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**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego  
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Clerk of the Superior Court  
By Fernando Gonzalez, Deputy Clerk

8 Attorneys for Plaintiff

9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF SAN DIEGO

12 GEORGE S. LOUIS, an individual,  
13 Plaintiff,

14 vs.

15 JOHN W. RICKARDS, an individual, MARY L.  
16 RICKARDS, an individual, SINNER  
17 BROTHERS, INC., a California corporation, and  
18 DOES 1-50 (inclusive).  
19 Defendants,

CASE NO. 37-2023-00015974-CU-  
CO-CTL

SECOND AMENDED COMPLAINT  
FOR:

- 1. BREACH OF CONTRACT
- 2. QUANTUM MERUIT
- 3. UNJUST ENRICHMENT

Demand for a Jury Trial

UNLIMITED CIVIL TRIAL

20 UNLIMITED CIVIL MATTER  
21

22 PLAINTIFF GEORGE S. LOUIS ("Plaintiff") hereby complains against JOHN  
23 RICKARDS, MARY L. RICKARDS, SINNER BROTHERS, INC., and DOES 1 through  
24 50, (collectively, "Defendants"), and each of them, and alleges as follows:

25 **INTRODUCTION**

26 1. This is an action to vindicate Plaintiff's dignity and carefully cultivated  
27 reputation as a hardworking, loyal attorney in the San Diego community. Plaintiff seeks  
28 redress for substantial unpaid attorneys' fees resulting from months of exhausting work.

1           2.       Plaintiff served as legal counsel on an emergency basis for the John  
2 Rickards, Mary Rickards, and their company, Sinner Brothers, Inc. (“Rickards  
3 Defendants”), through a delicate situation against sophisticated counterparties. When it  
4 came time to discuss the payment of Plaintiff’s fees, the Rickards Defendants continually  
5 delayed any conversation of that topic and now refuse to engage in negotiations at all with  
6 Plaintiff. Defendants stonewalled Plaintiff even after receiving a windfall from Plaintiff’s  
7 negotiation of the sale of their multi-million dollar commercial property to those  
8 counterparties.

9           3.       Seeking to help a childhood friend, Plaintiff undertook significant effort to  
10 protect the Rickards Defendants’ interests at a critical time. Years later, Plaintiff now has  
11 no choice but to perform the distasteful undertaking of suing his former clients and one of  
12 his oldest friends.

13                           **THE PARTIES, VENUE, AND JURISDICTION**

14           4.       Plaintiff George S. Louis is an individual and a resident of the County of  
15 San Diego.

16           5.       Defendant John W. Rickards is an individual and a resident of San Diego  
17 County. He is also the principal shareholder of Sinner Brothers, Inc.

18           6.       Defendant Mary L. Rickards is an individual and a resident of San Diego  
19 County.

20           7.       Defendant Sinner Brothers, Inc. is a California corporation with its  
21 principal place of business in San Diego County, California.

22           8.       Defendants John W. Rickards, Mary L. Rickards, and Sinner Brothers,  
23 Inc., are collectively referred to as “Rickards Defendants.”

24           9.       Plaintiffs are informed and believe, and thereon allege, that each of the  
25 Doe Defendants sued herein was and is the agent or employee of the other Defendant(s),  
26 and at all times relevant to this Complaint acted within the course and scope of the  
27 agency and employment and willfully conspired and agreed among themselves to commit  
28 the wrongful acts alleged herein. Each Defendant further ratified the acts of the other.

1           10.     Jurisdiction and venue are proper with the above-entitled court as all  
2 parties are domiciled in California and the county of San Diego, plaintiffs reside in the  
3 County of San Diego, California, and the relevant agreements that are the subject of this  
4 action were entered into in this jurisdiction and were to be performed entirely within the  
5 jurisdiction and venue of this Court. Jurisdiction is proper in this Court because Plaintiffs  
6 alleges violations of California law with damages in excess of \$25,000.00.

7           11.     Plaintiffs are informed and believe, and based thereon alleges, that there  
8 exists, and at all times relevant herein has existed, a unity of interest and ownership  
9 among Defendants, such that any separateness and individuality between them have  
10 ceased, and are the alter-ego of Defendants, jointly and severally. Adherence to the  
11 fiction of the separate existence of the Defendants as separate individuals and/or entities  
12 distinct from the rest of the Defendants would permit abuse of any corporate privilege,  
13 sanction fraud and promote injustice.

14           12.     At all times herein mentioned, Defendants participated in the doing of the  
15 acts and omissions herein alleged, were acting within the purpose, course and scope of  
16 said agency and/or employment to have been done by the named Defendants; and  
17 furthermore, the Defendants, and each of them, were the agents, managing agents,  
18 servants, employees, alter-egos, co-conspirators, joint-venturers, partners, successors in  
19 interest and predecessors in interest of each of the other Defendants.

20           13.     At all times herein mentioned, the Defendants were members of and  
21 engaged in a joint venture, partnership and common enterprise, and acting within the  
22 purpose, course and scope of, and in pursuit of, said joint venture, partnership and  
23 common enterprise.

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**STATEMENT OF FACTS**

**A. The Rickards Defendants Negotiated for Themselves an Unfavorable Lease, Necessitating Plaintiff’s Representation of the Rickards Defendants against the Knopf Counterparties**

14. On or about April 17, 2014, the Rickards Defendants entered into an agreement to lease a portion of their real property located at 3452 Hancock Street, San Diego, California 92110 (the “Hancock Property”) to Adam Knopf and his company, GSG Inc. (“Knopf Counterparties”), for the purpose of operating a legal marijuana dispensary. **(Exhibit 1)**.

15. When the Rickards Defendants entered into said lease with the Knopf Counterparties, the Rickards Defendants had no representation to advise them on the implications thereof. Had Rickards in fact retained representation, he would not have likely accepted the many unfavorable terms in the agreement that were insisted upon by the Knopf Counterparties.

16. The lease was for a potential duration of fifteen years, despite Defendant John W. Rickards being 76 years old at the time of agreement: Section 53 of the lease granted options to Knopf to extend the lease until August 17, 2029. Moreover, Section 54 of the lease granted the Knopf Counterparties the option to either lease or the right of first refusal on any offer to purchase the property. (Ex. 1, p. 16).

17. To preempt Rickards’ attempts to escape these confounding covenants, the Knopf Counterparties had their real estate agent, Brad Talbert, convince Defendant John W. Rickards to sign a disclosure stating that Talbert represented both Knopf *and* Rickards as a dual agent with regards to the executed lease agreement. Said disclosure was signed on May 11, 2015, over a year after the lease had been entered into by the Rickards Defendants and the Knopf Counterparties. (Ex. 1, p. 20).

18. On or around April 2018, the Knopf Counterparties asked the Rickards Defendants if the Knopf Counterparties could purchase the Hancock Property. The Rickards Defendants were indeed looking to sell the Hancock Property and thus, the



1 Knopf Counterparties exercised their option of the right of first refusal to begin  
2 negotiations to purchase the property. The Rickards Defendants negotiated through their  
3 real estate broker with the Knopf Counterparties; the Rickards Defendants were not  
4 represented by counsel. These negotiations fell through after they could not agree upon a  
5 price.

6 19. On or around August 2018, the Knopf Counterparties redoubled their  
7 efforts to purchase the Hancock Property. Perhaps recognizing that John and Mary  
8 Rickards were elderly and without great financial means, the Knopf Counterparties put  
9 significant pressure upon John Rickards to agree to a sale immediately.

10 20. John Rickards turned to his childhood friend, Plaintiff, to represent his  
11 interests against the high pressure tactics of the Knopf Counterparties. The Rickards  
12 Defendants asked Plaintiff to serve as their real estate broker in place of John Talbert,  
13 offering the customary 6% commission upon sale of the Hancock Property, but only if  
14 the sale price exceeded \$1.95 million. Plaintiff issued to the Rickards Defendants on  
15 September 15, 2018, a listing agreement memorializing the same terms but with a  
16 discount for a longtime friend – a 5% commission instead of 6%. The Rickards  
17 Defendants signed the agreement on September 30, 2018 (**Exhibit 2**).

18 21. Immediately thereafter, the Rickards Defendants asked Plaintiff to also  
19 serve as legal counsel. Plaintiff accepted that request without entering into a written  
20 agreement first, given that (1) Plaintiff was a childhood friend of John Rickards and  
21 believed that the Rickards Defendants would ultimately pay him for his efforts once the  
22 Rickards Defendants' finances were settled, (2) Plaintiff had represented the Rickards  
23 Defendants in this exact manner in the past and had always been paid in a reasonable  
24 time frame, and; (3) Plaintiff believed that the Rickards Defendants were in an  
25 emergency situation warranting his immediate intervention. Plaintiff thereby understood  
26 that it was in the Rickards Defendants' best interests if Plaintiff represented them now  
27 and handled the issue of payment later.

28 ///

1           22.     Following the Rickards Defendants' engagement of Plaintiff as their  
2 attorney and broker, Plaintiff spent many hours reviewing documents relating to the  
3 Hancock Property, consulting with other attorneys, conferring with the Rickards  
4 Defendants to understand exactly what had occurred in previous dealings with the Knopf  
5 Counterparties, handling communications to the Knopf Counterparties' attorneys,  
6 attending meetings, and doing whatever else Plaintiff believed necessary to prevent the  
7 Rickards Defendants from being stuck into another unfavorable agreement with the  
8 Knopf Counterparties.

9           23.     The first issue Plaintiff needed to resolve was the Knopf Counterparties'  
10 continual violation of the lease agreement's rent payment provisions. The Knopf  
11 Counterparties were to pay an entire year's worth of rent up front at specified rates but  
12 instead paid monthly and for lesser amounts. By pointing out that their violation of the  
13 lease agreement technically invalidated their option of the right of first refusal, Plaintiff  
14 eventually secured in writing the Knopf Counterparties' strict acquiescence to the lease  
15 agreement's rent payment provisions in September 2018.

