all reasonable costs thereof and all shall pay all such amounts to Landlord upon demand. Tenant shall keep all plumbing units, pipes and connections free from obstruction and protected against ice and freezing. Tenant shall be responsible for the cleaning and maintenance of any grease trap serving the Premises and shall enter into, and furnish to Landlord upon request a copy of, a grease trap cleaning and maintenance contract reasonably acceptable to Landlord. Tenant shall repair or replace, subject to Landlord's direction and supervision, any damage to the Project caused by a Tenant Party. If Tenant fails to make such repairs or replacements within 15 days after the occurrence of such damage, then Landlord may make the same at Tenant's cost. If any such damage occurs outside of the Premises, then Landlord may elect to repair such damage at Tenant's expense, rather than having Tenant repair such damage. The cost of all maintenance, repair or replacement work performed by Landlord under this Section 7 shall be paid by Tenant to Landlord within 30 days after Landlord has invoiced Tenant therefor.

(c) **Performance of Work.** All work described in this Section 7 shall be performed only by Landlord or by contractors and subcontractors approved in writing by Landlord. Tenant shall cause all contractors and subcontractors to procure and maintain insurance coverage naming Landlord, Landlord's property management company and Landlord's asset management company as additional insureds against such risks, in such amounts, and with such companies as Landlord may reasonably require. Tenant shall provide Landlord with the identities, mailing addresses and telephone numbers of all persons performing work or supplying materials prior to beginning such construction and Landlord may post on and about the Premises notices of non-responsibility pursuant to applicable Laws. All such work shall be performed in accordance with all Laws and in a good and workmanlike manner so as not to damage the Project (including the Premises, the Building's Structure and the Building's Systems). All such work which may affect the Building's Structure or the Building's Systems must be approved by the Building's engineer of record, at Tenant's expense and, at Landlord's election, must be performed by Landlord's usual contractor for such



work. All work affecting the roof of the Building must be performed by Landlord's roofing contractor and no such work will be permitted if it would void or reduce the warranty on the roof.

(d) **Mechanic's Liens.** All work performed, materials furnished, or obligations incurred by or at the request of a Tenant Party shall be deemed authorized and ordered by Tenant only, and Tenant shall not permit any mechanic's liens to be filed against the Premises or the Project in connection therewith. Upon completion of any such work, Tenant shall deliver to Landlord final lien waivers from all contractors, subcontractors and materialmen who performed such work. If such a lien is filed, then Tenant shall, within ten days after Landlord has delivered notice of the filing thereof to Tenant (or such earlier time period as may be necessary to prevent the forfeiture of the Project or any interest of Landlord therein or the imposition of a civil or criminal fine with respect thereto), either (1) pay the amount of the lien and cause the lien to be released of record, or (2) diligently contest such lien and deliver to Landlord a bond or other security reasonably satisfactory to Landlord. If Tenant fails to timely take either such action, then Landlord may pay the lien claim, and any amounts so paid, including expenses and interest, shall be paid by Tenant to Landlord within ten days after Landlord has invoiced Tenant therefor. Landlord and Tenant acknowledge and agree that their relationship is and shall be solely that of "landlord-tenant" (thereby excluding a relationship of "owner-contractor," "owner-agent" or other similar relationships). Nothing herein shall be deemed a consent by Landlord to any liens being placed upon the Project or Landlord's interest therein due to any work performed by or for Tenant or deemed to give any contractor or subcontractor or materialman any right or interest in any funds held by Landlord to reimburse Tenant for any portion of the cost of such work. Tenant shall hold harmless Landlord and its agents and representatives from and against all claims, demands, causes of action, suits, judgments, damages and expenses (including attorneys' fees) in any way arising from or relating to the failure by any Tenant Party to pay for any work performed, materials furnished, or obligations incurred by or at the request of a Tenant Party. This indemnity provision shall survive termination or expiration of this Lease.

(e) **Use of Roof.** The roof above the Premises is not part of the Premises and is exclusively reserved to Landlord, and Tenant shall not go on the roof nor install any antennae, satellite dish or other improvements on the roof without Landlord's prior written consent.

(f) **Signs; Store Fronts.** Tenant shall not, without Landlord's prior written consent (1) make any changes to or paint the store front; or (2) install any exterior lighting, decorations or paintings; or (3) erect or install any signs, banners, window or door lettering, placards, decorations or advertising media of any type visible from the exterior or interior of the Premises. All signs, decorations and advertising media shall conform to the sign criteria attached as Exhibit J. Landlord may designate a uniform type of sign for the Project to be installed and paid for by Tenant. Tenant shall, on or before the Commencement Date, install all signs in accordance with Exhibit J. At the end of the Term or upon termination of Tenant's right to possess the Premises, or upon the removal or alteration of a sign for any reason, Tenant shall repair, paint, and/or replace the building fascia surface where signs are attached.

(g) **Utilities.** Landlord shall provide and maintain the facilities necessary to supply water, electricity, gas (if applicable), telephone service and sewerage service to the Premises. Tenant shall be responsible for providing any meters or other devices for the measurement of utilities supplied to the designated point of service. Tenant shall promptly pay all charges for electricity, water, gas, telephone service, sewerage service and other utilities furnished to the Premises (including all tap fees and similar assessments made in connecting the Premises to such utilities) and any maintenance charges therefor. Landlord shall not be liable to Tenant, any Tenant Party or any other person or entity whatsoever, for abatement of rent as a result of, or for any other loss or damages whatsoever occurring in connection with, any interruption or failure whatsoever in utility services, and Tenant shall comply with all provisions of this Lease notwithstanding any such failure or interruption.

(h) **Excess Utility Use.** Landlord shall not be required to furnish electrical current for equipment that requires more than 110 volts or other equipment whose electrical energy consumption exceeds normal office usage. If Tenant's requirements for or consumption of electricity exceed the electricity to be provided by Landlord as described herein, Landlord shall, at Tenant's expense, make reasonable efforts to supply such service through the then-existing feeders and risers serving the Building and the Premises, and Tenant shall pay to Landlord the cost of such service within 30 days after Landlord has delivered to Tenant an invoice therefor. Landlord may determine the amount of such additional consumption and potential consumption by any verifiable method, including installation of a separate meter in the Premises installed, maintained, and read by Landlord, at Tenant's expense. Tenant shall not install any electrical equipment requiring special wiring or requiring voltage in excess of 110 volts

unless approved in advance by Landlord. The use of electricity in the Premises shall not exceed the capacity of existing feeders and risers to or wiring in the Premises. Any risers or wiring required to meet Tenant's excess electrical requirements shall, upon Tenant's written request, be installed by Landlord, at Tenant's cost, if, in Landlord's judgment, the same are necessary and shall not cause permanent damage to the Building or the Premises, cause or create a dangerous or hazardous condition, entail excessive or unreasonable alterations, repairs, or expenses, or interfere with or disturb other tenants of the Building. If Tenant uses machines or equipment in the Premises which affect the temperature otherwise maintained by the air conditioning system or otherwise overload any utility, Landlord may install supplemental air conditioning units or other supplemental equipment in the Premises, and the cost thereof, including the cost of installation, operation, use, and maintenance, in each case, plus an administrative fee of 15% of such cost, shall be paid by Tenant to Landlord within 30 days after Landlord has delivered to Tenant an invoice therefor.

8. **Use and Care of the Premises.**

(a) **Use and Operations.** Tenant shall continuously occupy and use the entire Premises throughout the Term only for the Permitted Use, and shall comply with all Laws relating to this Lease and/or the use, maintenance, condition, access to, and occupancy of the Premises and will not commit waste, overload the Building's Structure or the Building's Systems or subject the Premises to use that would damage the Premises. Tenant shall not conduct second or third shift operations within the Premises; however, Tenant may use the Premises after normal business hours, so long as Tenant is not generally conducting business from the Premises after normal business hours. The Premises shall not be used for any use that is disreputable, creates extraordinary fire hazards, or results in an increased rate of insurance on the Project or its contents, or for the storage of any Hazardous Materials (other than typical office supplies and then only in compliance with all Laws). If, because of a Tenant Party's acts or because Tenant vacates the Premises, the rate of insurance on the Project or its contents increases, then such acts shall be an Event of Default, Tenant shall pay to Landlord the amount of such increase on demand, and acceptance of such payment shall not waive any of Landlord's other rights. Tenant shall conduct its business and control each other Tenant Party so as not to create any nuisance or unreasonably interfere with other tenants, invitees, or Landlord in its management of the Project.

(b) **Impact on Insurance.** The Premises shall not be used for any use that is disreputable, creates extraordinary fire hazards, or results in an increased rate of insurance on the Project or its contents, or for the storage of any Hazardous Materials (other than those in normal commercial and retail applications or sold as retail consumer products and then only in compliance with all Laws). If, because of a Tenant Party's acts or because Tenant vacates the Premises, the rate of insurance on the Project or its contents increases, then such acts shall be an Event of Default, Tenant shall pay to Landlord the amount of such increase on demand, and acceptance of such payment shall not waive any of Landlord's other rights.

(c) **Display Windows.** Tenant shall maintain all display windows in a neat, attractive condition (as determined by Landlord in its sole but reasonable discretion), and shall keep all display windows and exterior electric signs in front of the Premises lighted from dusk until 10:00 p.m. every day, including Sundays and holidays. Landlord reserves the right to connect all canopy signs in the Project, including Tenant's, to a common electrical line controlled by Landlord, in order to control the hours during which such signs are kept lighted, and all charges for the installation, maintenance and repair of such electrical line, as well as all electrical usage charges associated therewith, shall be included in Common Area Costs.

(d) **Compliance with Law.**

(1) **Existing Laws.** If any Laws in existence as of the date of this Lease require an alteration or modification of the Premises (a "**Code Modification**") and such Code Modification (i) is not made necessary as a result of the specific use being made by Tenant of the Premises (as distinguished from an alteration or improvement which would be required to be made by the owner of any building comparable to the Building irrespective of the use thereof by any particular occupant), and (ii) is not made necessary as a result of any alteration of the Premises by Tenant, then such Code Modification shall be performed by Landlord at Landlord's sole cost and expense.

(2) **Governmental Regulations – Landlord Responsibility.** If, as a result of one or more Laws that are not in existence as of the date of this Lease, it is necessary from time to time during the Term, to perform a Code Modification to the Building or Project that (i) is not made necessary as a result of the specific use being made by Tenant of the Premises (as distinguished from an alteration or improvement which would be required to be made by the owner of any building comparable to the Building irrespective of the use thereof by any particular occupant), and (ii) is not made necessary as a result of any alteration of the Premises by Tenant, such Code Modification shall be performed by Landlord and cost thereof shall be included as Common Area Costs.

(3) **Governmental Regulations – Tenant Responsibility.** If, as a result of one or more Laws, it is necessary from time to time during the Term, to perform a Code Modification to the Building or Project that is made necessary as a result of the specific use being made by Tenant of the Premises or as a result of any alteration of the Premises by Tenant, such Code Modification shall be the sole and exclusive responsibility of Tenant in all respects; provided, however, Tenant shall have the right to retract its request to perform a proposed alteration in the event that the performance of such alteration would trigger the requirement for a Code Modification.

(e) **Permits and Licenses.** Tenant shall procure, at its sole expense, all permits and licenses required for its operations and the transaction of business in the Premises.

9. **Assignment and Subletting.**

(a) **Transfers.** Tenant shall not, without the prior written consent of Landlord, (1) assign, transfer, or encumber this Lease or any estate or interest herein, whether directly or by operation of law, (2) permit any other entity to become Tenant hereunder by merger, consolidation, or other reorganization, (3) if Tenant is an entity other than a corporation whose stock is publicly traded, permit the transfer of an ownership interest in Tenant so as to result in a change in the current control of Tenant, (4) sublet any portion of the Premises, (5) grant any license, concession, or other right of occupancy of any portion of the Premises, or (6) permit the use of the Premises by any parties other than Tenant (any of the events listed in Section 9(a)(1) through 9(a)(6) being a "**Transfer**").

(b) **Request for Consent.** If Tenant requests Landlord's consent to a Transfer, then, at least 15 business days prior to the effective date of the proposed Transfer, Tenant shall provide Landlord with a written description of all terms and conditions of the proposed Transfer, copies of the proposed documentation, and the following information about the proposed transferee: name and address of the proposed transferee and any entities and persons who own, control or direct the proposed transferee; reasonably satisfactory information about its business and business history; its proposed use of the Premises; banking, financial, and other credit information; and general references sufficient to enable Landlord to determine the proposed transferee's creditworthiness and character. Concurrently with Tenant's notice of any request for consent to a Transfer, Tenant shall pay to Landlord a fee of \$2,500 to defray Landlord's expenses in reviewing such request.