16           24.     After much back-and-forth negotiation, the Knopf Counterparties  
17 submitted a formal written offer on October 10, 2018, to purchase the Hancock Property.  
18 Immediately thereafter, on October 11, 2018, Plaintiff wrote back to the Knopf  
19 Counterparties' attorney to demand the Knopf Counterparties provide their financial  
20 statements as proof that they could in fact pay the asking price of \$2.3 million.

21           25.     In response, on October 15, 2018, the Knopf Counterparties informed the  
22 Rickards Defendants that they were invoking their option to lease additional space at the  
23 Hancock Property under § 54 of the lease agreement. However, the Knopf  
24 Counterparties insisted upon a price far less than what the lease agreement required, and  
25 further insisted that the payment of rent no longer be due up front, in full, at the  
26 beginning of each 12 month period.

27           26.     Plaintiff advised the Rickards Defendants to reject their attempted exercise  
28 of their option because it was in violation of the plain language of the lease agreement.

1 Said exercise was in fact rejected by the Rickards Defendants. Plaintiff stated in no  
2 uncertain terms to the Knopf Counterparties' attorneys that any attempt to exercise their  
3 option would have to result in payment of rent at the agreed-upon rates and conditions  
4 already set forth in the April 2014 lease agreement.

5 27. In response, on October 17, 2018, the Knopf Counterparties filed a lawsuit  
6 in superior court seeking to enforce their right of first refusal on any offers to purchase.  
7 The lawsuit alleged that the Rickards Defendants' denial of the October 15, 2018,  
8 exercise was breach of the lease agreement, that such denial amounted to intentional  
9 infliction of emotional distress and constituted fraud. Said lawsuit conveniently omitted  
10 any mention of the Rickards Defendants' many warnings that the Knopf Counterparties'  
11 option was invalidly exercised. **(Exhibit 3).**

12 28. Throughout November and early December 2018, Plaintiff continued to  
13 negotiate with the Knopf Counterparties for the sale of the Hancock Property on behalf  
14 of the Rickards Defendants. In November 2018, Plaintiff and the Knopf Counterparties  
15 agreed in principle that the dismissal of the Knopf Counterparties' lawsuit and the Knopf  
16 Counterparties' making of disclosures to the Rickards Defendants in accordance with the  
17 Lease was a precondition for any sale or lease extension relating to the Hancock  
18 Property. Accordingly, in the final sale contract for the Hancock Property dated  
19 December 13, 2018, the Knopf Counterparties agreed to make all necessary disclosures  
20 and to dismiss their lease extension lawsuit without prejudice until the closing of escrow,  
21 at which point the dismissal would be amended to be with prejudice.

22 29. Further, Plaintiff had conducted extensive research on what the value of  
23 the Hancock Property should in fact be, especially given the Knopf Counterparties' intent  
24 to use the property as the site of a large-scale marijuana dispensary and as such, he  
25 negotiated a 50% increase to the sale price upwards to \$3.75 million in an all-cash sale.

26 30. Concurrently, John Rickards asked Plaintiff to negotiate another deal with  
27 the Knopf Counterparties – to allow him to leaseback half of the Hancock Property until  
28 October 15, 2019, to give ample time for Rickards to move his business to a new

1 location. Plaintiff therefore leveraged the Knopf Counterparties' precarious contractual  
2 position to obtain a leaseback for John Rickards at the price of \$1.

3 31. However, despite their earlier commitments in writing, the Knopf  
4 Counterparties violated both the lease and sale agreements several times, forcing Plaintiff  
5 to take action to enforce those agreements against the Knopf Counterparties through  
6 zealous negotiation. For instance, the Knopf Counterparties assigned their interests in the  
7 Hancock Property to a purpose-made shell company to satisfy state regulatory  
8 requirements; both the lease and sale agreements forbid the same without prior  
9 disclosures given the Rickards Defendants. Moreover, the Knopf Counterparties failed to  
10 properly document these assignments in their paperwork to the California Bureau of  
11 Cannabis Control, endangering the status of the Knopf Counterparties' application to  
12 operate a licensed cannabis dispensary and thus endangering the Hancock Property sale.

13 32. In fact, the Knopf Counterparties habitually submitted regulatory  
14 paperwork such as soil reports late or in an incomplete fashion, forcing Plaintiff, on  
15 behalf of Rickards, to oversee the completion and filing of such documents throughout  
16 January 2019 and February 2019. Put simply, Plaintiff had to put in a considerable  
17 amount of effort to represent the Rickards Defendants' interests even after the signing of  
18 the sale agreement.

19 33. In March 2019, Plaintiff realized that the Knopf Counterparties lacked the  
20 funds to close escrow by the end of the month. When negotiating the sale, the Knopf  
21 Counterparties represented to the Rickards Defendants that they had the funds in hand to  
22 complete the all-cash sale by March 31, 2019. However, it quickly became apparent to  
23 Plaintiff that the Knopf Counterparties did not have \$3.75 million cash-in-hand; the  
24 Knopf Counterparties refused to timely supply their financial statements and proof of  
25 funds when asked by the Rickards Defendants.

26 34. Plaintiff considered the possibility of terminating the sale to the Knopf  
27 Counterparties for cause and in accordance therewith, began to court alternative offers  
28 for the Hancock Property, both as a backup plan should the sale fall through and to also

1 put pressure on the Knopf Counterparties to quickly raise the funds needed to close  
2 escrow. **(Exhibit 4)**

3 35. Ultimately, the sale of the Hancock Property to the Knopf Counterparties  
4 was completed 26 days late on April 24, 2019. Plaintiff received his broker's  
5 commission, and the Rickards received a significant financial windfall with which to pay  
6 Plaintiff's outstanding attorneys' fees.

7 36. However, in July 2019, the Knopf Counterparties attempted to evict John  
8 Rickards from the Hancock Property in violation of the holdover agreement via e-mail,  
9 in which they demanded that Rickards sign a new sublease whereby Rickards would  
10 move out on October 1, 2019 – 14 days early. If he did not, the Knopf Counterparties  
11 threatened to change the locks on Rickards' leaseback half of the property and to throw  
12 all his belongings to the San Diego dump. Plaintiff was forced to call the local police  
13 department twice to aver a confrontation between the parties. Through further  
14 negotiation, Plaintiff ensured that John Rickards was able to end his leaseback in an  
15 orderly fashion, as previously agreed upon, on October 15, 2019.

16 37. Plaintiff sent over 660 emails and estimates he worked around 170 billable  
17 hours on the Rickards Defendants' case for over seven months, engaged in intensive fact  
18 finding, legal research, and negotiations on the Rickards Defendants' behalf. The  
19 significant amount of time that Plaintiff needed to spend on the Rickards Defendants'  
20 behalf should be of no surprise to them: Plaintiff copied John Rickards on nearly all  
21 communications and document transmittals made on their behalf.

22 **B. The Rickards Defendants Have Refused to Come to an Agreement with**  
23 **Plaintiff over the Payment of his Attorneys' Fees**

24 38. However, the Rickards Defendants made a habit of avoiding the matter of  
25 payment for Plaintiff's legal services while taking advantage of their longstanding  
26 personal relationship with Plaintiff to induce him into performing further legal services.

27 39. During a lull in the course of representation, Plaintiff attempted to work  
28 out a payment plan with the Rickards Defendants, only to be told that they still were not

1 in a position to commit to one. As such, on January 23, 2019, John Rickards entered a  
2 written agreement with Plaintiff to allow a \$25,000 non-refundable cash deposit paid by  
3 the Knopf Counterparties to be allocated instead towards paying Plaintiff's legal services  
4 should escrow fail to close.

5 40. Plaintiff thereafter brought up the issue of payment for his legal services  
6 to the Rickards Defendants in early February 2019, only to be met with a noncommittal  
7 response. During this conversation, Plaintiff explained to the Rickards Defendants that  
8 although he agreed to represent them on a pseudo-contingency basis, wherein the  
9 Rickards Defendants would not be expected to compensate Plaintiff until they could raise  
10 cash, Plaintiff nonetheless wanted an assurance that he would in fact be paid *eventually*.  
11 At no point did Plaintiff expect payment of his attorneys' fees from a percentage of  
12 money awarded from a court case, sale, or other resolution.

13 41. Prior to the sale of the Hancock Property in March 2019, Plaintiff  
14 regularly reminded the Rickards Defendants of the need to agree upon a fair payment  
15 model for his services. However, after the sale of the Hancock Property, Plaintiff did not  
16 feel comfortable pursuing litigation against the Rickards Defendants because John  
17 Rickards and Mary Rickards began divorce proceedings on May 31, 2019. Plaintiff  
18 believed that taking any further action at that time regarding his fees would have  
19 jeopardized that friendship, and so chose to wait until after those issues had been settled.

20 42. Indeed, Plaintiff held this belief because he was assured by Defendant  
21 John Rickards repeatedly during the pendency of the Rickards Defendants' divorce that  
22 they would handle the issue of Plaintiff's legal fees **after** the Rickards Defendants had  
23 completed their divorce proceedings. Rickards thereafter explained to Plaintiff that the  
24 proceeds from the sale of the Hancock property were in his divorce attorney's trust  
25 account, to be distributed between himself and Mary Rickards upon the dissolution of  
26 their marriage, so he would be unable to pay Plaintiff anyways until the end of the  
27 divorce proceedings.

28 ///

1           43.     Given John Rickards's continual reassurances that he would come to an  
2 agreement with Plaintiff and their status as longtime friends, Plaintiff relied on  
3 Rickards's representations and thus decided he would hold off on filing suit until the end  
4 of the Rickards' Defendants' divorce proceedings, as John Rickards insisted upon.

5           44.     Plaintiff's reliance on John Rickards's representations is reflected in their  
6 phone and email conversations from May 31, 2019, onwards. For instance, on, on April  
7 18, 2020, Plaintiff sent an e-mail to John Rickards to memorialize a recent phone  
8 conversation which recounts John Rickards directing Plaintiff to delay the resolution of  
9 any attorney fee agreement until after the Rickards Defendants' divorce. John Rickards  
10 did so reduce his potential liability in the divorce proceedings.

11          45.     On February 24, 2021, Plaintiff sent another e-mail to memorialize a  
12 recent phone conversation in which John Rickards informed him that the Rickards  
13 Defendants' divorce proceedings were nearing a final court hearing. Plaintiff also made  
14 sure to memorialize John Rickards again directing him taking any action regarding the  
15 payment of prior legal fees while divorce proceedings were underway.

16          46.     On March 26, 2022, Plaintiff sent another e-mail to memorialize a phone  
17 conversation he had with John Rickards the same day regarding various options to get his  
18 legal fees paid. Plaintiff recalled that Rickards rejected all of Plaintiff's efforts to have a  
19 definitive discussion regarding the payment of those fees prior to the sale of the Hancock  
20 Property because Rickards felt overwhelmed and asked Plaintiff to wait until the  
21 property was sold. Plaintiff then recalled Rickards' continued insistence thereafter that  
22 Plaintiff wait even longer because the proceeds of the sale were in escrow and as such,  
23 Plaintiff needed to wait until the divorce proceedings were final. Plaintiff explained that  
24 he would continue to go along with Rickards's wishes but nonetheless sought an  
25 opportunity to determine how and when his fees would be paid.

26          47.     By September 16, 2022, after several phone conversations in which  
27 Plaintiff learned that the Rickards Defendants' divorce proceedings were still not  
28 finished and in which John Rickards again assured Plaintiff that he would handle the

1 issue of legal fees after the divorce proceedings were in fact finished, Plaintiff no longer  
2 believed that the Rickards Defendants would voluntarily agree to pay his outstanding  
3 legal fees. Indeed, Plaintiff’s last phone conversation with John Rickards ended  
4 acrimoniously; John Rickards hung up the phone after Plaintiff pleaded with him to at  
5 least agree in writing that he owed legal fees to Plaintiff. As such, on September 16,  
6 2022, Plaintiff sent John Rickards an e-mail memorializing Plaintiff’s realization that the  
7 Rickards Defendants did not in fact intend to pay him back and that he was now  
8 contemplating legal action.

9 48. On April 17, 2023, seven months after his realization that John Rickards’  
10 representations of eventual negotiation over the issue of Plaintiff’s legal fees were no  
11 longer reasonable to rely upon, Plaintiff made the difficult decision to file suit against his  
12 once longtime friend for payment of said fees.

13 **FIRST CAUSE OF ACTION**

14 **Breach of Contract (against the Rickards Defendants)**

15 49. Plaintiff re-alleges and incorporates by reference all preceding paragraphs  
16 as though set forth herein.

17 50. Plaintiff entered into an attorney-client relationship in which Plaintiff  
18 agreed (1) to defer payment from the Rickards Defendants until their financial situation  
19 improved and (2) to represent them on an emergency basis until the Rickards Defendants  
20 completed their negotiations with the Knopf Counterparties regarding the Hancock  
21 Property.

22 51. Plaintiff loyally and competently represented the Rickards Defendants  
23 during their protracted lease negotiation dispute with the Knopf Counterparties.

24 52. Thereafter, Plaintiff loyally and competently defended the Rickards  
25 Defendants against the Knopf Counterparties’ lawsuit in superior court relating to the  
26 Hancock Property.

27 ///

28 ///



1           53.     Following Plaintiff’s successful defense therein, Plaintiff loyally and  
2 competently represented the Rickards Defendants in negotiating the sale of the Hancock  
3 Property to the Knopf Defendant.

4           54.     Over the course of seven months, Plaintiff worked an average of fourteen  
5 hours per week and incurred significant additional expenses to handle the overwhelming  
6 amount of pressure put upon the Rickards Defendants by the Knopf Counterparties.

7           55.     Plaintiff fended off a lawsuit against the Rickards Defendants relating to  
8 their options under the lease agreement, resolved the Knopf Counterparties’ continual  
9 breaches of the lease agreement for untimely and insufficient payment of rent, prevented  
10 the Knopf Counterparties from evicting John Rickards from the Hancock Property in  
11 violation of the holdover agreement, handled all aspects of the Hancock Property sale  
12 that could not be handled by a broker alone, and enforced the terms of the sale agreement  
13 by putting pressure on the Knopf Counterparties to put forth the necessary  
14 documentation and financial records.

15           56.     Nevertheless, the Rickards Defendants did not remit payment to Plaintiff,  
16 despite Plaintiff’s many attempts in writing to negotiate with the Rickards Defendants  
17 immediately after the closing of the sale and the signing of the lease extension. As of this  
18 writing, Plaintiff estimates he is owed \$125,000.

19           57.     Given their longtime friendship, Plaintiff relied upon John Rickards’  
20 repeated representations that he would negotiate with Plaintiff in good faith regarding the  
21 payment of Plaintiff’s outstanding legal fees once the Rickards Defendants’ divorce  
22 proceeding was completed. Only after it became apparent that Plaintiff could no longer  
23 rely upon John Rickards’ representations any longer did Plaintiff initiate legal action.

24           58.     Plaintiff has made numerous attempts to negotiate with the Rickards  
25 Defendants regarding their unpaid attorneys’ fees in good faith, including recourse to the  
26 mandatory mediation process provided by the State Bar of California. The Rickards  
27 Defendants refused Plaintiff’s request to initiate mediation. Plaintiff now has no choice  
28 but to ask this Court for relief.

1           59.     Plaintiffs have been damaged as a direct result of Defendant's breach in  
2 and amount to be determined at trial.

3                           **SECOND CAUSE OF ACTION**

4                           **Quantum Meruit (against the Rickards Defendants)**

5           60.     Plaintiff re-alleges and incorporates by reference all preceding paragraphs  
6 as though set forth herein.

7           61.     Quantum meruit is a common law doctrine that provides compensation  
8 "based on the idea that someone should get paid for beneficial goods or services which  
9 he or she bestows on another." *Maglica v. Maglica*, 64 Cal. App. 4th 442, 446 (Cal. Ct.  
10 App. 1998). The legal test for recovery in quantum meruit is the "reasonable value of the  
11 services provided they were of direct benefit to the defendant." *Id.* at 449.

12          62.     The Rickards Defendants received a direct benefit from Plaintiff's  
13 services. Over the course of seven months, Plaintiff worked an average of fourteen hours  
14 per week and incurred significant additional expenses to handle the overwhelming  
15 amount of pressure put upon the Rickards Defendants by the Knopf Counterparties.

16          63.     Plaintiff fended off a lawsuit against the Rickards Defendants relating to  
17 their options under the lease agreement, resolved the Knopf Counterparties' continual  
18 breaches of the lease agreement for untimely and insufficient payment of rent, prevented  
19 the Knopf Counterparties from evicting John Rickards from the Hancock Property in  
20 violation of the holdover agreement, handled all aspects of the Hancock Property sale  
21 that could not be handled by a broker alone, and enforced the terms of the sale agreement  
22 by putting pressure on the Knopf Counterparties to put forth the necessary  
23 documentation and financial records.

24          64.     Therefore, Plaintiff seeks recovery for the reasonable value of the legal  
25 services he provided to the Rickards Defendants according to the equitable principle of  
26 quantum meruit.

27     ///

28     ///

1            65.     The exact amount Plaintiff seeks to recover via quantum meruit will be  
2 determined at trial, but in the meantime, Plaintiff estimates he provided \$125,000 in legal  
3 services at \$750 per hour.

4                                            **THIRD CAUSE OF ACTION**

5                                            **Unjust Enrichment (against the Knopf Counterparties)**

6            66.     Plaintiff re-alleges and incorporates by reference all preceding paragraphs  
7 as though set forth herein.

8            67.     An unjust enrichment claim has three elements: the Defendant (1) received  
9 a benefit, (2) at the Plaintiff's expense, and (3) it would be unfair for the Defendant to  
10 keep the benefit without providing proportional compensation.

11           68.     "A person is enriched if he or she receives a benefit at another's  
12 expense... For a benefit to be conferred, it is not essential that money be paid directly to  
13 the recipient by the party seeking restitution." *County of Solano v. Vallejo*  
14 *Redevelopment Agency*, 90 Cal. Rptr. 2d 41 (Cal. Ct. App. 1999). The benefit the  
15 Rickards Defendants received was Plaintiff's legal services.

16           69.     The expense incurred by Plaintiff was the opportunity cost of his services.  
17 Over the course of seven months, Plaintiff worked an average of fourteen hours per week  
18 and incurred significant additional expenses to handle the overwhelming amount of  
19 pressure put upon the Rickards Defendants by the Knopf Counterparties.

20           70.     Plaintiff fended off a lawsuit against the Rickards Defendants relating to  
21 their options under the lease agreement, resolved the Knopf Counterparties' continual  
22 breaches of the lease agreement for untimely and insufficient payment of rent, prevented  
23 the Knopf Counterparties from evicting John Rickards from the Hancock Property in  
24 violation of the holdover agreement, handled all aspects of the Hancock Property sale  
25 that could not be handled by a broker alone, and enforced the terms of the sale agreement  
26 by putting pressure on the Knopf Counterparties to put forth the necessary  
27 documentation and financial records.

28     / / /

1           71.     It would be unfair to allow the Rickards Defendants to keep the benefit of  
2 Plaintiff's legal services without providing compensation for the same. The benefit was  
3 significant: the successful sale of the Hancock Property at a favorable price to the  
4 Rickards Defendants and the extension of the lease agreement per the original contract  
5 terms, rather than the new terms set out by the Knopf Counterparties. Plaintiff deserves  
6 compensation for providing services that engineered that outcome.

7           72.     The exact amount Plaintiff seeks to recover via unjust enrichment will be  
8 determined at trial, but in the meantime, Plaintiff estimates he provided \$125,000 in legal  
9 services at \$750 per hour.