(c) **Conditions to Consent.** If Landlord consents to a proposed Transfer, then the proposed transferee shall deliver to Landlord a written agreement whereby it expressly assumes Tenant's obligations hereunder; however, any transferee of less than all of the space in the Premises shall be liable only for obligations under this Lease that are properly allocable to the space subject to the Transfer for the period of the Transfer. No Transfer shall release Tenant from its obligations under this Lease, but rather Tenant and its transferee shall be jointly and severally liable therefor. Landlord's consent to any Transfer shall not waive Landlord's rights as to any subsequent Transfers. If an Event of Default occurs while the Premises or any part thereof are subject to a Transfer, then Landlord, in addition to its other remedies, may collect directly from such transferee all rents becoming due to Tenant and apply such rents against Rent. Tenant authorizes its transferees to make payments of rent directly to Landlord upon receipt of notice from Landlord to do so following the occurrence of an Event of Default hereunder. Tenant shall pay for the cost of any demising walls or other improvements necessitated by a proposed subletting or assignment.

(d) **Attornment by Subtenants.** Each sublease by Tenant hereunder shall be subject and subordinate to this Lease and to the matters to which this Lease is or shall be subordinate, and each subtenant by entering into a sublease is deemed to have agreed that in the event of termination, re-entry or dispossession by Landlord under this Lease, Landlord may, at its option, take over all of the right, title and interest of Tenant, as sublandlord,

under such sublease, and such subtenant shall, at Landlord's option, attorn to Landlord pursuant to the then executory provisions of such sublease, except that Landlord shall not be (1) liable for any previous act or omission of Tenant under such sublease, (2) subject to any counterclaim, offset or defense that such subtenant might have against Tenant, (3) bound by any previous modification of such sublease not approved by Landlord in writing or by any rent or additional rent or advance rent which such subtenant might have paid for more than the current month to Tenant, and all such rent shall remain due and owing, notwithstanding such advance payment, (4) bound by any security or advance rental deposit made by such subtenant which is not delivered or paid over to Landlord and with respect to which such subtenant shall look solely to Tenant for refund or reimbursement, or (5) obligated to perform any work in the subleased space or to prepare it for occupancy, and in connection with such attornment, the subtenant shall execute and deliver to Landlord any instruments Landlord may reasonably request to evidence and confirm such attornment. Each subtenant or licensee of Tenant shall be deemed, automatically upon and as a condition of its occupying or using the Premises or any part thereof, to have agreed to be bound by the terms and conditions set forth in this Section 9(d). The provisions of this Section 9(d) shall be self-operative, and no further instrument shall be required to give effect to this provision.

(e) **Cancellation.** Landlord may, within 30 days after submission of Tenant's written request for Landlord's consent to an assignment or subletting, cancel this Lease as to the portion of the Premises proposed to be sublet or assigned as of the date the proposed Transfer is to be effective. If Landlord cancels this Lease as to any portion of the Premises, then this Lease shall cease for such portion of the Premises and Tenant shall pay to Landlord all Rent accrued through the cancellation date relating to the portion of the Premises covered by the proposed Transfer. Thereafter, Landlord may lease such portion of the Premises to the prospective transferee (or to any other person) without liability to Tenant.

(f) **Additional Compensation.** Tenant shall pay to Landlord, immediately upon receipt thereof, the excess of (1) all compensation received by Tenant for a Transfer less the actual out-of-pocket costs reasonably incurred by Tenant with unaffiliated third parties (i.e., brokerage commissions and tenant finish work) in connection with such Transfer (such costs shall be amortized on a straight-line basis over the term of the Transfer in question) over (2) the Rent allocable to the portion of the Premises covered thereby.

10. **Insurance; Waivers; Subrogation; Indemnity.**

(a) **Tenant's Insurance.** Effective as of the earlier of (1) the date Tenant enters or occupies the Premises, or (2) the Commencement Date and continuing throughout the Term, Tenant shall maintain the following insurance policies: (A) commercial general liability insurance in amounts of \$1,000,000 per occurrence, \$2,000,000 general aggregate, and an Excess Limits (Umbrella) Policy in the amount of \$3,000,000, or, following the expiration of the initial Term, such other amounts as Landlord may from time to time reasonably require (and, if the use and occupancy of the Premises include any activity or matter that is or may be excluded from coverage under a commercial general liability policy [e.g., the sale, service or consumption of alcoholic beverages], Tenant shall obtain such endorsements to the commercial general liability policy or otherwise obtain insurance to insure all liability arising from such activity or matter [including liquor liability, if applicable] in such amounts as Landlord may reasonably require), insuring Tenant, Landlord, Landlord's property management company, Landlord's asset management company and, if requested in writing by Landlord, Landlord's Mortgagee, against all liability for injury to or death of a person or persons or damage to property arising from the use and occupancy of the Premises and (without implying any consent by Landlord to the installation thereof) the installation, operation, maintenance, repair or removal of Tenant's Off-Premises Equipment, (B) insurance covering the full value of all alterations and improvements and betterments in the Premises, naming Landlord and Landlord's Mortgagee as additional loss payees as their interests may appear, (C) insurance covering the full value of all furniture, trade fixtures and personal property (including property of Tenant or others) in the Premises or otherwise placed in the Project by or on behalf of a Tenant Party (including Tenant's Off-Premises Equipment), (D) contractual liability insurance sufficient to cover Tenant's indemnity obligations hereunder (but only if such contractual liability insurance is not already included in Tenant's commercial general liability insurance policy), (E) worker's compensation insurance, (F) business interruption insurance in an amount reasonably acceptable to Landlord, and (G) commercial auto liability insurance in amounts of \$1,000,000 combined single limit covering all owned, non-owned, and hired automobiles and vehicles. The commercial general liability insurance and commercial auto liability insurance to be maintained by Tenant may have a deductible of no more than \$5,000 per occurrence; the property insurance to be maintained by Tenant may have a deductible of no more than \$10,000 per occurrence; and, all other insurance to be maintained by Tenant shall have no

deductible. Tenant's insurance shall provide primary coverage to Landlord when any policy issued to Landlord provides duplicate or similar coverage, and in such circumstance Landlord's policy will be excess over Tenant's policy. Tenant shall furnish to Landlord certificates of such insurance and such other evidence satisfactory to Landlord of the maintenance of all insurance coverages required hereunder at least ten days prior to the earlier of the Commencement Date or the date Tenant enters or occupies the Premises, and at least 15 days prior to each renewal of said insurance, and Tenant shall obtain a written obligation on the part of each insurance company to notify Landlord at least 30 days before cancellation or a material change of any such insurance policies. All such insurance policies shall be in form reasonably satisfactory to Landlord, and issued by companies with an A.M. Best rating of A- VIII or better. If Tenant fails to comply with the foregoing insurance requirements or to deliver to Landlord the certificates or evidence of coverage required herein, Landlord, in addition to any other remedy available pursuant to this Lease or otherwise, may, but shall not be obligated to, obtain such insurance and Tenant shall pay to Landlord on demand the premium costs thereof, plus an administrative fee of 15% of such cost.

(b) **Landlord's Insurance.** Throughout the Term of this Lease, Landlord shall maintain, as a minimum, the following insurance policies: (1) property insurance for the Project's replacement value (excluding property required to be insured by Tenant), less a commercially reasonable deductible if Landlord so chooses, and (2) commercial general liability insurance in an amount of not less than \$1,000,000. Landlord may, but is not obligated to, maintain such other insurance and additional coverages as it may deem necessary. The cost of all insurance carried by Landlord with respect to the Project shall be included in Insurance Costs. The foregoing insurance policies and any other insurance carried by Landlord shall be for the sole benefit of Landlord and under Landlord's sole control, and Tenant shall have no right or claim to any proceeds thereof or any other rights thereunder.

(c) **No Subrogation; Waiver of Property Claims.** Landlord and Tenant each waives any claim it might have against the other for any damage to or theft, destruction, loss, or loss of use of any property, to the extent the same is insured against under any insurance policy of the types described in this Section 10 that covers the Project, the Premises, Landlord's or Tenant's fixtures, personal property, leasehold improvements, or business, or is required to be insured against under the terms hereof, **regardless of whether the negligence of the other party caused such Loss** (defined below). Additionally, Tenant waives any claim it may have against Landlord for any Loss to the extent such Loss is caused by a terrorist act. Each party shall cause its insurance carrier to endorse all applicable policies waiving the carrier's rights of recovery under subrogation or otherwise against the other party. Notwithstanding any provision in this Lease to the contrary, Landlord, its agents, employees and contractors shall not be liable to Tenant or to any party claiming by, through or under Tenant for (and Tenant hereby releases Landlord and its servants, agents, contractors, employees and invitees from any claim or responsibility for) any damage to or destruction, loss, or loss of use, or theft of any property of any Tenant Party located in or about the Project, caused by casualty, theft, fire, third parties or any other matter or cause, **regardless of whether the negligence of any party caused such loss in whole or in part.** Tenant acknowledges that Landlord shall not carry insurance on, and shall not be responsible for damage to, any property of any Tenant Party located in or about the Project.

(d) **Indemnity.** Subject to Section 10(c), Tenant shall hold harmless Landlord and its representatives and agents from and against all third-party claims, demands, liabilities, causes of action, suits, judgments, damages, and expenses (including reasonable attorneys' fees) arising from any injury to or death of any person or the damage to or theft, destruction, loss, or loss of use of, any property or inconvenience (a "**Loss**") (1) occurring in or on the Project (other than within the Premises) to the extent caused by the negligence or willful misconduct of any Tenant Party, (2) occurring in the Premises, or (3) arising out of the installation, operation, maintenance, repair or removal of any property of any Tenant Party located in or about the Project, including Tenant's Off-Premises Equipment. This Section 10(d) shall survive termination or expiration of this Lease and shall not terminate or be waived, diminished or affected in any manner by any abatement or apportionment of Rent under any provision of this Lease. If any proceeding is filed for which indemnity is required hereunder, the indemnifying party agrees, upon request therefor, to defend the indemnified party in such proceeding at its sole cost utilizing counsel satisfactory to the indemnified party.

(e) **Cost of Landlord's Insurance.** Tenant shall pay its Proportionate Share of the cost of the property and liability insurance carried by Landlord from time to time with respect to the Project (including all buildings, other improvements and the Common Area and Landlord's personal property used in connection therewith), which may include fire and extended coverage insurance (including extended and broad form coverage risks, mudslide, land subsidence, volcanic eruption, flood, earthquake and rent loss insurance) and comprehensive general

public liability insurance and excess liability insurance, in such amounts and containing such terms as Landlord deems necessary or desirable (collectively, "**Insurance Costs**"). During each month of the Term, Tenant shall make a monthly payment to Landlord equal to 1/12th of its Proportionate Share of Insurance Costs that will be due and payable for that particular year. Each payment of Insurance Costs shall be due and payable at the same time as, and in the same manner as, the payment of Minimum Rent as provided herein. The initial monthly payment of Insurance Costs is based upon Landlord's good faith estimate of Tenant's Proportionate Share of the estimated Insurance Costs for the remainder of the first calendar year. The monthly payment of Insurance Costs is subject to increase or decrease as determined by Landlord to reflect accurately Tenant's estimated Proportionate Share of Insurance Costs. If, following Landlord's receipt of the bill for the insurance premiums for a calendar year, Landlord determines that Tenant's total payments of Insurance Costs are less than Tenant's actual Proportionate Share of Insurance Costs, Tenant shall pay to Landlord the difference upon demand; if Tenant's total payments of Insurance Costs are more than Tenant's actual Proportionate Share of Insurance Costs, Landlord shall retain such excess and credit it to Tenant's future payments of Insurance Costs (unless such adjustment is at the end of the Term, in which event Landlord shall refund such excess to Tenant).

11. **Subordination; Attornment; Notice to Landlord's Mortgagee.**

(a) **Subordination.** This Lease shall be subordinate to any deed of trust, mortgage, or other security instrument (each, a "**Mortgage**"), or any ground lease, master lease, or primary lease (each, a "**Primary Lease**"), that now or hereafter covers all or any part of the Premises (the mortgagee under any such Mortgage, beneficiary under any such deed of trust, or the lessor under any such Primary Lease is referred to herein as a "**Landlord's Mortgagee**"). Any Landlord's Mortgagee may elect, at any time, unilaterally, to make this Lease superior to its Mortgage, Primary Lease, or other interest in the Premises by so notifying Tenant in writing. The provisions of this Section shall be self-operative and no further instrument of subordination shall be required; however, in confirmation of such subordination, Tenant shall execute and return to Landlord (or such other party designated by Landlord) within ten days after written request therefor such documentation, in recordable form if required, as a Landlord's Mortgagee may reasonably request to evidence the subordination of this Lease to such Landlord's Mortgagee's Mortgage or Primary Lease (including a subordination, non-disturbance and attornment agreement) or, if the Landlord's Mortgagee so elects, the subordination of such Landlord's Mortgagee's Mortgage or Primary Lease to this Lease.