10                                 **FOURTH CAUSE OF ACTION**

11                                         **Declaratory Relief**

12           73.     Plaintiff re-alleges and incorporates by reference all preceding paragraphs  
13 as though set forth herein.

14           74.     An actual controversy has arisen and now exists between Plaintiff and  
15 Defendants concerning the respect rights, duties, and obligations of Plaintiff and  
16 Defendants relative to attorneys' fees and broker's fees due to Plaintiff under any  
17 applicable agreements.

18           75.     Plaintiff seeks a judicial declaration as to the parties' rights, duties, and  
19 obligations under the verbal, emergency-basis contract for Plaintiff's legal services  
20 between Plaintiff and the Rickards Defendants.

21           76.     A judicial declaration is necessary and appropriate at this time and under  
22 the circumstances in order that the parties may ascertain their rights, duties, and  
23 obligations as to the attorneys' fees due to Plaintiff under any applicable agreements.

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**PRAYER FOR RELIEF**

Wherefore, Plaintiff prays for judgment as follows:

1. General and special damages against Defendants which will be shown according to proof at trial, including but not limited to the attorneys’ fees owed by the Defendants, whether by breach of contract or by an equitable remedy;
2. For prejudgment interest in an amount according to proof; and
3. For such other and further relief as the Court may deem just and proper.

*Robert Bryson*  
\_\_\_\_\_  
Dated October 4, 2023  
Robert Bryson, Esq.  
Attorney for Plaintiff George Louis

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**VERIFICATION**

**Cal. Code Civ. Proc. § 446**

I, GEORGE S. LOUIS, declare:

I am the Plaintiff in the above-entitled action. I have read the foregoing Second Amended Complaint and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: October 4, 2023

DocuSigned by:  
*George Louis*  
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By: George S. Louis

# EXHIBIT 1



AIR COMMERCIAL REAL ESTATE ASSOCIATION
STANDARD INDUSTRIAL/COMMERCIAL MULTI-TENANT LEASE - NET

1. Basic Provisions ("Basic Provisions").

1.1 Parties: This Lease ("Lease"), dated for reference purposes only April 17, 2014, is made by and between Sinner Brothers Inc. ("Lessor") and Adam Knopf or Assignee

1.2(a) Premises: That certain portion of the Project (as defined below), including all improvements therein or to be provided by Lessor under the terms of this Lease, commonly known by the street address of 3452-3460 Hancock St., located in the City of San Diego, County of San Diego, State of California, with zip code 92110, as outlined on Exhibit attached hereto ("Premises") and generally described as (describe briefly the nature of the Premises): An Approximate 4,080 square foot industrial property situated on an approximate 13,198 square foot lot. APN#: 441-581-12-00 & 441-581-11-00

In addition to Lessee's rights to use and occupy the Premises as hereinafter specified, Lessee shall have non-exclusive rights to any utility raceways of the building containing the Premises ("Building") and to the common Areas (as defined in Paragraph 2.7 below), but shall not have any rights to the roof or exterior walls of the Building or to any other buildings in the Project. The Premises, the Building, the Common Areas, the land upon which they are located, along with all other buildings and improvements thereon, are herein collectively referred to as the "Project." (See also Paragraph 2)

1.2(b) Parking: Prorata share unreserved vehicle parking spaces. (See also Paragraph 2.6)

1.3 Term: See Paragraph 51 years and N/A months ("Original Term") commencing April 18, 2014 ("Commencement Date") and ending See Paragraph 51 ("Expiration Date"). (See also Paragraph 3)

1.4 Early Possession: If the Premises are available Lessee may have non-exclusive possession of the Premises commencing N/A ("Early Possession Date"). (See also Paragraphs 3.2 and 3.3)

1.5 Base Rent: \$ 2,000.00 per month ("Base Rent"), payable on the First day of each month commencing April 18, 2014. (See also Paragraph 4)

[X] If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted. See Paragraph Paragraph 52

1.6 Lessee's Share of Common Area Operating Expenses: NNN percent (Pro-Rata %) ("Lessee's Share"). In the event that the size of the Premises and/or the Project are modified during the term of this Lease, Lessor shall recalculate Lessee's Share to reflect such modification.

1.7 Base Rent and Other Monies Paid Upon Execution:

- (a) Base Rent: \$3,000.00 for the period April 18, 2014 - May 31 2014
(b) Common Area Operating Expenses: \$0.00 for the period N/A
(c) Security Deposit: \$0.00 ("Security Deposit"). (See also Paragraph 5)
(d) Other: \$16,000.00 for Security Deposit due upon Approval of CUP.
(e) Total Due Upon Execution of this Lease: \$3,000.00

1.8 Agreed Use: Medical Marijuana Dispensary (See also Paragraph 6)

1.9 Insuring Party. Lessor is the "Insuring Party". (See also Paragraph 8)

1.10 Real Estate Brokers: (See also Paragraph 15 and 25)

(a) Representation: The following real estate brokers (the "Brokers") and brokerage relationships exist in this transaction (check applicable boxes):

- [ ] represents Lessor exclusively ("Lessor's Broker");
[ ] represents Lessee exclusively ("Lessee's Broker"); or
[X] Pacific Coast Commercial represents both Lessor and Lessee ("Dual Agency")

(b) Payment to Brokers: Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Brokers for the brokerage services rendered by the Brokers the fee agreed to in the attached a separate written agreement or if no such agreement is attached, the sum of or % of the total Base Rent payable for the Original Term, the sum of or of the total Base Rent payable during any period of time that the Lessee occupies the Premises subsequent to the Original Term, and/or the sum of or % of the purchase price in the event that the Lessee or anyone affiliated with Lessee acquires from Lessor any rights to the Premises.

1.11 Guarantor. The obligations of the Lessee under this Lease are to be guaranteed by N/A ("Guarantor"). (See also Paragraph 37)

1.12 Attachments. Attached hereto are the following, all of which constitute a part of this Lease:

- [ ] an Addendum consisting of Paragraphs through ;
[ ] a site plan depicting the Premises;
[ ] a site plan depicting the Project;

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- a current set of the Rules and Regulations for the Project;
- a current set of the Rules and Regulations adopted by the owners' association;
- a Work Letter;
- other (specify): Exhibit "A" Disclosure Regarding Real Estate Agency Relationship, Lease Disclosure, Sale Disclosure

2. **Premises.**

2.1 **Letting.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. While the approximate square footage of the Premises may have been used in the marketing of the Premises for purposes of comparison, the Base Rent stated herein is NOT tied to square footage and is not subject to adjustment should the actual size be determined to be different. **NOTE: Lessee is advised to verify the actual size prior to executing this Lease.**

2.2 **Condition.** Lessor shall deliver that portion of the Premises contained within the Building ("Unit") to Lessee broom clean and free of debris on the Commencement Date or the Early Possession Date, whichever first occurs ("Start Date"), and, so long as the required service contracts described in Paragraph 7.1(b) below are obtained by Lessee and in effect within thirty days following the Start Date, warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems ("HVAC"), loading doors, sump pumps, if any, and all other such elements in the Unit, other than those constructed by Lessee, shall be in good operating condition on said date, that the structural elements of the roof, bearing walls and foundation of the Unit shall be free of material defects, and that the Unit does not contain hazardous levels of any mold or fungi defined as toxic under applicable state or federal law. If a non-compliance with such warranty exists as of the Start Date, or if one of such systems or elements should malfunction or fail within the appropriate warranty period, Lessor shall, as Lessor's sole obligation with respect to such matter, except as otherwise provided in this Lease, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, malfunction or failure, rectify same at Lessor's expense. The warranty periods shall be as follows: (i) 6 months as to the HVAC systems, and (ii) 30 days as to the remaining systems and other elements of the Unit. If Lessee does not give Lessor the required notice within the appropriate warranty period, correction of any such non-compliance, malfunction or failure shall be the obligation of Lessee at Lessee's sole cost and expense (except for the repairs to the fire sprinkler systems, roof, foundations, and/or bearing walls - see Paragraph 7).

2.3 **Compliance.** Lessor warrants that to the best of its knowledge the improvements on the Premises and the Common Areas comply with the building codes that were in effect at the time that each such improvement, or portion thereof, was constructed, and also with all applicable laws, covenants or restrictions of record, regulations, and ordinances in effect on the Start Date ("Applicable Requirements"). Said warranty does not apply to the use to which Lessee will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Lessee's use (see Paragraph 49), or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. **NOTE: Lessee is responsible for determining whether or not the Applicable Requirements and especially the zoning are appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed.** If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same at Lessor's expense. If Lessee does not give Lessor written notice of a non-compliance with this warranty within 6 months following the Start Date, correction of that non-compliance shall be the obligation of Lessee at Lessee's sole cost and expense. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Unit, Premises and/or Building, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Unit, Premises and/or Building ("Capital Expenditure"), Lessor and Lessee shall allocate the cost of such work as follows:

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

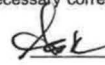
(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor shall pay for such Capital Expenditure and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease or any extension thereof, on the date that on which the Base Rent is due, an amount equal to 1/144th of the portion of such costs reasonably attributable to the Premises. Lessee shall pay Interest on the balance but may prepay its obligation at any time. If, however, such Capital Expenditure is required during the last 2 years of this Lease or if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option to terminate this Lease upon 90 days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with Interest, from Rent until Lessor's share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days written notice to Lessor.

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to non-voluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall either: (i) immediately cease such changed use or intensity of use and/or take such other steps as may be necessary to eliminate the requirement for such Capital Expenditure, or (ii) complete such Capital Expenditure at its own expense. Lessee shall not have any right to terminate this Lease.

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

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

  
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work.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### 3. **Term.**

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

3.2 **Early Possession.** Any provision herein granting Lessee Early Possession of the Premises is subject to and conditioned upon the Premises being available for such possession prior to the Commencement Date. Any grant of Early Possession only conveys a non-exclusive right to occupy the Premises. If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such Early Possession. All other terms of this Lease (including but not limited to the obligations to pay Lessee's Share of Common Area Operating Expenses, Real Property Taxes and insurance premiums and to maintain the Premises) shall be in effect during such period. Any such Early Possession shall not affect the Expiration Date.

3.3 **Delay in Possession.** Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession by such date, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease or change the Expiration Date. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession is not delivered within 60 days after the Commencement Date, as the same may be extended under the terms of any Work Letter executed by Parties, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. If possession of the Premises is not delivered within 120 days after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

3.4 **Lessee Compliance.** Lessor shall not be required to tender possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Paragraph 8.5). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

### 4. **Rent.**

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



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

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

(i) The operation, repair and maintenance, in neat, clean, good order and condition, and if necessary the replacement, of the following:

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

(bb) Exterior signs and any tenant directories.

(cc) Any fire sprinkler systems.

(dd) All other areas and improvements that are within the exterior boundaries of the Project but outside of the Premises and/or any other space occupied by a tenant.

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

(iii) The cost of trash disposal, pest control services, property management, security services, owners' association dues and fees, the cost to repaint the exterior of any structures and the cost of any environmental inspections.

(iv) Reserves set aside for maintenance, repair and/or replacement of Common Area improvements and equipment.

(v) Real Property Taxes (as defined in Paragraph 10).

(vi) The cost of the premiums for the insurance maintained by Lessor pursuant to Paragraph 8.

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

(viii) Auditors', accountants' and attorneys' fees and costs related to the operation, maintenance, repair and replacement of the Project.

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

(x) The cost of any other services to be provided by Lessor that are stated elsewhere in this Lease to be a Common Area Operating Expense.

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

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

(d) Lessee's Share of Common Area Operating Expenses is payable monthly on the same day as the Base Rent is due hereunder. The amount of such payments shall be based on Lessor's estimate of the annual Common Area Operating Expenses. Within 60 days after written request (but not more than once each year) Lessor shall deliver to Lessee a reasonably detailed statement showing Lessee's Share of the actual Common Area Operating Expenses for the preceding year. If Lessee's payments during such year exceed Lessee's Share, Lessor shall credit the amount of such over-payment against Lessee's future payments. If Lessee's payments during such year were less than Lessee's Share, Lessee shall pay to Lessor the amount of the deficiency within 10 days after delivery by Lessor to Lessee of the statement.

(e) Common Area Operating Expenses shall not include any expenses paid by any tenant directly to third parties, or as to which Lessor is otherwise reimbursed by any third party, other tenant, or insurance proceeds.

4.3 **Payment.** Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States, without offset or deduction (except as specifically permitted in this Lease), on or before the day on which it is due. All monetary amounts shall be rounded to the nearest whole dollar. In the event that any invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of \$25 in addition to any Late Charge and Lessor, at its option, may require all future Rent be paid by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent and Common Area Operating Expenses, and any remaining amount to any other outstanding charges or costs.

5. **Security Deposit.** Lessee shall deposit with Lessor upon execution hereof of the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount already due Lessor, for Rents which will be due in the future, and/ or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 90 days after the expiration or termination of this Lease, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease.

  
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6. Use.

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

6.2 Hazardous Substances.

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

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

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

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


(e) Lessor Indemnification. Except as otherwise provided in paragraph 8.7, Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which are suffered as a direct result of Hazardous Substances on the Premises prior to Lessee taking possession or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

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

(g) Lessor Termination Option. If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Rent or \$100,000, whichever is greater, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent or \$100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

6.3 Lessee's Compliance with Applicable Requirements. Except as otherwise provided in this Lease, Lessee shall, at Lessee's

  
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sole expense, fully, diligently and in a manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to such Requirements, without regard to whether said Requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements. Likewise, Lessee shall immediately give written notice to Lessor of: (i) any water damage to the Premises and any suspected seepage, pooling, dampness or other condition conducive to the production of mold; or (ii) any mustiness or other odors that might indicate the presence of mold in the Premises.

6.4 **Inspection; Compliance.** Lessor and Lessor's "Lender" (as defined in Paragraph 30) and consultants shall have the right to enter into Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable notice, for the purpose of inspecting the condition of the Premises and for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a Hazardous Substance Condition (see Paragraph 9.1) is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets (**MSDS**) to Lessor within 10 days of the receipt of written request therefor.

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

7.1 **Lessee's Obligations.**

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

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

(c) **Failure to Perform.** If Lessee fails to perform Lessee's obligations under this Paragraph 7.1, Lessor may enter upon the Premises after 10 days' prior written notice to Lessee (except in the case of an emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf, and put the Premises in good order, condition and repair, and Lessee shall promptly pay to Lessor a sum equal to 115% of the cost thereof.

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

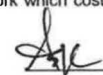
7.2 **Lessor's Obligations.** Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 4.2 (Common Area Operating Expenses), 6 (Use), 7.1 (Lessee's Obligations), 9 (Damage or Destruction) and 14 (Condemnation), Lessor, subject to reimbursement pursuant to Paragraph 4.2, shall keep in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

7.3 **Utility Installations; Trade Fixtures; Alterations.**

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

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

  
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amount in excess of one month's Base Rent. Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.

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

**7.4 Ownership; Removal; Surrender; and Restoration.**

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

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

(c) **Surrender; Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof broom clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing, if this Lease is for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall also completely remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Project) even if such removal would require Lessee to perform or pay for work that exceeds statutory requirements. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. Any personal property of Lessee not removed on or before the Expiration Date or any earlier termination date shall be deemed to have been abandoned by Lessee and may be disposed of or retained by Lessor as Lessor may desire. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

**8. Insurance; Indemnity.**

8.1 **Payment of Premiums.** The cost of the premiums for the insurance policies required to be carried by Lessor, pursuant to Paragraphs 8.2(b), 8.3(a) and 8.3(b), shall be a Common Area Operating Expense. Premiums for policy periods commencing prior to, or extending beyond, the term of this Lease shall be prorated to coincide with the corresponding Start Date or Expiration Date.

**8.2 Liability Insurance.**

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

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

**8.3 Property Insurance - Building, Improvements and Rental Value.**

(a) **Building and Improvements.** Lessor shall obtain and keep in force a policy or policies of insurance in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Premises. The amount of such insurance shall be equal to the full insurable replacement cost of the Premises, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee not by Lessor. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed \$5,000 per occurrence.

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

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

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

**8.4 Lessee's Property; Business Interruption Insurance; Worker's Compensation Insurance.**

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

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

(c) **Worker's Compensation Insurance.** Lessee shall obtain and maintain Worker's Compensation Insurance in such amount as may be required by Applicable Requirements. Such policy shall include a 'Waiver of Subrogation' endorsement. Lessee shall provide Lessor with a copy of such endorsement along with the certificate of insurance or copy of the policy required by paragraph 8.5.

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

8.5 **Insurance Policies.** Insurance required herein shall be by companies maintaining during the policy term a "General Policyholders Rating" of at least A-, VII, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates with copies of the required endorsements evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 30 days prior written notice to Lessor. Lessee shall, at least 10 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may order such insurance and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.

8.6 **Waiver of Subrogation.** Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.

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

8.8 **Exemption of Lessor and its Agents from Liability.** Notwithstanding the negligence or breach of this Lease by Lessor or its agents, neither Lessor nor its agents shall be liable under any circumstances for: (i) injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, indoor air quality, the presence of mold or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the Building, or from other sources or places, (ii) any damages arising from any act or neglect of any other tenant of Lessor or from the failure of Lessor or its agents to enforce the provisions of any other lease in the Project, or (iii) injury to Lessee's business or for any loss of income or profit therefrom. Instead, it is intended that Lessee's sole recourse in the event of such damages or injury be to file a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of paragraph 8.

8.9 **Failure to Provide Insurance.** Lessee acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that Lessee does not maintain the required insurance and/or does not provide Lessor with the required binders or certificates evidencing the existence of the required insurance, the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater. The parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

9. **Damage or Destruction.**

9.1 **Definitions.**

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

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

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

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

(e) **"Hazardous Substance Condition"** shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance, in, on, or under the Premises which requires restoration.

9.2 **Partial Damage - Insured Loss.** If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's expense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or

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

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

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

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

**9.6 Abatement of Rent; Lessee's Remedies.**

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

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

**9.7 Termination; Advance Payments.** Upon termination of this Lease pursuant to Paragraph 6.2(g) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

**10. Real Property Taxes.**

**10.1 Definition.** As used herein, the term "Real Property Taxes" shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Project, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Project address and where the proceeds so generated are to be applied by the city, county or other local taxing authority of a jurisdiction within which the Project is located. The term "Real Property Taxes" shall also include any tax, fee, levy, assessment or charge, or any increase therein: (i) imposed by reason of events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Project, (ii) a change in the improvements thereon, and/or (iii) levied or assessed on machinery or equipment provided by Lessor to Lessee pursuant to this Lease. In calculating Real Property Taxes for any calendar year, the Real Property Taxes for any real estate tax year shall be included in the calculation of Real Property Taxes for such calendar year based upon the number of days which such calendar year and tax year have in common.

**10.2 Payment of Taxes.** Except as otherwise provided in Paragraph 10.3, Lessor shall pay the Real Property Taxes applicable to the Project, and said payments shall be included in the calculation of Common Area Operating Expenses in accordance with the provisions of Paragraph 4.2.

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

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

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

11. **Utilities and Services.** Lessee shall pay for all water, gas, heat, light, power, telephone, trash disposal and other utilities and services supplied to the Premises, together with any taxes thereon. Notwithstanding the provisions of Paragraph 4.2, if at any time in Lessor's sole judgment, Lessor determines that Lessee is using a disproportionate amount of water, electricity or other commonly metered utilities, or that Lessee is generating such a large volume of trash as to require an increase in the size of the trash receptacle and/or an increase in the number of times per month that it is emptied, then Lessor may increase Lessee's Base Rent by an amount equal to such increased costs. There shall be no abatement of Rent and Lessor shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Lessor's reasonable control or in cooperation with governmental request or directions.