(b) **Attornment.** Tenant shall attorn to any party succeeding to Landlord's interest in the Premises, whether by purchase, foreclosure, deed in lieu of foreclosure, power of sale, termination of lease, or otherwise, upon such party's request, and shall execute such agreements confirming such attornment as such party may reasonably request.

(c) **Notice to Landlord's Mortgagee.** Tenant shall not seek to enforce any remedy it may have for any default on the part of Landlord without first giving written notice by certified mail, return receipt requested, specifying the default in reasonable detail, to any Landlord's Mortgagee whose address has been given to Tenant, and affording such Landlord's Mortgagee a reasonable opportunity to perform Landlord's obligations hereunder.

(d) **Landlord's Mortgagee's Protection Provisions.** If Landlord's Mortgagee shall succeed to the interest of Landlord under this Lease, Landlord's Mortgagee shall not be: (1) liable for any act or omission of any prior lessor (including Landlord); (2) bound by any rent or additional rent or advance rent which Tenant might have paid for more than the current month to any prior lessor (including Landlord), and all such rent shall remain due and owing, notwithstanding such advance payment; (3) bound by any security or advance rental deposit made by Tenant which is not delivered or paid over to Landlord's Mortgagee and with respect to which Tenant shall look solely to Landlord for refund or reimbursement; (4) bound by any termination, amendment or modification of this Lease made without Landlord's Mortgagee's consent and written approval, except for those terminations, amendments and modifications permitted to be made by Landlord without Landlord's Mortgagee's consent pursuant to the terms of the loan documents between Landlord and Landlord's Mortgagee; (5) subject to the defenses which Tenant might have against any prior lessor (including Landlord); and (6) subject to the offsets which Tenant might have against any prior lessor (including Landlord) except for those offset rights which (A) are expressly provided in this Lease, (B) relate to periods of time following the acquisition of the Project by Landlord's Mortgagee, and (C) Tenant has provided written notice to Landlord's Mortgagee and provided Landlord's Mortgagee a reasonable opportunity to cure the event giving

rise to such offset event. Landlord's Mortgagee shall have no liability or responsibility under or pursuant to the terms of this Lease or otherwise after it ceases to own an interest in the Project. Nothing in this Lease shall be construed to require Landlord's Mortgagee to see to the application of the proceeds of any loan, and Tenant's agreements set forth herein shall not be impaired on account of any modification of the documents evidencing and securing any loan.

12. **Rules and Regulations.** Tenant shall comply with the rules and regulations of the Project which are attached hereto as Exhibit E. Landlord may, from time to time, change such rules and regulations for the safety, care, or cleanliness of the Project and related facilities, provided that such changes are applicable to all tenants of the Project, will not unreasonably interfere with Tenant's use of the Premises and are enforced by Landlord in a non-discriminatory manner. Tenant shall be responsible for the compliance with such rules and regulations by each Tenant Party.

13. **Condemnation.**

(a) **Total Taking.** If the entire Project or Premises are taken by right of eminent domain or conveyed in lieu thereof (a "**Taking**"), this Lease shall terminate as of the date of the Taking.

(b) **Partial Taking - Tenant's Rights.** If any part of the Project or Premises becomes subject to a Taking and such Taking will prevent Tenant from conducting on a permanent basis its business in the Premises in a manner reasonably comparable to that conducted immediately before such Taking, then Tenant may terminate this Lease as of the date of such Taking by giving written notice to Landlord within 30 days after the Taking, and Minimum Rent and Additional Rent shall be apportioned as of the date of such Taking. If Tenant does not terminate this Lease, then Minimum Rent and Additional Rent shall be abated on a reasonable basis as to that portion of the Premises rendered untenable by the Taking.

(c) **Partial Taking - Landlord's Rights.** If any material portion, but less than all, of the Project becomes subject to a Taking, or if Landlord is required to pay any of the proceeds arising from a Taking to a Landlord's Mortgagee, then Landlord may terminate this Lease by delivering written notice thereof to Tenant within 30 days after such Taking, and Minimum Rent and Additional Rent shall be apportioned as of the date of such Taking. If Landlord does not so terminate this Lease, then this Lease will continue, but if any portion of the Premises has been taken, then Minimum Rent and Additional Rent shall abate as provided in the last sentence of Section 13(b).

(d) **Temporary Taking.** If all or any portion of the Premises becomes subject to a Taking for a limited period of time, this Lease shall remain in full force and effect and Tenant shall continue to perform all of the terms, conditions and covenants of this Lease, including the payment of Minimum Rent and all other amounts required hereunder. If any such temporary Taking terminates prior to the expiration of the Term, Tenant shall restore the Premises as nearly as possible to the condition prior to such temporary Taking, at Tenant's sole cost and expense. Landlord shall be entitled to receive the entire award for any such temporary Taking, except that Tenant shall be entitled to receive the portion of such award which (1) compensates Tenant for its loss of use of the Premises within the Term and (2) reimburses Tenant for the reasonable out-of-pocket costs actually incurred by Tenant to restore the Premises as required by this Section.

(e) **Award.** If any Taking occurs, then Landlord shall receive the entire award or other compensation for the land on which the Project is situated, the Project, and other improvements taken; however, Tenant may separately pursue a claim (to the extent it will not reduce Landlord's award) against the condemnor for the value of Tenant's personal property which Tenant is entitled to remove under this Lease, moving costs, loss of business, and other claims it may have.

14. **Fire or Other Casualty.**

(a) **Repair Estimate.** If the Premises or the Project are damaged by fire or other casualty (a "**Casualty**"), Landlord shall, within 90 days after such Casualty, deliver to Tenant a good faith estimate (the "**Damage Notice**") of the time needed to repair the damage caused by such Casualty.

(b) **Tenant's Rights.** If a material portion of the Premises is damaged by Casualty such that Tenant is prevented from conducting its business in the Premises in a manner reasonably comparable to that conducted immediately before such Casualty and Landlord estimates that the damage caused thereby cannot be repaired within 270 days after the commencement of repairs (the "**Repair Period**"), then Tenant may terminate this Lease by delivering written notice to Landlord of its election to terminate within 30 days after the Damage Notice has been delivered to Tenant.

(c) **Landlord's Rights.** If a Casualty damages the Premises or a material portion of the Project and (1) Landlord estimates that the damage to the Premises cannot be repaired within the Repair Period, (2) the damage to the Premises exceeds 50% of the replacement cost thereof (excluding foundations and footings), as estimated by Landlord, and such damage occurs during the last two years of the Term, (3) regardless of the extent of damage to the Premises, the damage is not fully covered by Landlord's insurance policies or Landlord makes a good faith determination that restoring the Project would be uneconomical, or (4) Landlord is required to pay any insurance proceeds arising out of the Casualty to a Landlord's Mortgagee, then Landlord may terminate this Lease by giving written notice of its election to terminate within 30 days after the Damage Notice has been delivered to Tenant.

(d) **Repair Obligation.** If neither party elects to terminate this Lease following a Casualty, then Landlord shall, within a reasonable time after such Casualty, begin to repair the Premises and shall proceed with reasonable diligence to restore the Premises to substantially the same condition as they existed immediately before such Casualty; however, Landlord shall not be required to repair or replace any alterations or betterments within the Premises (which shall be promptly and with due diligence repaired and restored by Tenant at Tenant's sole cost and expense) or any furniture, equipment, trade fixtures or personal property of Tenant or others in the Premises or the Project, and Landlord's obligation to repair or restore the Premises shall be limited to the extent of the insurance proceeds actually received by Landlord for the Casualty in question. If this Lease is terminated under the provisions of this **Section 14**, Landlord shall be entitled to the full proceeds of the insurance policies providing coverage for all alterations, improvements and betterments in the Premises (and, if Tenant has failed to maintain insurance on such items as required by this Lease, Tenant shall pay Landlord an amount equal to the proceeds Landlord would have received had Tenant maintained insurance on such items as required by this Lease).

(e) **Continuance of Tenant's Business; Rental Abatement.** Tenant agrees that during any period of reconstruction or repair of the Premises it will continue the operation of its business within the Premises to the extent practicable, and Minimum Rent and Additional Rent for the portion of the Premises rendered untenable by the damage shall be abated on a reasonable basis from the date of damage until the completion of Landlord's repairs (or until the date of termination of this Lease by Landlord or Tenant as provided above, as the case may be), unless a Tenant Party caused such damage, in which case, Tenant shall continue to pay Rent without abatement.

15. **Taxes.**

(a) **Personal Property Taxes.** Tenant shall be liable for all taxes levied or assessed against personal property, furniture, or fixtures placed by Tenant in the Premises or in or on the Building or Project. If any taxes for which Tenant is liable are levied or assessed against Landlord or Landlord's property and Landlord elects to pay the same, or if the assessed value of Landlord's property is increased by inclusion of such personal property, furniture or fixtures and Landlord elects to pay the taxes based on such increase, then Tenant shall pay to Landlord, within 30 days following written request therefor, the part of such taxes for which Tenant is primarily liable hereunder; however, Landlord shall not pay such amount if Tenant notifies Landlord that it will contest the validity or amount of such taxes before Landlord makes such payment, and thereafter diligently proceeds with such contest in accordance with Law and if the non-payment thereof does not pose a threat of loss or seizure of the Project or interest of Landlord therein or impose any fee or penalty against Landlord.

(b) **Tax Payment.** Tenant shall pay its Proportionate Share of all taxes, assessments and governmental charges of any kind and nature whatsoever levied or assessed against the Project, and any other charges, taxes and/or impositions now in existence or hereafter imposed by any governmental authority based upon the privilege of renting the Premises or upon the amount of rent collected therefor (but not including income, inheritance, or franchise taxes), whether they be by taxing districts or authorities presently taxing the Project or by others subsequently created or otherwise (collectively, "**Taxes**"). Taxes shall also be deemed to include (i) any special taxing district assessment which is imposed in order to fund public facilities for the area in which the Project is located and



(ii) the franchise tax set forth in V.T.C.A. Tax Code section 171.0001 et seq., as the same may be amended or recorded from time to time (the "**Franchise Tax**"). Taxes shall not include federal and state taxes on income; however, if the present method of taxation changes so that, in lieu of or in addition to the whole or any part of any Taxes, there is levied on Landlord a capital tax, sales tax, or use tax directly on the rents received, or a tax, assessment or charge based, in whole or in part, upon such rents for the Project (in addition to the Franchise Tax), then all such taxes, assessments and charges, or the part thereof so based, shall be deemed to be included within the term "Taxes" for purposes hereof. During each month of the Term, Tenant shall make a monthly payment to Landlord equal to 1/12 of its Proportionate Share of Taxes that will be due and payable for that particular year (the "**Tax Payments**"). Tenant authorizes Landlord to use the funds deposited with Landlord under this Section 15(b) to pay the Taxes levied or assessed against the Project. Each Tax Payment shall be due and payable at the same time as, and in the same manner as, the payment of Minimum Rent as provided herein. The initial monthly Tax Payment is based upon Landlord's good faith estimate of Tenant's Proportionate Share of Taxes for the fiscal tax year in which the Commencement Date is to occur. The monthly Tax Payment is subject to increase or decrease as determined by Landlord to reflect accurately Tenant's Proportionate Share of Taxes. If following Landlord's receipt of all Tax bills for any fiscal tax year, Landlord determines that Tenant's total Tax Payments for such period are less than Tenant's actual Proportionate Share of the Taxes, Tenant shall pay to Landlord the difference upon demand; if Tenant's total Tax Payments exceed Tenant's actual Proportionate Share of the Taxes, Landlord shall retain such excess and credit it to Tenant's future Tax Payments (unless such adjustment is at the end of the Term, in which event Landlord shall refund such excess to Tenant). Any payment to be made pursuant to this Section 15(b) with respect to the real estate tax year in which this Lease commences or terminates shall bear the same ratio to the payment that would be required to be made for the full tax year as that part of such tax year covered by the Term of this Lease bears to a full tax year. For property tax purposes, Tenant waives all rights to protest or appeal the appraised value of the Premises, as well as the Project, and all rights to receive notices of reappraisalment.

(c) **Tax Consultant; Contest of Taxes by Landlord.** Landlord shall have the right to employ a tax consulting firm to attempt to assure a fair tax burden on the Project. Tenant shall pay to Landlord upon demand from time to time, as Additional Rent, Tenant's Proportionate Share of the cost of such service. Additionally, Landlord shall have the right to contest any tax assessment, valuation or levy against the Project, and to retain legal counsel and expert witnesses to assist in such contest and otherwise to incur expenses in such contest, and Tenant shall pay upon demand Tenant's Proportionate Share of any fees, expenses and costs incurred by Landlord in contesting any assessments, levies or tax rate applicable to the Project or portions thereof whether or not such contest is successful. If such contest results in a refund of Taxes in any year, Tenant shall be entitled to receive its Proportionate Share of such refund, pro-rated for the period with respect to which Tenant paid its share of Taxes for such year, after deducting from the refund all fees, expenses and costs incurred by Landlord in such contest.

(d) **Tax Exemption.** Landlord acknowledges that the entity executing this Lease as Tenant (the "**Original Tenant**") is a tax-exempt local government, and notwithstanding the foregoing or anything in this Lease to the contrary, Sections 15(b) and (c) shall not be applicable to the Original Tenant. In the event of a Transfer to which Landlord consents in accordance with Section 9, Original Tenant's transferee shall be subject to the requirements of Sections 15(b) and (c).

16. **Events of Default.** Each of the following occurrences shall be an "**Event of Default**":

(a) **Payment Default.** Tenant's failure to pay Rent within five days after Landlord has delivered written notice to Tenant that the same is due; however, an Event of Default shall occur hereunder without any obligation of Landlord to give any notice if Tenant fails to pay Rent when due and, during the 12 month interval preceding such failure, Landlord has given Tenant written notice of failure to pay Rent on one or more occasions.

(b) **Abandonment.** Tenant abandons or vacates the Premises or any substantial portion thereof.

(c) **Attachment.** If any execution, levy, attachment, or other process of law shall occur upon Tenant's goods, fixtures or interest in the Premises.

(d) **Estoppel.** Tenant fails to provide any estoppel certificate after Landlord's written request therefor pursuant to Section 24(e) and such failure shall continue for five days after Landlord's second written notice thereof to Tenant.

(e) **Insurance.** Tenant fails to procure, maintain and deliver to Landlord evidence of the insurance policies and coverages as required under Section 10(a).

(f) **Mechanic's Liens.** Tenant fails to pay and release of record, or diligently contest and bond around, any mechanic's lien filed against the Premises or the Project for any work performed, materials furnished or obligation incurred by or at the request of Tenant, within the time and in the manner required by Section 7(d).

(g) **Other Defaults.** Tenant's failure to perform, comply with, or observe any other agreement or obligation of Tenant under this Lease and the continuance of such failure for a period of more than 30 days after Landlord has delivered to Tenant written notice thereof.

(h) **Insolvency.** The filing of a petition by or against Tenant (the term "Tenant" shall include, for the purpose of this Section 16(h), any guarantor of Tenant's obligations hereunder) (1) in any bankruptcy or other insolvency proceeding; (2) seeking any relief under any state or federal debtor relief law; (3) for the appointment of a liquidator or receiver for all or substantially all of Tenant's property or for Tenant's interest in this Lease; (4) for the reorganization or modification of Tenant's capital structure; or (5) in any assignment for the benefit of creditors proceeding; however, if such a petition is filed against Tenant, then such filing shall not be an Event of Default unless Tenant fails to have the proceedings initiated by such petition dismissed within 90 days after the filing thereof.

17. **Remedies.** Upon any Event of Default, Landlord may, in addition to all other rights and remedies afforded Landlord hereunder or by law or equity, take any one or more of the following actions:

(a) **Termination of Lease.** Terminate this Lease by giving Tenant written notice thereof, in which event Tenant shall pay to Landlord the sum of (1) all Rent accrued hereunder through the date of termination, (2) all amounts due under Section 18(a), and (3) an amount equal to (A) the total Rent that Tenant would have been required to pay for the remainder of the Term discounted to present value at a per annum rate equal to the "Prime Rate" as published on the date this Lease is terminated by The Wall Street Journal, Southwest Edition, in its listing of "Money Rates" minus one percent, minus (B) the then present fair rental value of the Premises for such period, similarly discounted;

(b) **Termination of Possession.** Terminate Tenant's right to possess the Premises without terminating this Lease by giving written notice thereof to Tenant, in which event Tenant shall pay to Landlord (1) all Rent and other amounts accrued hereunder to the date of termination of possession, (2) all amounts due from time to time under Section 18(a), and (3) all Rent and other net sums required hereunder to be paid by Tenant during the remainder of the Term, diminished by any net sums thereafter received by Landlord through reletting the Premises during such period, after deducting all costs incurred by Landlord in reletting the Premises. If Landlord elects to proceed under this Section 17(b), Landlord may remove all of Tenant's property from the Premises and store the same in a public warehouse or elsewhere at the cost of, and for the account of, Tenant, without becoming liable for any loss or damage which may be occasioned thereby. Landlord shall use reasonable efforts to relet the Premises on such terms as Landlord in its sole discretion may determine (including a term different from the Term, rental concessions, and alterations to, and improvement of, the Premises); however, Landlord shall not be obligated to relet the Premises before leasing other portions of the Building or Project and Landlord shall not be obligated to accept any prospective tenant proposed by Tenant unless such proposed tenant meets all of Landlord's leasing criteria. Landlord shall not be liable for, nor shall Tenant's obligations hereunder be diminished because of, Landlord's failure to relet the Premises or to collect rent due for such reletting. Tenant shall not be entitled to the excess of any consideration obtained by reletting over the Rent due hereunder. Reentry by Landlord in the Premises shall not affect Tenant's obligations hereunder for the unexpired Term; rather, Landlord may, from time to time, bring an action against Tenant to collect amounts due by Tenant, without the necessity of Landlord's waiting until the expiration of the Term. Unless Landlord delivers written notice to Tenant expressly stating that it has elected to terminate this Lease, all actions taken by Landlord to dispossess or exclude Tenant from the Premises shall be deemed to be taken under this Section 17(b). If Landlord elects to proceed under this Section 17(b), it may at any time elect to terminate this Lease under Section 17(a);

(c) **Perform Acts on Behalf of Tenant.** Perform any act Tenant is obligated to perform under the terms of this Lease (and enter upon the Premises in connection therewith if necessary) in Tenant's name and on Tenant's behalf, without being liable for any claim for damages therefor, and Tenant shall reimburse Landlord on demand for any expenses which Landlord may incur in thus effecting compliance with Tenant's obligations under this Lease (including, but not limited to, collection costs and legal expenses), plus interest thereon at the Default Rate;

(d) **Suspension of Services.** Suspend any services required to be provided by Landlord hereunder without being liable for any claim for damages therefor; or

(e) **Alteration of Locks.** Additionally, with or without notice, and to the extent permitted by Law, Landlord may alter locks or other security devices at the Premises to deprive Tenant of access thereto, and Landlord shall not be required to provide a new key or right of access to Tenant.

18. **Payment by Tenant; Non-Waiver; Cumulative Remedies.**

(a) **Payment by Tenant.** Upon any Event of Default, Tenant shall pay to Landlord all costs incurred by Landlord (including court costs and reasonable attorneys' fees and expenses) in (1) obtaining possession of the Premises, (2) removing and storing Tenant's or any other occupant's property, (3) repairing, restoring, altering, remodeling, or otherwise putting the Premises into the same condition as they were upon delivery of possession to Tenant hereunder, reasonable wear and tear excepted, (4) if Tenant is dispossessed of the Premises and this Lease is not terminated, reletting all or any part of the Premises (including brokerage commissions, cost of tenant finish work, and other costs incidental to such reletting), (5) performing Tenant's obligations which Tenant failed to perform, and (6) enforcing, or advising Landlord of, its rights, remedies, and recourses arising out of the default. To the full extent permitted by law, Landlord and Tenant agree the federal and state courts of the state in which the Project is located shall have exclusive jurisdiction over any matter relating to or arising from this Lease and the parties' rights and obligations under this Lease.

(b) **No Waiver.** Landlord's acceptance of Rent following an Event of Default shall not waive Landlord's rights regarding such Event of Default. No waiver by Landlord of any violation or breach of any of the terms contained herein shall waive Landlord's rights regarding any future violation of such term. Landlord's acceptance of any partial payment of Rent shall not waive Landlord's rights with regard to the remaining portion of the Rent that is due, regardless of any endorsement or other statement on any instrument delivered in payment of Rent or any writing delivered in connection therewith; accordingly, Landlord's acceptance of a partial payment of Rent shall not constitute an accord and satisfaction of the full amount of the Rent that is due.

(c) **Cumulative Remedies.** Any and all remedies set forth in this Lease: (1) shall be in addition to any and all other remedies Landlord may have at law or in equity, (2) shall be cumulative, and (3) may be pursued successively or concurrently as Landlord may elect. The exercise of any remedy by Landlord shall not be deemed an election of remedies or preclude Landlord from exercising any other remedies in the future. Additionally, Tenant shall defend, indemnify and hold harmless Landlord, Landlord's Mortgagee and their respective representatives and agents from and against all claims, demands, liabilities, causes of action, suits, judgments, damages and expenses (including reasonable attorneys' fees) arising from Tenant's failure to perform its obligations under this Lease.

19. **Intentionally Deleted.**

20. **Surrender of Premises.** No act by Landlord shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept a surrender of the Premises shall be valid unless it is in writing and signed by Landlord. At the expiration or termination of this Lease, Tenant shall deliver to Landlord the Premises with all improvements located therein in good repair and condition, free of Hazardous Materials placed on the Premises during the Term, broom-clean, reasonable wear and tear (and condemnation and Casualty damage not caused by Tenant, as to which Sections 13 and 14 shall control) excepted, and shall deliver to Landlord all keys to the Premises. Provided that Tenant has performed all of its obligations hereunder, Tenant may remove all unattached trade fixtures (which, for purposes of this sentence, shall not include carpeting, floor coverings, attached shelving, lighting fixtures, wall coverings, or similar improvements), furniture, and personal property placed in the Premises or elsewhere in the Project by Tenant (but Tenant may not remove any such item which was paid for, in whole or in part, by Landlord or any wiring or cabling unless Landlord requires such removal). Additionally, at Landlord's option, Tenant shall remove

such alterations, additions, improvements, trade fixtures, personal property, signs, equipment, wiring, conduits, cabling and furniture (including Tenant's Off-Premises Equipment) as Landlord may request; however, Tenant shall not be required to remove any addition or improvement to the Premises or the Project if Landlord has specifically agreed in writing that the improvement or addition in question need not be removed. Tenant shall repair all damage caused by such removal. All items not so removed shall, at Landlord's option, be deemed to have been abandoned by Tenant and may be appropriated, sold, stored, destroyed, or otherwise disposed of by Landlord without notice to Tenant and without any obligation to account for such items; any such disposition shall not be considered a strict foreclosure or other exercise of Landlord's rights in respect of the security interest granted under Section 19. The provisions of this Section 20 shall survive the end of the Term.

21. **Holding Over.** If Tenant fails to vacate the Premises at the end of the Term, then Tenant shall be a tenant at sufferance and, in addition to all other damages and remedies to which Landlord may be entitled for such holding over, (a) Tenant shall pay, in addition to the other Rent, Minimum Rent equal to 150% of the Rent payable during the last month of the Term, and (b) Tenant shall otherwise continue to be subject to all of Tenant's obligations under this Lease. The provisions of this Section 21 shall not be deemed to limit or constitute a waiver of any other rights or remedies of Landlord provided herein or at law. If Tenant fails to surrender the Premises upon the termination or expiration of this Lease, in addition to any other liabilities to Landlord accruing therefrom, Tenant shall protect, defend, indemnify and hold Landlord harmless from all loss, costs (including reasonable attorneys' fees) and liability resulting from such failure, including any claims made by any succeeding tenant founded upon such failure to surrender, and any lost profits to Landlord resulting therefrom.

22. **Certain Rights Reserved by Landlord.** Provided that the exercise of such rights does not unreasonably interfere with Tenant's occupancy of the Premises, Landlord shall have the following rights:

(a) **Project Operations.** To decorate and to make inspections, repairs, alterations, additions, changes, or improvements, whether structural or otherwise, in and about the Project, or any part thereof; to enter upon the Premises (after giving Tenant reasonable notice thereof, which may be oral notice, except in cases of real or apparent emergency, in which case no notice shall be required) and, during the continuance of any such work, to temporarily close doors, entryways, public space, and corridors in the Project; to interrupt or temporarily suspend Project services and facilities; to change the name of the Project; and to change the arrangement and location of entrances or passageways, doors, and doorways, corridors, elevators, stairs, restrooms, or other public parts of the Project;

(b) **Security.** To take such reasonable measures as Landlord deems advisable for the security of the Project and its occupants; evacuating the Project for cause, suspected cause, or for drill purposes; temporarily denying access to the Project; and closing the Project after normal business hours and on Sundays and holidays, subject, however, to Tenant's right to enter when the Project is closed after normal business hours under such reasonable regulations as Landlord may prescribe from time to time;

(c) **Prospective Purchasers and Lenders.** To enter the Premises at all reasonable hours to show the Premises to prospective purchasers or lenders; and

(d) **Prospective Tenants.** At any time during the last 12 months of the Term (or earlier if Tenant has notified Landlord in writing that it does not desire to renew the Term) or at any time following the occurrence of an Event of Default, to enter the Premises at all reasonable hours to show the Premises to prospective tenants.