12. **Assignment and Subletting.**

12.1 **Lessors Consent Required.**

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

(b) Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.

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

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

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

(f) Lessor may reasonably withhold consent to a proposed assignment or subletting if Lessee is in Default at the time consent is requested.

(g) Notwithstanding the foregoing, allowing a de minimis portion of the Premises, ie. 20 square feet or less, to be used by a third party vendor in connection with the installation of a vending machine or payphone shall not constitute a subletting.

12.2 **Terms and Conditions Applicable to Assignment and Subletting.**

(a) Regardless of Lessor's consent, no assignment or subletting shall: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

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

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

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

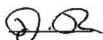
(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of \$500 as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Paragraph 36)

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

(g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing. (See Paragraph 39.2)

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

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. In the event that the amount collected by Lessor exceeds Lessee's then

  
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outstanding obligations any such excess                    e refunded to Lessee. Lessor shall not, by reasc                    a foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

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

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

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

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

### 13. Default; Breach; Remedies.

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

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

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee. THE ACCEPTANCE BY LESSOR OF A PARTIAL PAYMENT OF RENT OR SECURITY DEPOSIT SHALL NOT CONSTITUTE A WAIVER OF ANY OF LESSOR'S RIGHTS, INCLUDING LESSOR'S RIGHT TO RECOVER POSSESSION OF THE PREMISES.

(c) The failure of Lessee to allow Lessor and/or its agents access to the Premises or the commission of waste, act or acts constituting public or private nuisance, and/or an illegal activity on the Premises by Lessee, where such actions continue for a period of 3 business days following written notice to Lessee.

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

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

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

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

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

13.2 **Remedies.** If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. Lessee shall pay to Lessor an amount equal to 115% of the costs and expenses incurred by Lessor in such performance upon receipt of an invoice therefor. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover any damages to which Lessor is otherwise entitled. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor

  
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shall have the right to recover in such proceedings any unpaid Rent and damages as are recoverable herein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

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

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

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

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

**13.5 Interest.** Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due shall bear interest from the 31st day after it was due. The interest ("**Interest**") charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

**13.6 Breach by Lessor.**

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

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

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

**15. Brokerage Fees.**

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

**15.2 Assumption of Obligations.** Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's obligation hereunder. Brokers shall be third party beneficiaries of the provisions of Paragraphs 1.10, 15, 22 and 31. If Lessor fails to pay to Brokers any amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue Interest. In addition, if Lessor fails to pay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker for the limited purpose of collecting any brokerage fee owed.

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

16. **Estoppel Certificates.**

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

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate. In addition, Lessee acknowledges that any failure on its part to provide such an Estoppel Certificate will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to execute and/or deliver a requested Estoppel Certificate in a timely fashion the monthly Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater for remainder of the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to provide the Estoppel Certificate. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to provide the Estoppel Certificate nor prevent the exercise of any of the other rights and remedies granted hereunder.

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall within 10 days after written notice from Lessor deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17. **Definition of Lessor.** The term "**Lessor**" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

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

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

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

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

22. **No Prior or Other Agreements; Broker Disclaimer.** This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party.

23. **Notices.**

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

23.2 **Date of Notice.** Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices transmitted by facsimile transmission or similar means shall be deemed delivered upon telephone confirmation of receipt (confirmation report from fax machine is sufficient), provided a copy is also delivered via delivery or mail. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

24. **Waivers.**

(a) No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent.

(b) The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of moneys or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by

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Lessor at or before the time of deposit o. payment.

(c) THE PARTIES AGREE THAT THE TERMS OF THIS LEASE SHALL GOVERN WITH REGARD TO ALL MATTERS RELATED THERETO AND HEREBY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE TO THE EXTENT THAT SUCH STATUTE IS INCONSISTENT WITH THIS LEASE.

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

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

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

(ii) **Lessee's Agent.** An agent can agree to act as agent for the Lessee only. In these situations, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations. **To the Lessee:** A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. **To the Lessee and the Lessor:** (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

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

(b) Brokers have no responsibility with respect to any Default or Breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to this Lease may be brought against Broker more than one year after the Start Date and that the liability (including court costs and attorneys' fees), of any Broker with respect to any such lawsuit and/or legal proceeding shall not exceed the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

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

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

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

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


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

30. **Subordination; Attornment; Non-Disturbance.**

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

30.2 **Attornment.** In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Device to which this Lease is subordinated (i) Lessee shall, subject to the non-disturbance provisions of Paragraph 30.3, attorn to such new owner, and upon request, enter into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of the new owner, this Lease will automatically become a new lease between Lessee and such new owner, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor which was not paid or credited to such new owner.

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

  
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execution and delivery of a Non-Disturbance Agreement.

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

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

32. **Lessor's Access; Showing Premises; Repairs.** Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect on Lessee's use of the Premises. All such activities shall be without abatement of rent or liability to Lessee.

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

34. **Signs.** Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last 6 months of the term hereof. Except for ordinary "For Sublease" signs which may be placed only on the Premises, Lessee shall not place any sign upon the Project without Lessor's prior written consent. All signs must comply with all Applicable Requirements.

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

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

37. **Guarantor.**

37.1 **Execution.** The Guarantors, if any, shall each execute a guaranty in the form most recently published by the AIR Commercial Real Estate Association.

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

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

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

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

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

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

39.4 **Effect of Default on Options.**

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

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

(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term or completion of the purchase, (i) Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof), or (ii) if Lessee commits a Breach of this Lease.

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

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

42. **Performance Under Protest.** If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay. A Party who does not initiate suit for the recovery of sums paid "under protest" within 6 months shall be deemed to have waived its right to protest such payment.

43. **Authority; Multiple Parties; Execution.**

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

(b) If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and severally liable hereunder. It is agreed that any one of the named Lessees shall be empowered to execute any amendment to this Lease, or other document ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

(c) This Lease may be executed by the Parties in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

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

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

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

47. **Waiver of Jury Trial. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.**

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

49. **Accessibility; Americans with Disabilities Act.**

(a) The Premises:  have not undergone an inspection by a Certified Access Specialist (CASp).  have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises met all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq.  have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises did not meet all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq.

(b) Since compliance with the Americans with Disabilities Act (ADA) is dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. In the event that Lessee's use of the Premises requires modifications or additions to the Premises in order to be in ADA compliance, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

50. **Conditional Use Permit (CUP).** Lessee to submit to the City of San Diego an application for a CUP to operate a Medical Marijuana Dispensary. The city has not set a time table for their response and approval of CUP for this use. Once granted, 60 Month Lease term to commence, see paragraph 51. If CUP is not obtained, Lessee and Lessor agree to terminate lease as the Lessor will not legally be able to operate the agreed upon use.

51. **Lease Term.** Initial Lease Term to be temporary during CUP application process with city. Lessee will not occupy the premises during initial term allowing for Sinner Brothers Inc. to continue ongoing business operations. Initial lease term to expire once Conditional Use Permit (CUP) is obtained lessee will give 60-day notice to vacate the premises and commence 60-month lease term.

52. **Rent Schedule.** The Base Monthly Rent shall follow the schedule;

During initial lease term the base monthly rent shall be \$2,000

Once CUP is obtained, Sixty (60) month lease term to begin.

Months 1-24 the base monthly rent shall be \$4,500/mo. and shall be paid up-front with CUP Approval.

Months 25-36 the base monthly rent shall be \$4,500/mo. and shall be paid up front in full at beginning of month 25.

Months 37-48 the base monthly rent shall be \$5,000/mo. and shall be paid up front in full at beginning of month 37.

Months 49-60 the base monthly rent shall be \$5,500/mo. and shall be paid up front in full at beginning of month 49.

53. **Option to Extend Lease.** Lessee shall have Two (2) options to extend lease for period of Sixty (60) months. Lease rates to be reevaluated and agreed upon for each option and lease rate to fall in line with current lease rates.

54. **Option to Purchase/Expand.** Lessee to have first right of refusal to purchase and/or lease additional space at subject property as well as property located at 3460 Hancock St., San Diego, CA 92110. Lease rates to follow the above rates for any additional lease space.

  
INITIALS

  
INITIALS

55. Office Improvements for Lessor. Once CUP is obtained from the City, Lessee to build-out office space for Sinner Brothers Inc. at 3460 Hancock St. while completing T.I. work at 3452 Hancock St. Office space to be in like kind to existing office space located at 3452 Hancock St. Total costs for parts and labor not to exceed \$2,500.

56. Lessee shall indemnify and hold harmless Lessor & Brokers from any and all liability associated with Medical marijuana use  
LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.  
ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE AIR COMMERCIAL REAL ESTATE ASSOCIATION OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

- 1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.
- 2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING OF THE PREMISES, THE STRUCTURAL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE.  
WARNING: IF THE PREMISES ARE LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES ARE LOCATED.