23. **Substitution Space.** Landlord may, at Landlord's expense, relocate Tenant within the Project to space which is comparable in size, utility and condition to the Premises. If Landlord relocates Tenant, Landlord shall reimburse Tenant for Tenant's reasonable out-of-pocket expenses for moving Tenant's furniture, equipment, and supplies from the Premises to the relocation space and for reprinting Tenant's stationery of the same quality and quantity as Tenant's stationery supply on hand immediately before Landlord's notice to Tenant of the exercise of this relocation right. Upon such relocation, Landlord's depiction of the relocation space shall be substituted as Exhibit A hereto and such relocation space shall be deemed to be the Premises and the terms of this Lease shall remain in full force and shall apply to the relocation space. No amendment or other instrument shall be necessary to effectuate the relocation contemplated by this Section; however, if requested by Landlord, Tenant shall execute an appropriate

amendment document within ten business days after Landlord's written request therefor. If Tenant fails to execute such relocation amendment within such time period, or if Tenant fails to relocate within the time period stated in Landlord's relocation notice to Tenant (or, if such relocation space is not available on the date specified in Landlord's relocation notice, as soon thereafter as the relocation space becomes available and is tendered to Tenant in the condition required by this Lease), then, in addition to Landlord's other remedies set forth in this Lease, at law and/or in equity, Landlord may terminate this Lease by notifying Tenant in writing thereof at least 60 days prior to the termination date contained in Landlord's termination notice. Time is of the essence with respect to Tenant's obligations under this Section.

24. **Miscellaneous.**

(a) **Landlord Transfer.** Landlord may transfer any portion of the Project and any of its rights under this Lease. If Landlord assigns its rights under this Lease, then Landlord shall thereby be released from any further obligations hereunder arising after the date of transfer, provided that the assignee assumes in writing Landlord's obligations hereunder arising from and after the transfer date.

(b) **Landlord's Liability.** The liability of Landlord (and its partners, shareholders or members) to Tenant (or any person or entity claiming by, through or under Tenant) for any default by Landlord under the terms of this Lease or any matter relating to or arising out of the occupancy or use of the Premises and/or other areas of the Project (including the Common Area) shall be limited to Tenant's actual direct, but not consequential, damages therefor and shall be recoverable only from the interest of Landlord in the Project, and Landlord (and its partners, shareholders or members) shall not be personally liable for any deficiency. The provisions of this Section shall survive any expiration or termination of this Lease. Additionally, Tenant hereby waives its statutory lien under Section 91.004 of the Texas Property Code.

(c) **Force Majeure.** Other than for Tenant's obligations under this Lease that can be performed by the payment of money (e.g., payment of Rent and maintenance of insurance), whenever a period of time is herein prescribed for action to be taken by either party hereto, such party shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, terrorist acts or activities, governmental laws, regulations, or restrictions, quarantine or mandatory closure order enacted in response to a pandemic or other public health crises, or any other causes of any kind whatsoever which are beyond the control of such party and not attributable to its malfeasance, neglect or nonfeasance (each an event of "**Force Majeure**"), provided, that the party complies with the provisions of this paragraph. Specifically, the party asserting Force Majeure shall give prompt notice to the other party of the prevention of performance as soon as the asserting party is reasonably aware of such prevention.

(d) **Brokerage.** Neither Landlord nor Tenant has dealt with any broker or agent in connection with the negotiation or execution of this Lease, other than Bradford Commercial Real Estate Services, whose commission shall be paid by Landlord pursuant to a separate written agreement. Tenant and Landlord shall each indemnify the other against all costs, expenses, attorneys' fees, liens and other liability for commissions or other compensation claimed by any other broker or agent claiming the same by, through, or under the indemnifying party.

(e) **Estoppel Certificates.** From time to time, Tenant shall furnish to any party designated by Landlord, within ten days after Landlord has made a request therefor, a certificate signed by Tenant confirming and containing such factual certifications and representations as to this Lease as Landlord may reasonably request. Unless otherwise required by Landlord's Mortgagee or a prospective purchaser or mortgagee of the Project, the initial form of estoppel certificate to be signed by Tenant is attached hereto as **Exhibit G**. If Tenant does not deliver to Landlord the certificate signed by Tenant within such required time period, Landlord, Landlord's Mortgagee and any prospective purchaser or mortgagee, may conclusively presume and rely upon the following facts: (1) this Lease is in full force and effect; (2) the terms and provisions of this Lease have not been changed except as otherwise represented by Landlord; (3) not more than one monthly installment of Minimum Rent and other charges have been paid in advance; (4) there are no claims against Landlord nor any defenses or rights of offset against collection of Rent or other charges; and (5) Landlord is not in default under this Lease. In such event, Tenant shall be estopped from denying the truth of the presumed facts.

(f) **Notices.** All notices and other communications given pursuant to this Lease shall be in writing and shall be (1) mailed by first class, United States Mail, postage prepaid, certified, with return receipt requested, and addressed to the parties hereto at the address specified in the Basic Lease Information, (2) hand delivered to the intended addressee, (3) sent by a nationally recognized overnight courier service, or (4) sent by facsimile transmission during normal business hours followed by a confirmatory letter sent in another manner permitted hereunder. All notices shall be effective upon delivery to the address of the addressee (even if such addressee refuses delivery thereof). The parties hereto may change their addresses by giving notice thereof to the other in conformity with this provision.

(g) **Severability.** If any clause or provision of this Lease is illegal, invalid, or unenforceable under present or future laws, then the remainder of this Lease shall not be affected thereby and in lieu of such clause or provision, there shall be added as a part of this Lease a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.

(h) **Amendments; Binding Effect; No Electronic Records.** This Lease may not be amended except by instrument in writing signed by Landlord and Tenant. No provision of this Lease shall be deemed to have been waived by Landlord unless such waiver is in writing signed by Landlord, and no custom or practice which may evolve between the parties in the administration of the terms hereof shall waive or diminish the right of Landlord to insist upon the performance by Tenant in strict accordance with the terms hereof. The terms and conditions contained in this Lease shall inure to the benefit of and be binding upon the parties hereto, and upon their respective successors in interest and legal representatives, except as otherwise herein expressly provided. This Lease is for the sole benefit of Landlord and Tenant, and, other than Landlord's Mortgagee, no third party shall be deemed a third party beneficiary hereof.

(i) **Quiet Enjoyment.** Provided Tenant has performed all of its obligations hereunder, Tenant shall peaceably and quietly hold and enjoy the Premises for the Term, without hindrance from Landlord or any party claiming by, through, or under Landlord, but not otherwise, subject to the terms and conditions of this Lease.

(j) **No Merger.** There shall be no merger of the leasehold estate hereby created with the fee estate in the Premises or any part thereof if the same person acquires or holds, directly or indirectly, this Lease or any interest in this Lease and the fee estate in the leasehold Premises or any interest in such fee estate.

(k) **No Offer.** The submission of this Lease to Tenant shall not be construed as an offer, and Tenant shall not have any rights under this Lease unless Landlord executes a copy of this Lease and delivers it to Tenant.

(l) **Entire Agreement.** This Lease constitutes the entire agreement between Landlord and Tenant regarding the subject matter hereof and supersedes all oral statements and prior writings relating thereto. Except for those set forth in this Lease, no representations, warranties, or agreements have been made by Landlord or Tenant to the other with respect to this Lease or the obligations of Landlord or Tenant in connection therewith. The normal rule of construction that any ambiguities be resolved against the drafting party shall not apply to the interpretation of this Lease or any exhibits or amendments hereto.

(m) **Waiver of Jury Trial.** **TO THE MAXIMUM EXTENT PERMITTED BY LAW, LANDLORD AND TENANT EACH WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY LITIGATION OR TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE ARISING OUT OF OR WITH RESPECT TO THIS LEASE OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith OR THE TRANSACTIONS RELATED HERETO.**

(n) **Governing Law.** This Lease shall be governed by and construed in accordance with the laws of the state in which the Premises are located.

(o) **Recording.** Tenant shall not record this Lease or any memorandum of this Lease without the prior written consent of Landlord, which consent may be withheld or denied in the sole and absolute discretion of

Landlord and any recordation by Tenant shall be a material breach of this Lease. Tenant grants to Landlord a power of attorney to execute and record a release releasing any such recorded instrument of record that was recorded without the prior written consent of Landlord.

(p) **Water or Mold Notification.** To the extent Tenant or its agents or employees discover any water leakage, water damage or mold in or about the Premises or Project, Tenant shall promptly notify Landlord thereof in writing.

(q) **Joint and Several Liability.** If Tenant is comprised of more than one party, each such party shall be jointly and severally liable for Tenant's obligations under this Lease. All unperformed obligations of Tenant hereunder not fully performed at the end of the Term shall survive the end of the Term, including payment obligations with respect to Rent and all obligations concerning the condition and repair of the Premises.

(r) **Financial Reports.** Within 15 days after Landlord's request, Tenant will furnish Tenant's most recent audited financial statements (including any notes to them) to Landlord, or, if no such audited statements have been prepared, such other financial statements (and notes to them) as may have been prepared by an independent certified public accountant or, failing those, Tenant's internally prepared financial statements. If Tenant is a publicly traded corporation, Tenant may satisfy its obligations hereunder by providing to Landlord Tenant's most recent annual and quarterly reports. Landlord will not disclose any aspect of Tenant's financial statements that Tenant designates to Landlord as confidential except (1) to Landlord's Mortgagee or prospective mortgagees or purchasers of the Project, (2) in litigation between Landlord and Tenant, and/or (3) if required by court order. Tenant shall not be required to deliver the financial statements required under this Section 24(r) more than once in any 12-month period unless requested by Landlord's Mortgagee or a prospective buyer or lender of the Project or an Event of Default occurs.

(s) **Landlord's Fees.** Whenever Tenant requests Landlord to take any action not required of it hereunder or give any consent required or permitted under this Lease, Tenant will reimburse Landlord for Landlord's reasonable, out-of-pocket costs payable to third parties and incurred by Landlord in reviewing the proposed action or consent, including reasonable attorneys', engineers' or architects' fees, within ten days after Landlord's delivery to Tenant of a statement of such costs. Tenant will be obligated to make such reimbursement without regard to whether Landlord consents to any such proposed action.

(t) **Telecommunications.** Tenant and its telecommunications companies, including local exchange telecommunications companies and alternative access vendor services companies, shall have no right of access to and within the Project, for the installation and operation of telecommunications systems, including voice, video, data, Internet, and any other services provided over wire, fiber optic, microwave, wireless, and any other transmission systems ("**Telecommunications Services**"), for part or all of Tenant's telecommunications within the Project and from the Project to any other location without Landlord's prior written consent. All providers of Telecommunications Services shall be required to comply with the rules and regulations of the Project, applicable Laws and Landlord's policies and practices for the Project. Tenant acknowledges that Landlord shall not be required to provide or arrange for any Telecommunications Services and that Landlord shall have no liability to any Tenant Party in connection with the installation, operation or maintenance of Telecommunications Services or any equipment or facilities relating thereto. Tenant, at its cost and for its own account, shall be solely responsible for obtaining all Telecommunications Services.

(u) **Intentionally Deleted.**

(v) **Authority.** Tenant (if a corporation, partnership or other business entity) hereby represents and warrants to Landlord that Tenant is a duly formed and existing entity qualified to do business in the state in which the Premises are located, that Tenant has full right and authority to execute and deliver this Lease, and that each person signing on behalf of Tenant is authorized to do so, and that Tenant's organizational identification number assigned by the Texas Secretary of State is listed on the signature page of this Lease. Landlord hereby represents and warrants to Tenant that Landlord is a duly formed and existing entity qualified to do business in the state in which the Premises are located, that Landlord has full right and authority to execute and deliver this Lease, and that each person signing on behalf of Landlord is authorized to do so.

(w) **Hazardous Materials.** The term "**Hazardous Materials**" means any substance, material, or waste which is now or hereafter classified or considered to be hazardous, toxic, or dangerous under any Law relating to pollution or the protection or regulation of human health, natural resources or the environment, or poses or threatens to pose a hazard to the health or safety of persons on the Premises or in the Project. Tenant shall not use, generate, store, or dispose of, or permit the use, generation, storage or disposal of Hazardous Materials on or about the Premises or the Project except in a manner and quantity necessary for the ordinary performance of Tenant's business, and then in compliance with all Laws. If Tenant breaches its obligations under this Section 24(w), Landlord may immediately take any and all action reasonably appropriate to remedy the same, including taking all appropriate action to clean up or remediate any contamination resulting from Tenant's use, generation, storage or disposal of Hazardous Materials. Notwithstanding anything contained in Section 10(d), Tenant shall defend, indemnify, and hold harmless Landlord and its representatives and agents from and against any and all claims, demands, liabilities, causes of action, suits, judgments, damages and expenses (including reasonable attorneys' fees and cost of clean-up and remediation) arising from Tenant's failure to comply with the provisions of this Section 24(w). This indemnity provision shall survive termination or expiration of this Lease.

(x) **List of Exhibits.** All exhibits and attachments attached hereto are incorporated herein by this reference.

- Exhibit A - Outline of Premises
- Exhibit B - Description of the Land
- Exhibit C - Common Area Costs
- Exhibit D - Tenant Finish-Work
- Exhibit E - Project Rules and Regulations
- Exhibit F - Form of Confirmation of Commencement Date Letter
- Exhibit G - Form of Tenant Estoppel Certificate
- Exhibit H - *Reserved*
- Exhibit I - *Reserved*
- Exhibit J - Sign Criteria
- Exhibit K - HVAC Policy
- Exhibit J - Pet Policy

(y) **Determination of Charges.** Landlord and Tenant agree that each provision of this Lease for determining charges and amounts payable by Tenant (including provisions regarding Additional Rent and Tenant's Proportionate Share of Taxes and Electrical Costs) is commercially reasonable and, as to each such charge or amount, constitutes a statement of the amount of the charge or a method by which the charge is to be computed for purposes of Section 93.012 of the Texas Property Code.

(z) **Prohibited Persons and Transactions.** Tenant represents and warrants to Landlord that Tenant is currently in compliance with and shall at all times during the Term (including any extension thereof) remain in compliance with the regulations of the OFAC of the Department of the Treasury (including those named on OFAC's Specially Designated Nationals and Blocked Persons List) and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit or Support Terrorism), or other governmental action relating thereto.

(aa) **No Invasive Testing.** Tenant shall not undertake, nor shall Tenant permit any Tenant Party to undertake, any invasive investigation, drilling or sampling of the soil or groundwater at the Project without the prior written consent of Landlord, which consent shall be in Landlord's sole discretion.

(bb) **Counterparts; Electronic Signature.** This Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which shall constitute one document. This Lease may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. For these purposes, "electronic signature" shall mean electronically scanned and transmitted versions (e.g., via pdf file) of an original signature, signatures electronically inserted and verified by software such as DocuSign, or faxed versions of an original signature.

**[Remainder of Page Intentionally Blank]**



LANDLORD AND TENANT EXPRESSLY DISCLAIM ANY IMPLIED WARRANTY THAT THE PREMISES ARE SUITABLE FOR TENANT'S INTENDED COMMERCIAL PURPOSE, AND TENANT'S OBLIGATION TO PAY RENT HEREUNDER IS NOT DEPENDENT UPON THE CONDITION OF THE PREMISES OR THE PERFORMANCE BY LANDLORD OF ITS OBLIGATIONS HEREUNDER, AND, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, TENANT SHALL CONTINUE TO PAY THE RENT, WITHOUT ABATEMENT, DEMAND, SETOFF OR DEDUCTION, NOTWITHSTANDING ANY BREACH BY LANDLORD OF ITS DUTIES OR OBLIGATIONS HEREUNDER, WHETHER EXPRESS OR IMPLIED.

This Lease is executed on the respective dates set forth below, but for reference purposes, this Lease shall be dated as of the date first above written. If the execution date is left blank, this Lease shall be deemed executed as of the date first written above.

**LANDLORD:**

KENNINGTON PARKWAY, LTD.,  
a Texas limited partnership,  
d/b/a Kennington Commercial

By: \_\_\_\_\_  
Clayton Kennington,  
Authorized Representative

Execution Date: \_\_\_\_\_

**TENANT:**

TOWN OF ADDISON, TEXAS,  
a home rule municipal corporation of the State of Texas

By: \_\_\_\_\_  
David Gaines,  
City Manager

Execution Date: \_\_\_\_\_



**EXHIBIT B**

**DESCRIPTION OF THE LAND**

Being a 355,960 square feet or a 8.1717 acre tract of land situated in the G. W. Fisher Survey, Abstract No. 482, Dallas County, Texas and being all of Lot 1, Block A of Parkway Business Center I, an addition to the Town of Addison, Dallas County, Texas according to the map thereof recorded in Volume 81237, Page 1939, Map Records of Dallas County, Texas, said tract conveyed to Kennington No. 1 Limited Partnership by deed recorded in Volume 95096, Page 861, Deed Records of Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a found "x" cut on concrete for a corner at the intersection of the west line of Quorum Drive (an 80 foot right of way) with the north line of Airport Parkway (a 55 foot right of way), said point being the southeast corner of said Parkway Business Center I;

THENCE, N 89° 37' 15" W, with the north line of Airport Parkway, a distance 400.00 feet to a found 1/2 inch iron rod for a corner, said point being the southwest corner of said Parkway Business Center I and said point being the southeast corner Lot 1 of Federal Express Addition as conveyed to HRC Ranch, Ltd. by deed recorded in Volume 98167, Page 2422, Deed Records of Dallas County, Texas;

THENCE, N 00° 22' 45" E, departing the north line of Airport Parkway and with the west line of said Parkway Business Center I and the east line of said Lot 1 Federal Express Addition, passing at a called distance of 566.0 feet the northeast corner of said Lot 1, Federal Express Addition and the southeast corner of Lot 1, Block A of Addison Road Keller Springs Road Addition as conveyed to Tritex Management LP by deed recorded in Volume 2004075, Page 11876, Deed Records of Dallas County, Texas, continuing in all a distance of 889.90 feet to a found 1/2 inch iron rod for a corner in the south line of Keller Springs Road (a 60 foot right of way), said point being the northwest corner of said Parkway Business Center I;

THENCE, S 89° 37' 15" E, with the south line of Keller Springs Road, a distance of 400.00 feet to a found "x" on concrete for a corner at the intersection of the south line of Keller Springs Road with the west line of Quorum Drive, said point being the northeast corner of said Parkway Business Center I;

THENCE, S 00° 22' 45" W, with the west line of Quorum Drive, a distance of 889.90 feet to the Point of Beginning.

**EXHIBIT C**

**COMMON AREA COSTS**

1. All expenses related to the ownership, operation, maintenance, management (including management fees), equipping, repair or security of the Project, including salaries, taxes (if applicable), insurance, and employee benefits;
2. All supplies and materials used in the operation, maintenance or repair of the Project, including any exterior landscaping and holiday decorations;
3. Costs of utilities for the Common Area of the Project, including the cost of water and power for heating, lighting, air conditioning and ventilating, and operating fountains;
4. All expenses related to the repair, service, or maintenance of the Project and the equipment therein, including roof repairs and replacement, window cleaning, plumbing and electrical repair, HVAC and sprinkler system maintenance and repair, signage maintenance and repair, pest control, plate glass repair and replacement, elevator maintenance and janitorial service;
5. All capital expenditures related to the ownership, operation, maintenance and repair of the Project, including those incurred to effect a reduction in the operating expenses of the Project or which relate to a capital item installed pursuant to any Law, reserves for replacement of capital items and depreciation of machinery and equipment used in connection with the Project and its maintenance; and
6. Costs of cleaning, landscaping, snow and ice removal, painting, policing, providing security (if Landlord elects to provide security), fire protection, drainage, striping, repair and replacement of parking surfaces, and of complying with Laws enacted or effective after the date hereof (or interpretations hereafter rendered with respect to any existing Law).

## EXHIBIT D

### TENANT FINISH-WORK: WORK OF LIMITED SCOPE (NO PLANS)

(Landlord Performs the Work)

1. **Acceptance of Premises.** Except as set forth in this Exhibit, Tenant accepts the Premises in their "AS-IS" condition on the date that this Lease is entered into.

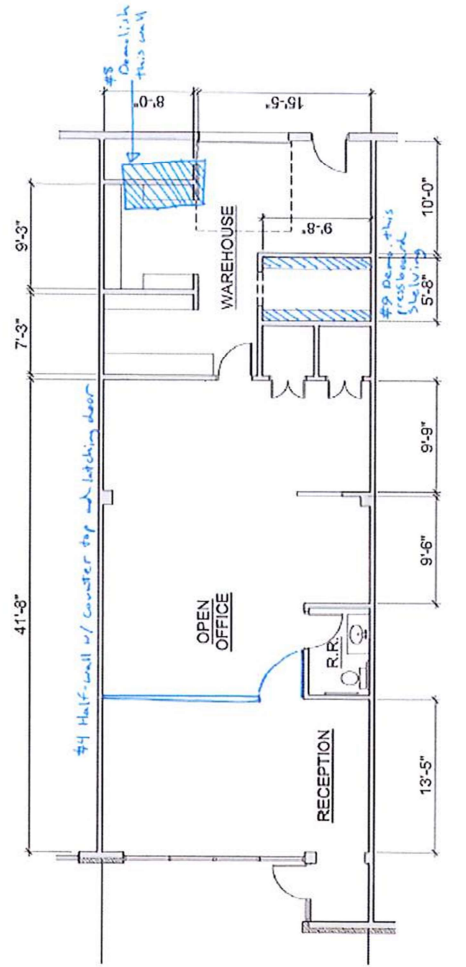
2. **Scope of Work.** Landlord at its expense, but not to exceed \$15,000.00, shall perform the following work in the Premises according to such standards and using such types and quantities of materials as Landlord deems standard for the Project, as depicted on Schedule 1 (the "**Work**"):

- Patch nail holes and gouges in the walls in the Premises.
- Clean or replace air vent covers.
- Replace the missing fire extinguisher for fire code compliance.
- Install a half-wall with a small counter-top in the front entry of the Premises with swinging half-door.
- Remove swinging doors, interior mirrors, and shelving/hangar bar on the twin closets.
- Repaint and repair the drywall of the rear storage bay and install rubber baseboard trim.
- Cap and conceal the exposed/bare wire hanging above the storage bay door, front window, and main entryway of the Premises.
- Demo wall in rear storage area that protrudes into vehicle bay.
- Demo pressboard shelving in storage closet in rear storage area.
- Replace any damaged or discolored ceiling tiles.

In the event the Work exceeds \$15,000.00, such excess costs shall be paid solely by Tenant. Upon Substantial Completion of the Work and before Tenant occupies the Premises to conduct business therein, Tenant shall pay to Landlord an amount equal to the excess costs. In the event of default of payment of such excess costs, Landlord (in addition to all other remedies) shall have the same rights as for an Event of Default under this Lease.

3. **Definitions.** As used herein, a "**Tenant Delay Day**" means each day of delay in the performance of the Work that occurs (a) because Tenant fails to timely furnish any information or deliver or approve any required documents, or (b) because a Tenant Party otherwise delays completion of the Work. As used herein "**Substantial Completion**," "**Substantially Completed**," and any derivations thereof mean the Work in the Premises is substantially completed (as reasonably determined by Landlord). Substantial Completion shall have occurred even though minor details of construction, decoration, landscaping and mechanical adjustments remain to be completed.