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

Executed at: \_\_\_\_\_ Executed at: \_\_\_\_\_  
On: 4-18-14 On: 4/18/14

By LESSOR: Sinner Brothers Inc. By LESSEE: Adam Knopf or Assignee

By: Mary Rickards By: Adam Knopf  
Name Printed: Mary Rickards Name Printed: Adam Knopf  
Title: an Individual Title: an Individual

By: John Rickards By: \_\_\_\_\_  
Name Printed: John Rickards Name Printed: \_\_\_\_\_  
Title: President Title: \_\_\_\_\_  
Address: 3452 Hancock St. Address: 2830 Lytton St.  
San Diego, CA 92110 San Diego, CA 92110

Telephone: (619) 683-2300 Telephone: (619) 886-4251  
Facsimile: (619) 683-2323 Facsimile: (\_\_\_\_)  
Email: sinnerbrothers@aol.com Email: adamearth73@gmail.com  
Email: \_\_\_\_\_  
Federal ID No. \_\_\_\_\_ Federal ID No. \_\_\_\_\_

BROKER: Pacific Coast Commercial BROKER: Same as Lessor

Attn: Brad Talbert Attn: \_\_\_\_\_  
Title: Broker Associate Title: \_\_\_\_\_  
Address: 6050 Santo Rd. #200 Address: \_\_\_\_\_  
San Diego, CA 92124  
Telephone: (619) 469-3600 Telephone: (\_\_\_\_)  
Facsimile: (858) 506-5064 Facsimile: (\_\_\_\_)  
Email: brad@pacificcoastcommercial.com Email: \_\_\_\_\_  
Federal ID No. \_\_\_\_\_ Federal ID No. \_\_\_\_\_  
Broker/Agent DRE License #: 01908506 Broker/Agent DRE License #: \_\_\_\_\_

NOTICE: These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form: AIR Commercial Real Estate Association, 500 N Brand Blvd, Suite 900, Glendale, CA 91203. Telephone No. (213) 687-8777. Fax No.: (213) 687-8616.

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DR  
INITIALS

AK  
INITIALS





**DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP**

(As required by the Civil Code)

When you enter into a discussion with a real estate agent regarding a real estate transaction, you should from the outset understand what type of agency relationship or representation you wish to have with the agent in the transaction.

**LESSOR'S/SELLER'S AGENT**

A Lessor's/Seller's agent under a listing agreement with the Lessor/Seller acts as the agent for the Lessor/Seller only. A Lessor/Seller's agent or a subagent of that agent has the following affirmative obligations:

To the Lessor/Seller:

A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor/Seller. To the Lessee/Buyer and the Lessor/Seller:

- (a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
- (b) A duty of honest and fair dealing and good faith.
- (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that

are not known to, or within the diligent attention and observation of, the parties.

An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

**LESSEE'S/BUYER'S AGENT**

A selling agent can, with a Lessee's/ Buyer's consent, agree to act as agent for the Lessee/Buyer only. In these situations, the agent is not the Lessor's/Seller's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor/Seller. An agent acting only for a Lessee/Buyer has the following affirmative obligations:

To the Lessee/Buyer:

A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee/Buyer. To the Lessee/Buyer and the Lessor/Seller:

- (a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
- (b) A duty of honest and fair dealing and good faith.
- (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that

are not known to, or within the diligent attention and observation of, the parties. An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

~~AGENT REPRESENTING BOTH LESSOR/SELLER AND LESSEE/BUYER~~

A real estate agent, either acting directly or through one or more associate licensees, can legally be the agent of both the Lessor/Seller and the Lessee/Buyer in a transaction, but only with the knowledge and consent of both the Lessor/Seller and the Lessee/Buyer.

In a dual agency situation, the agent has the following affirmative obligations to both the Lessor/Seller and the Lessee/Buyer:

- (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either the Lessor/Seller or the Lessee/Buyer.
- (b) Other duties to the Lessor/Seller and the Lessee/Buyer as stated above in their respective sections.

In representing both Lessor/Seller and Lessee/Buyer, the agent may not, without the express permission of the respective party, disclose to the other party that the Lessor/Seller will accept a price less than the listing price or that the Lessee/Buyer will pay a price greater than the price offered.

The above duties of the agent in a real estate transaction do not relieve a Lessor/Seller or Lessee/Buyer from the responsibility to protect his or her own interests. You should carefully read all agreements to assure that they adequately express your understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

Throughout your real property transaction you may receive more than one disclosure form, depending upon the number of agents assisting in the transaction. The law requires each agent with whom you have more than a casual relationship to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction.

This disclosure form includes the provisions of Sections 2079.13 to 2079.24, inclusive, of the Civil Code set forth on the reverse hereof. Read it carefully.

Associate Agent (Signature) (date)

ON BEHALF OF BRAD TAUBERT

Lessor/Seller (Signature) (date)

Lessee/Buyer (Signature) (date)

As used in Sections 2079.14 to 2079.24, inclusive, the following terms have the following meanings:

(a) "Agent" means a person acting under provisions of Title 9 (commencing with Section 2295) in a real property transaction, and includes a person who is licensed as a real estate broker under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, and under whose license a listing is executed or an offer to purchase is obtained.

(b) "Associate licensee" means a person who is licensed as a real estate broker or salesperson under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code and who is either licensed under a broker or has entered into a written contract with a broker to act as the broker's agent in connection with acts requiring a real estate license and to function under the broker's supervision in the capacity of an associate licensee. The agent in the real property transaction bears responsibility for his or her associate licensees who perform as agents of the agent. When an associate licensee owes a duty to any principal, or to any Buyer or Seller who is not a principal, in a real property transaction, that duty is equivalent to the duty owed to that party by the broker for whom the associate licensee functions.

(c) "Buyer" means a transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a Seller through an agent, or who seeks the services of an agent in more than a casual, transitory, or preliminary manner, with the object of entering into a real property transaction. "Buyer" includes vendee or lessee.

(d) "Commercial real property" means all real property in the state, except single-family residential real property, dwelling units made subject to Chapter 2 (commencing with Section 1940) of Title 5, mobile homes, as defined in Section 798.3, or recreational vehicles, as defined in Section 799.29.

(e) "Dual agent" means an agent acting, either directly or through an associate licensee, as agent for both the Seller and the Buyer in a real property transaction.

(f) "Listing agreement" means a contract between an owner of real property and an agent, by which the agent has been authorized to sell the real property or to find or obtain a Buyer.

(g) "Listing agent" means a person who has obtained a listing of real property to act as an agent for compensation.

(h) "Listing price" is the amount expressed in dollars specified in the listing for which the Seller is willing to sell the real property through the listing agent.

(i) "Offering price" is the amount expressed in dollars specified in an offer to purchase for which the Buyer is willing to buy the real property.

(j) "Offer to purchase" means a written contract executed by a Buyer acting through a selling agent that becomes the contract for the sale of the real property upon acceptance by the Seller.

(k) "Real property" means any estate specified by subdivision (1) or (2) of Section 761 in property that constitutes or is improved with one to four dwelling units, any commercial real property, any leasehold in these types of property exceeding one year's duration, and mobile homes, when offered for sale or sold through an agent pursuant to the authority contained in Section 10131.6 of the Business and Professions Code.

(l) "Real property transaction" means a transaction for the sale of real property in which an agent is property that are not known to, or within the diligent attention and observation of, the employer by one or more of the principals to act in that transaction, and includes a listing or an offer to purchase.

(m) "Sell," "sale," or "sold" refers to a transaction for the transfer of real property from the Seller to the Buyer, and includes exchanges of real property 95 Ch. 200—2—between the Seller and Buyer, transactions for the creation of a real property sales contract within the meaning of Section 2985, and transactions for the creation of a leasehold exceeding one year's duration.

(n) "Seller" means the transferor in a real property transaction, and includes an owner who lists real property with an agent, whether or not a transfer results, or who receives an offer to purchase real property of which he or she is the owner from an agent on behalf of another. "Seller" includes both a vendor and a lessor.

(o) "Selling agent" means a listing agent who acts alone, or an agent who acts in cooperation with a listing agent, and who sells or finds and obtains a Buyer for the real property, or an agent who locates property for a Buyer or who finds a Buyer for a property for which no listing exists and presents an offer to purchase to the Seller.

(p) "Subagent" means a person to whom an agent delegates agency powers as provided in Article 5 (commencing with Section 2349) of Chapter 1 of Title 9. However, "subagent" does not include an associate licensee who is acting under the supervision of an agent in a real property transaction.

Listing agents and selling agents shall provide the Seller and Buyer in a real property transaction with a copy of the disclosure form specified in Section 2079.16, and, except as provided in subdivision (c), shall obtain a signed acknowledgment of receipt from that Seller or Buyer, except as provided in this section or Section 2079.15, as follows:

(a) The listing agent, if any, shall provide the disclosure form to the Seller prior to entering into the listing agreement.

(b) The selling agent shall provide the disclosure form to the Seller as soon as practicable prior to presenting the Seller with an offer to purchase, unless the selling agent previously provided the Seller with a copy of the disclosure form pursuant to subdivision (a).

(c) Where the selling agent does not deal on a face-to-face basis with the Seller, the disclosure form prepared by the selling agent may be furnished to the Seller (and acknowledgment of receipt obtained for the selling agent from the Seller) by the listing agent, or the selling agent may deliver the disclosure form by certified mail addressed to the Seller at his or her last known address, in which case no signed acknowledgment of receipt is required.

(d) The selling agent shall provide the disclosure form to the Buyer as soon as practicable prior to execution of the Buyer's offer to purchase, except that if the offer to purchase is not prepared by the selling agent, the selling agent shall present the disclosure form to the Buyer not later than the next business day after the selling agent receives the offer to purchase from the Buyer.

In any circumstance in which the Seller or Buyer refuses to sign an acknowledgment of receipt pursuant to Section 2079.14, the agent, or an associate licensee acting for an agent, shall set forth, sign, and date a written declaration of the facts of the refusal.

The disclosure form required by Section 2079.14 shall have Sections 2079.13 to 2079.24, inclusive, excluding this section, printed on the back, and on the front of the disclosure form the following shall appear:

DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP  
(As required by the Civil Code)

When you enter into a discussion with a real estate agent regarding a real estate transaction, you should from the outset understand what type of agency relationship or representation you wish to have with the agent in the transaction.

SELLER'S AGENT

A Seller's agent under a listing agreement with the Seller acts as the agent for the Seller only. A Seller's agent or a subagent of that agent has the following affirmative obligations:

To the Seller:  
A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Seller. To the Buyer and the Seller:

(a) Diligent exercise of reasonable skill and care in performance of the agent's duties.  
(b) A duty of honest and fair dealing and good faith.  
(c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the parties.