Schedule 1



## EXHIBIT E

### PROJECT RULES AND REGULATIONS

The following rules and regulations shall apply to Tenant's use of Premises and the Project, and the appurtenances thereto:

1. Tenant shall not at any time occupy any part of the Building as sleeping or lodging quarters.
2. Tenant shall not place or use in or about Premises any explosives, gasoline, kerosene, oil, acids, caustics or any other inflammable, explosive or hazardous material without prior written consent of Landlord.
3. Landlord will not be responsible for lost or stolen personal property, equipment, money or jewelry from Tenant's area or public rooms regardless of whether such loss occurs when area is locked against entry or not.
4. No fowl or animals shall be brought in or about the Building except as expressly set forth in the Lease.
5. Landlord will not permit entrance to Tenant's offices by use of pass key controlled by Landlord to any person at any time without written permission by Tenant, except employees, contractors or service personnel directly supervised or employed by Landlord.
6. The landscaping, dumpsters, parking lots, sides of buildings, entry ways, doors, passages, and fire lanes are not to be blocked by any objects, including but not limited to cars, trucks, moving vans, debris, boxes or other objects. None of these areas shall be blocked or obstructed by any rubbish, litter, trash or material of any nature placed, emptied or thrown into these areas. Such areas shall not be used at any time except for access or egress by Tenant, Tenant's agents, employees or invitees.
7. The water closest and other water fixtures shall not be used for any purpose other than those for which they were constructed and any damage resulting to them from misuse or the defacing or injury of any part of the Building shall be borne by the person who shall occasion it. No person shall waste water by interfering with the faucets or otherwise. Tenant agrees to promptly notify Landlord of all leaks.
8. No person shall disturb the occupants of the building by the use of any musical instruments, radios, electronic equipment, the making of unseemly noises or other unreasonable use.
9. Tenant shall at least twice a year have the heating, ventilation and/or air conditioning system(s) completely checked out and repaired if necessary. Additionally, the Tenant shall have the filters on said system(s) changed at least on a quarterly basis.
10. Tenant will provide for his own trash pick-up and removal, except in a multi-Tenant building, Landlord shall have the option to have it done and Tenant agrees to pay his pro rata share. In a multi-Tenant building Landlord reserves the right to determine if a Tenant uses more than his/her fair share of the dumpster and to increase the CAM charge accordingly. No Tenant shall bring off-site refuse to the common area dumpster.
11. Tenant shall not conduct or operate within or about the Premises any (1) fire, auction, bankruptcy or "going out of business" sales, (2) a "wholesale" or "factory outlet" store, (3) a cooperative store, (4) a "second hand" store, (5) a "flea market" store, (6) a "surplus" store, or (7) a store commonly referred to as a "discount house." Tenant shall not advertise that it sells products or services at "discount," "cut-price" or "cut-rate" prices.
12. Tenant shall not (A) permit any objectionable or unpleasant odors to emanate from the Premises; (B) place or permit any radio, television, loudspeaker or amplifier on the roof or outside the Premises or where the same can be seen or heard from outside the Building or in the Common Area; (C) place an antenna, awning or other projection on the exterior of the Premises; (D) solicit business or distribute leaflets or other advertising material in the Common Area; (E) take any other action that would constitute a nuisance or would disturb or endanger other tenants

of the Project or unreasonably interfere with their use of their respective premises; or (F) do anything that would tend to injure the reputation of the Project.

13. The Common Area shall not be obstructed by Tenant or used for purposes other than parking, ingress and egress to and from the Premises and for going from one to another part of the Project.

14. Plumbing, fixtures and appliances shall be used only for the purposes for which designed, and no sweepings, rubbish, rags or other unsuitable material shall be thrown or deposited therein. Damage resulting to any such fixtures or appliances from misuse by Tenant or its agents, employees or invitees, shall be paid by Tenant.

15. No signs, advertisements or notices shall be painted or affixed on or to any windows or doors or other part of the Project without the prior written consent of Landlord. No nails, hooks or screws shall be driven or inserted in any part of the Project except by Project maintenance personnel.

16. Landlord shall provide all door locks in Tenant's Premises, at the cost of Tenant, and Tenant shall not place any additional door locks in the Premises without Landlord's prior written consent. Landlord shall furnish to Tenant a reasonable number of keys to Tenant's Premises, at Tenant's cost, and Tenant shall not make duplicates thereof.

17. Tenant shall not make or permit any vibration or improper, objectionable or unpleasant noises or odors in the Project or otherwise interfere in any way with other tenants or persons having business with them.

18. No machinery of any kind (other than normal office equipment) shall be operated by Tenant without Landlord's prior written consent, nor shall Tenant use or keep in the Project any flammable or explosive fluid or substance.

19. Landlord will not be responsible for lost or stolen personal property, money or jewelry from a tenant's premises or public or common areas regardless of whether such loss occurs when the area is locked against entry or not.

20. No vending or dispensing machines of any kind may be maintained in any leased premises without the prior written permission of Landlord.

21. Tenant shall not conduct any activity on or about the Premises or Project which will draw pickets, demonstrators, or the like.

22. Tenant agrees not to abuse the parking rights as provided by the building. Accordingly, the parking of cars of Tenant's personnel will not interfere with the operation of other occupants in this Building.

23. No tenant may enter into phone rooms, electrical rooms, mechanical rooms, or other service areas of the Project unless accompanied by Landlord or the Project manager.

24. Tenant will not permit any Tenant Party to bring onto the Project any handgun, firearm or other weapons of any kind, illegal drugs or, unless expressly permitted by Landlord in writing, alcoholic beverages.



**EXHIBIT F**

**CONFIRMATION OF COMMENCEMENT DATE**

\_\_\_\_\_, \_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*[TENANT'S ADDRESS]*

Re: Lease Agreement (the "**Lease**") dated \_\_\_\_\_, 20\_\_, between KENNINGTON PARKWAY, LTD., a Texas limited partnership, d/b/a Kennington Commercial ("**Landlord**"), and \_\_\_\_\_, a \_\_\_\_\_ ("**Tenant**"). Capitalized terms used herein but not defined shall be given the meanings assigned to them in the Lease.

Ladies and Gentlemen:

Landlord and Tenant agree as follows:

1. **Condition of Premises.** Tenant has accepted possession of the Premises pursuant to the Lease. Any improvements required by the terms of the Lease to be made by Landlord have been completed to the full and complete satisfaction of Tenant in all respects except for the punchlist items described on Exhibit A hereto (the "**Punchlist Items**"), and except for such Punchlist Items, Landlord has fulfilled all of its duties under the Lease with respect to such initial tenant improvements. Furthermore, Tenant acknowledges that the Premises are suitable for the Permitted Use.

2. **Commencement Date.** The Commencement Date of the Lease is \_\_\_\_\_, 20\_\_.

3. **Expiration Date.** The Term is scheduled to expire on the last day of the \_\_\_th full calendar month of the Term, which date is \_\_\_\_\_, 20\_\_.

4. **Contact Person.** Tenant's contact person in the Premises is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

Telephone: \_\_\_\_ - \_\_\_\_ - \_\_\_\_\_

Telecopy: \_\_\_\_ - \_\_\_\_ - \_\_\_\_\_

5. **Ratification.** Tenant hereby ratifies and confirms its obligations under the Lease, and represents and warrants to Landlord that it has no defenses thereto. Additionally, Tenant further confirms and ratifies that, as of the date hereof, (a) the Lease is and remains in good standing and in full force and effect, and (b) Tenant has no claims, counterclaims, set-offs or defenses against Landlord arising out of the Lease or in any way relating thereto or arising out of any other transaction between Landlord and Tenant.

6. **Binding Effect; Governing Law.** Except as modified hereby, the Lease shall remain in full effect and this letter shall be binding upon Landlord and Tenant and their respective successors and assigns. If any inconsistency exists or arises between the terms of this letter and the terms of the Lease, the terms of this letter shall prevail. This letter shall be governed by the laws of the state in which the Premises are located.

Please indicate your agreement to the above matters by signing this letter in the space indicated below and returning an executed original to us.

Sincerely,

KENNINGTON PARKWAY, LTD.,  
a Texas limited partnership, d/b/a Kennington Commercial

By: \_\_\_\_\_  
Clayton Kennington,  
Authorized Representative

Agreed and accepted:

***[TENANT'S SIGNATURE BLOCK]***

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**

**PUNCHLIST ITEMS**

Please insert any punchlist items that remain to be performed by Landlord. If no items are listed below by Tenant, none shall be deemed to exist.

**EXHIBIT G**

**FORM OF TENANT ESTOPPEL CERTIFICATE**

The undersigned is the Tenant under the Lease (defined below) between \_\_\_\_\_, a \_\_\_\_\_, as Landlord, and the undersigned as Tenant, for the Premises in the Project located at \_\_\_\_\_, \_\_\_\_\_ and commonly known as \_\_\_\_\_, and hereby certifies as follows:

1. The Lease consists of the original Lease Agreement dated as of \_\_\_\_\_, 20\_\_\_\_, between Tenant and Landlord[*'s predecessor-in-interest*] and the following amendments or modifications thereto (if none, please state "none"):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The documents listed above are herein collectively referred to as the "Lease" and represent the entire agreement between the parties with respect to the Premises. All capitalized terms used herein but not defined shall be given the meaning assigned to them in the Lease.

2. The Lease is in full force and effect and has not been modified, supplemented or amended in any way except as provided in Section 1 above.

3. The Term commenced on \_\_\_\_\_, \_\_\_\_\_ and the Term expires, excluding any renewal options, on \_\_\_\_\_, 20\_\_\_\_, and Tenant has no option to purchase all or any part of the Premises or the Project or, except as expressly set forth in the Lease, any option to terminate or cancel the Lease.

4. Tenant currently occupies the Premises described in the Lease and Tenant has not transferred, assigned, or sublet any portion of the Premises nor entered into any license or concession agreements with respect thereto except as follows (if none, please state "none"):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

All monthly installments of Minimum Rent, all Additional Rent and all monthly installments of estimated Additional Rent have been paid when due through \_\_\_\_\_. The current monthly installments of Minimum Rent and Additional Rent are:

Minimum Rent	\$ _____
Common Area Costs	_____
Insurance Costs	_____
Taxes	_____
Total	\$ _____

5. All conditions of the Lease to be performed by Landlord necessary to the enforceability of the Lease have been satisfied and Landlord is not in default thereunder. In addition, Tenant has not delivered any notice to Landlord regarding a default by Landlord thereunder.

6. As of the date hereof, there are no existing defenses or offsets, or, to the undersigned's knowledge, claims or any basis for a claim, that the undersigned has against Landlord and no event has occurred and no condition exists, which, with the giving of notice or the passage of time, or both, will constitute a default under the Lease.

7. No rental has been paid more than 30 days in advance and no security deposit has been delivered to Landlord except as provided in the Lease.

8. If Tenant is a corporation, partnership or other business entity, each individual executing this Estoppel Certificate on behalf of Tenant hereby represents and warrants that Tenant is a duly formed and existing entity qualified to do business in the state in which the Premises are located and that Tenant has full right and authority to execute and deliver this Estoppel Certificate and that each person signing on behalf of Tenant is authorized to do so.

9. There are no actions pending against Tenant under any bankruptcy or similar laws of the United States or any state.

10. Other than in compliance with all applicable laws and incidental to the ordinary course of the use of the Premises, the undersigned has not used or stored any hazardous substances in the Premises.

11. Tenant is not itself, and is not directly or indirectly owned, controlled or supported by, a "Specially Designated National" or otherwise designated as a blocked person under any regulation of the Office of Foreign Assets Control, U.S. Department of Treasury (see: [www.ustreas.gov/offices/enforcement/OFAC](http://www.ustreas.gov/offices/enforcement/OFAC)).

12. All tenant improvement work to be performed by Landlord under the Lease has been completed in accordance with the Lease and has been accepted by the undersigned and all reimbursements and allowances due to the undersigned under the Lease in connection with any tenant improvement work have been paid in full.

Tenant acknowledges that this Estoppel Certificate may be delivered to Landlord, Landlord's Mortgagee or to a prospective mortgagee or prospective purchaser, and their respective successors and assigns, and acknowledges that Landlord, Landlord's Mortgagee and/or such prospective mortgagee or prospective purchaser will be relying upon the statements contained herein in disbursing loan advances or making a new loan or acquiring the property of which the Premises are a part and that receipt by it of this certificate is a condition of disbursing loan advances or making such loan or acquiring such property.

Executed as of \_\_\_\_\_.

**TENANT:**

\_\_\_\_\_,  
a \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT H**

**RESERVED**

**EXHIBIT I**

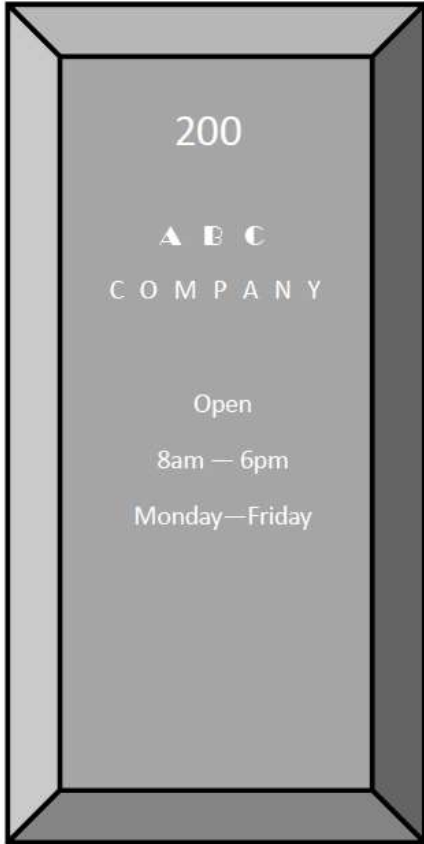
**RESERVED**

**EXHIBIT J**

**SIGN CRITERIA**

**FRONT DOOR SIGNAGE**

1. DOOR AND ADDRESS SIGNAGE 3” tall white die cut vinyl letters above door



**SUBMITTAL FOR APPROVAL**

1. Prior to awarding a contract for fabrication and installation, Tenant shall submit three (3) sealed drawings for final review and approval to:

Clayton Kennington  
4514 Travis Street  
Suite 312  
Dallas, Texas 75205  
214 599 -9996  
[www.kenningtoncommercial.com](http://www.kenningtoncommercial.com)

**PERMITS**

All City permits and approval from the Landlord are required prior to sign fabrication.

*TENANT MUST PROVIDE A COPY OF EXHIBIT J TO ITS SIGN CONTRACTOR*



## WINDOW SIGNAGE

Exposed neon tubing is not permitted along with sale signs, advertising signs, posters, hiring or any other signage without approval from the Landlord. Tenant shall not apply any other signs to the interior or exterior face of the storefront glass or other materials, unless specifically permitted in the lease.

## SPECIFICATIONS

### **Introduction**

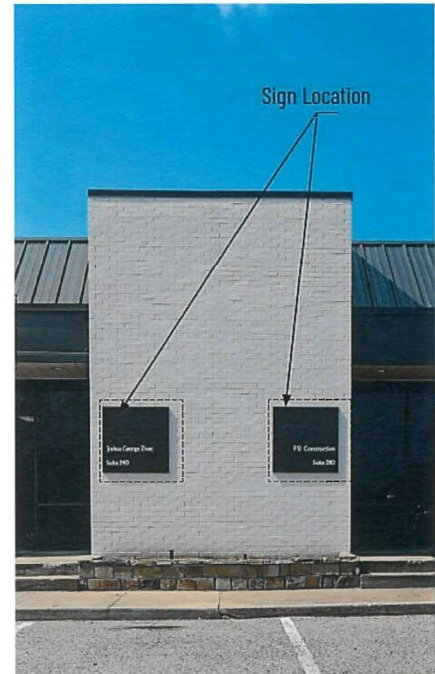
Tenant signage shall be designed to compliment the overall storefront and general building design as well as the broader design goals of the development. This Tenant Sign Criteria Manual establishes standards of first class quality and design that will ensure compatibility of Tenant signage with the development's architecture and character. The Tenant Sign Criteria establishes criteria for consistency and uniformity of tenant signage throughout the development.

### **Landlord's Approval**

All Tenant signs are subject to prior written approval by Landlord. Landlord reserves the right to reject any signage which, in Landlord's sole opinion, is inappropriate for this development. All work related to the Tenant signs will be at Tenant's sole cost.

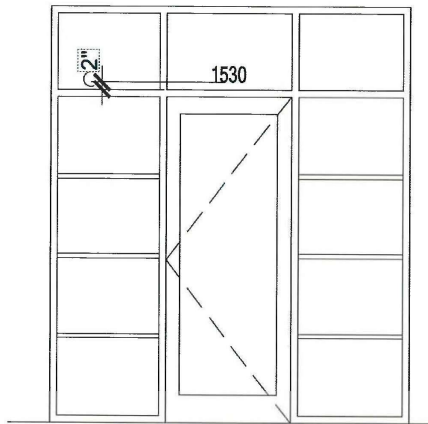
### **Signage Locations**

Signs are already installed and are parallel to and directly next to the storefront within the limits of Tenants demised premises. Additional wall signs are not permitted.

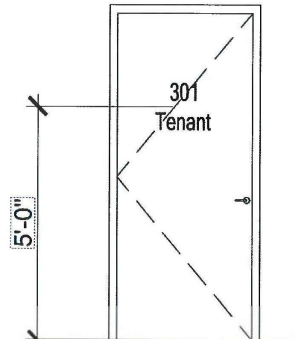


*TENANT MUST PROVIDE A COPY OF EXHIBIT J TO ITS SIGN CONTRACTOR*

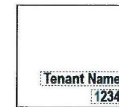
EXHIBIT J, Sign Criteria – Page J-2  
4863-9214-1375v.5 018974.00182



**TYPICAL STOREFRONT SUITE NUMBER**



**TYPICAL SERVICE DOOR SIGN**



**TYPICAL TENANT DIRECTORY SIGN**

**TENANT SERVICE DOOR**

Each Tenant shall be permitted to install lettering on the rear service door to their premises. Service door signs shall be limited to the following:

1. Three-inch tall, vinyl, die-cut letters directly adhered to the door with adhesive.
2. Font: Helvetica
3. Color: White
4. Copy is limited to the suite number and Tenant name only. Tenant logos are not permitted.

**TENANT SUITE NUMBERS**

Each Tenant shall install suite numbers on the storefront glass at the transom above their primary entrance door identifying the suite number for their premises. Suite numbers shall be limited to the following:

1. Four-inch tall, vinyl, die-cut letters directly adhered to the glass with adhesive.
2. Font: Helvetica
3. Color: White
4. Copy is limited to the suite number only.

**TENANT SIGN PLATE**

All tenant directory sign will be ordered and installed by Signarama located at 14430 Midway Road, Dallas.

Contact: Jennifer Ishmael  
 Jennifer@signaramadallas.com  
 972-361-0700

Tenant logos or other text is not permitted. Exceptions to these requirements will not be permitted.

Address for Signage Document(s) Submission:

Attn: Salli Such, Director of Property Management  
 Kennington Commercial  
 4514 Travis Street  
 Suite 312  
 Dallas, Texas 75205

*TENANT MUST PROVIDE A COPY OF EXHIBIT J TO ITS SIGN CONTRACTOR*

EXHIBIT J, Sign Criteria – Page J-3  
 4863-9214-1375v.5 018974.00182

**EXHIBIT K**

**HVAC POLICY**

Landlord’s obligations with respect to any HVAC units serving the Premises pursuant to this Lease are subject to this HVAC Policy and are, in all events, expressly conditioned upon Tenant’s maintenance of a quarterly HVAC Maintenance Agreement with an HVAC maintenance company acceptable to Landlord throughout the Term of the Lease and any extensions or renewals thereof.

Should Tenant fail to obtain or maintain the quarterly HVAC Maintenance Agreement or should the same otherwise lapse for any reason, then the below HVAC policy shall be void and Tenant shall be solely responsible for all costs for repair, maintenance, and/or replacement of any HVAC units serving the Premises. Notwithstanding anything to the contrary contained in this Lease or this Exhibit, Tenant shall be solely responsible for the cost of the quarterly HVAC Maintenance Agreement as well as the cost of normal wear and tear of the HVAC units serving the Premises.

1 <sup>st</sup> year of initial lease term		Landlord shall pay all costs for all repairs and/or replacements beyond normal wear and tear, as determined by Landlord.
After 1 <sup>st</sup> year of initial lease term, in addition to costs associated with the quarterly HVAC Maintenance Agreement, Tenant’s obligations with respect to HVAC repair and/or replacement shall be as follows:		
Age of Unit	1-10 years	Landlord and Tenant will equally share the cost of repairs and replacements of major components of any HVAC unit serving the Premises, as determined by Landlord. “Major components” are defined as: <ol style="list-style-type: none"><li>1. Heat Exchanger</li><li>2. Blower Motor</li><li>3. Combustion Chamber</li><li>4. Condenser Coil/Compressor</li><li>5. Evaporator Coil</li></ol> Tenant shall pay all other costs for any other HVAC repairs; provided, however, in no event shall Tenant’s costs for repairs and replacements hereunder exceed \$9,500/unit per year.
	11-13 years	Tenant’s costs for repairs and replacements beyond normal wear and tear shall not exceed \$2,500/unit per year.
	14-16 years	Tenant’s costs for repairs and replacements beyond normal wear and tear shall not exceed \$1,500/unit per year.
	17-19 years	Tenant’s costs for repairs and replacements beyond normal wear and tear shall not exceed \$1,000/unit per year.
	20+ years	Tenant pays only costs associated with normal wear and tear.
If an HVAC unit serving the Premises is replaced or a new HVAC unit is installed at any after the Lease Date:		Tenant is responsible for 100% of the costs for repairs and replacements to such replaced or new HVAC unit throughout the Term of the Lease and any extensions or renewals thereof.

**EXHIBIT L**

**PET POLICY**

Tenant acknowledges that Landlord is willing to allow certain stray or abandoned dogs, cats, and other small household pets (the “**Allowed Pets**”) in the Premises and to allow limited access for such pets into the Project and through the Building to the Premises as a privilege which is subject to Tenant’s compliance with the requirements of this Exhibit. Landlord may revoke or modify the Pet Policy set forth in this Exhibit at any time in Landlord’s discretion. Landlord wishes to accommodate Tenant’s desire to allow certain animals into the Premises, however, the strict guidelines and requirements of this Exhibit must be adhered to by Tenant and any Tenant Party. The Allowed Pets are the only animals that Tenant may bring on the Project, in the Building or in the Premises.

1. Tenant shall be responsible for ensuring that the sound from the Allowed Pets does not interfere with or cause a nuisance to other tenants in the Project. In the event, in Landlord’s commercially reasonable discretion, the Allowed Pets cause interference with or a nuisance to other tenants in the Project, Tenant shall be responsible for sound proofing the Premises, at its sole cost and expense, subject to Landlord’s approval of the plans and specifications for such sound proofing. Any work required to be performed by Tenant under this Section shall be subject to Section 7 of the Lease.

2. Only the Allowed Pets will be allowed into the Building or the Premises. Tenant shall inform its employees and visitors that no pets are allowed into the Building other than the Allowed Pets. At no one time shall the number of Allowed Pets in the Building and/or the Premises exceed a total of ten (10). Notwithstanding the foregoing, up to twenty (20) Allowed Pets will be permitted in the Building and/or Premises during pet adoption events.

3. The Allowed Pets shall not be permitted anywhere in the Building other than the Premises, with the exception of walking through the Building in order to have access to and from the Premises.

4. The Allowed Pets shall be immunized and appropriately treated to prevent fleas, ticks and other parasites.

5. Allowed Pets shall be strictly controlled at all times and shall not be permitted to foul, damage or otherwise mar any part of the Project (including the Premises) or cause excessively loud noise outside of the Premises whether through barking, growling or otherwise. Pet odors and/or poor behavior (e.g., aggression, loud barking, etc.) will not be tolerated from any Allowed Pet and any pet exhibiting such behavior will be barred from entering the Project or the Building in the future.

6. Allowed Pets shall not be left unattended in the Premises and while outside the Premises (i.e., in any Common Areas of the Project), the Allowed Pets shall be kept on leashes at all times.

7. Tenant shall be responsible for any additional cleaning, repair and replacement costs and all other costs which may arise from the Allowed Pets’ presence in the Project in excess of the costs that would have been incurred had the Allowed Pets not been allowed in or around the Project.

8. Tenant shall immediately remove or clean up any pet waste including, without limitation, excrement or wet spots, from the Premises, the Building and the Project, and shall reimburse Landlord for restoration or replacement of the damaged or soiled property. Landlord shall have the right to utilize special cleaning services to remedy any such soiling or damage and Tenant shall reimburse Landlord for 100% of the cost of such services as Additional Rent under the Lease.

9. In addition to the indemnities contained in the Lease, Tenant shall be liable for, and hereby agrees to indemnify, defend and hold Landlord and its agents and representatives harmless from and against any and all claims, demands, causes of action, suits, judgments, damages and expenses (including attorneys' fees) arising from any and all acts (including but not limited to biting and causing bodily injury to, or damage to the property of, another tenant, subtenant, occupant, licensee, invitee or an employee of Landlord or its agents or representatives or to any other pet) of, or the presence of, the Allowed Pets in or about the Premises, the Building or the Project. In the event

that any Allowed Pet bites or otherwise injures any person or any other animal, Tenant must immediately cause the removal of such Allowed Pet from the Project, and in no event thereafter shall the Allowed Pet which caused the injury ever be brought to or kept at the Premises or the Project.

10. In addition to the indemnities contained in the Lease, Tenant shall be responsible for, and indemnify, defend, protect and hold Landlord and its agents and representatives harmless from and against any and all costs to remedy any and all damages caused to the Building, the Project, or any portion thereof, or to the premises or property of any occupant or visitor to the Building or the Project by an Allowed Pet. Landlord shall not be responsible in any way for the welfare of any Allowed Pet.

11. Tenant shall comply with all Laws associated with or governing the presence of a dog within the Premises and/or the Building and such presence shall not violate the certificate of occupancy for the Building or the Premises.