An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

BUYER'S AGENT

A selling agent can, with a Buyer's consent, agree to act as agent for the Buyer only. In these situations, the agent is not the Seller's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Seller. An agent acting only for a Buyer has the following affirmative obligations:

To the Buyer:  
A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Buyer. To the Buyer and the Seller:

(a) Diligent exercise of reasonable skill and care in performance of the agent's duties.  
(b) A duty of honest and fair dealing and good faith.  
(c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties. An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

AGENT REPRESENTING BOTH SELLER AND BUYER

A real estate agent, either acting directly or through one or more associate licensees, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer.

In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer:

(a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either the Seller or the Buyer.

(b) Other duties to the Seller and the Buyer as stated above in their respective sections.

In representing both Seller and Buyer, the agent may not, without the express permission of the respective party, disclose to the other party that the Seller will accept a price less than the listing price or that the Buyer will pay a price greater than the price offered.

The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect his or her own interests. You should carefully read all agreements to assure that they adequately express your understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

Throughout your real property transaction you may receive more than one disclosure form, depending upon the number of agents assisting in the transaction. The law requires each agent with whom you have more than a casual relationship to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction.

This disclosure form includes the provisions of Sections 2079.13 to 2079.24, inclusive, of the Civil Code set forth on the reverse hereof. Read it carefully.

(Sample, Do not complete) is the agent of  
Agent (Signature) (date) Lessor/Seller (Signature) (date)

(Sample, Do not complete) is the agent of  
Associate Licensee (Signature) (date) Lessee/Buyer (Signature) (date)

(a) As soon as practicable, the selling agent shall disclose to the Buyer and Seller whether the selling agent is acting in the real property transaction exclusively as the Buyer's agent, exclusively as the Seller's agent, or as a dual agent representing both the Buyer and the Seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the Seller, the Buyer, and the selling agent prior to or coincident with execution of that contract by the Buyer and the Seller, respectively.

(b) As soon as practicable, the listing agent shall disclose to the Seller whether the listing agent is acting in the real property transaction exclusively as the Seller's agent, or as a dual agent representing both the Buyer and Seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the Seller and the listing agent prior to or coincident with the execution of that contract by the Seller.

(c) The confirmation required by subdivisions (a) and (b) shall be in the following form:

(Sample, Do not complete) is the agent of  
(Name of Listing Agent)  
(check one):  
( ) the Lessor/Seller exclusively; or  
( ) both the Lessee/Buyer and Lessor/Seller.

(Sample, Do not complete) is the agent of  
(Name of Selling Agent if not the same as the Listing Agent) (check one):  
( ) the Lessee/Buyer exclusively; or  
( ) the Lessor/Seller exclusively; or  
( ) both the Lessee/Buyer and Lessor/Seller.

(d) The disclosures and confirmation required by this section shall be in addition to the disclosure required by Section 2079.14.

No selling agent in a real property transaction may act as an agent for the Buyer only, when the selling agent is also acting as the listing agent in the transaction.

The payment of compensation or the obligation to pay compensation to an agent by the Seller or Buyer is not necessarily determinative of a particular agency relationship between an agent and the Seller or Buyer. A listing agent and a selling agent may agree to share any compensation or commission paid, or any right to any compensation or commission for which an obligation arises as the result of a real estate transaction, and the terms of any such agreement shall not necessarily be determinative of a particular relationship.

Nothing in this article prevents an agent from selecting, as a condition of the agent's employment, a specific form of agency relationship not specifically prohibited by this article if the requirements of Section 2079.14 and Section 2079.17 are complied with.

A dual agent shall not disclose to the Buyer that the Seller is willing to sell the property at a price less than the listing price, without the express written consent of the Seller. A dual agent shall not disclose to the Seller that the Buyer is willing to pay a price greater than the offering price, without the express written consent of the Buyer.

This section does not alter in any way the duty or responsibility of a dual agent to any principal with respect to confidential information other than price.

Nothing in this article precludes a listing agent from also being a selling agent, and the combination of these functions in one agent does not, of itself, make that agent a dual agent.

A contract between the principal and agent may be modified or altered to change the agency relationship at any time before the performance of the act which is the object of the agency with the written consent of the parties to the agency relationship.

Nothing in this article shall be construed to either diminish the duty of disclosure owed Buyers and Sellers by agents and their associate licensees, subagents, and employees or to relieve agents and their associate licensees, subagents, and employees from liability for their conduct in connection with acts governed by this article or for any breach of a fiduciary duty or a duty of disclosure.

MJK  
OR



**STANDARD AGENCY CONFIRMATION**  
**(per California Civil Code Section 2079.17)**

**Property Address:** 3452 Hancock Street, San Diego, CA 92110

The following agency relationship(s) is/are hereby confirmed for this transaction:  
Pacific Coast Commercial

(Name of Brokerage Company):

(check one)  
 the Lessor/Seller exclusively; or  the Lessee/Buyer exclusively; or  
 both the Lessor/Seller and Lessee/Buyer.

(Name of Brokerage Company if different than Above) is the agent of:

(check one)  
 the Lessor/Seller exclusively; or  the Lessee/Buyer exclusively; or  
 both the Lessor/Seller and Lessee/Buyer.

I/We have read or have had the opportunity to have the documents reviewed by counsel before signing below.

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS DOCUMENT

**Lessor/Seller** John Rickards, Mary Rickards / Sinner Brothers Inc.  
(print Name/Entity)

*John Rickards Mary Lynn Rickards* Date 5-11-15  
(sign)

**Lessee/Buyer** Adam Knopf, or assignee  
(print Name/Entity)

\_\_\_\_\_  
(sign) Date \_\_\_\_\_

**Lessor/Seller Agent** Pacific Coast Commercial BRE Lic. No. 01209930  
(Brokerage Company)

By *[Signature]* on behalf of *Brod Talbert* BRE Lic. No. 00780182 Date 5-11-15  
(Associate Agent)

**Lessee/Buyer Agent** \_\_\_\_\_ BRE Lic. No. \_\_\_\_\_  
(Brokerage Company)

By \_\_\_\_\_ BRE Lic. No. \_\_\_\_\_ Date \_\_\_\_\_  
(Associate Agent)

\* 1460 Capital Corp is doing business as Pacific Coast Commercial ("PCC")





## LEASE DISCLOSURES

Property: 3452-3460 Hancock St, San Diego, CA 92110 APN # 441-581-12-00 & 441-581-11-00

**Americans with Disabilities Act (ADA).** The Americans With Disabilities Act (42 United States Code sections 12101 et seq.) and other related federal, state and local requirements may require changes, even substantial improvements, to the Property in order to comply with these regulations. Landowners, Lessors and Lessees may be liable for any deficiency in accessibility under the ADA. Broker recommends that you have your experts investigate and evaluate ADA and related regulations with respect to the Property.

- (a) The Premises: X have not undergone an inspection by a Certified Access Specialist (CASp). \_\_\_ have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises met all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. \_\_\_ have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises did not meet all applicable construction related accessibility standards pursuant to California Civil Code §55.51 et seq.
- (b) Since compliance with the American with Disabilities Act (ADA) is dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation.

**As is Where is.** Except as otherwise noted in this Lease, Lessee acknowledges that the above property is leased in its Present "AS IS WHERE IS" Condition, including all defects, known or unknown. Lessee acknowledges the property MAY NOT be in compliance with applicable building, zoning, health, (ADA) Americans with Disabilities Act or other laws or codes, and that the property MAY NOT be in habitable Condition. Lessee acknowledges that Pacific Coast Commercial, and its agents have not made any warranties, expressed or implied, relating to the condition of the property. Pacific Coast Commercial and its agents shall not be responsible for the repair, replacement or modification of any deficiencies malfunctions or defect in the material, workmanship or mechanical components of the structure, improvements or land prior or subsequent to the occupancy. This includes, but is not limited to, heating, plumbing, disposal system, well or other water systems, drainage or moisture conditions, toxic mold, foundation, electrical, air conditioning, hot water heater, appliances, roofs or damage by pest or other organisms. Furthermore, Lessee agrees that Pacific Coast Commercial, and its agents shall have NO LIABILITY for any claim of losses that the Lessee may incur as a result of defects, which may now or hereafter exist with respect to the property.

Lessee is strongly advised to exercise the right to conduct inspections, investigations, tests, surveys, and other inspections at the Lessee's expense and to make Lessee own selection of professionals with appropriate qualifications to conduct inspections of the entire property. IF LESSEE DOES NOT EXERCISE THESE RIGHTS, LESSEE IS ACTING AGAINST THE RECOMMENDATION AND ADVICE OF THE BROKERS. Lessees are aware that Pacific Coast Commercial and its agents DO NOT GUARANTEE and in no way assume responsibility for the condition of the property. Lessee is aware of Lessee's own affirmative duty to exercise reasonable care to protect him, including those facts, which are known to or within the diligent attention and observation of the Lessee. (California Civil Code Section 2079.5)

Lessee is aware Lessor may not have copies of any permits pertaining to the property on file. Said property MAY OR MAY NOT be constructed in compliance with the local building codes. In the event it is not, Lessee may be required to expend additional sums to bring property to code or to remove, as determined by the local government agency. Having been so advised, Lessee holds Pacific Coast Commercial, its agents and associated companies harmless from any and all claims, losses or liability arising out of such matters.

**Broker Representation.** Pacific Coast Commercial is a regional brokerage firm representing a variety of clients in office, industrial, retail and investment transactions. Depending on the circumstances, Pacific Coast Commercial may represent both the Lessor/Lessee in a transaction, or you may be interested in a property that may be of interest to another Pacific Coast Commercial client. If Pacific Coast Commercial represents more than one party with respect to a property, Pacific Coast Commercial may have multiple duties to different principals, but will not disclose the confidential information of one principal to any other. Broker's services are performed in compliance with all federal, state and local anti-discrimination laws.

**Hazardous Materials and Underground Storage Tanks.** Due to prior or current uses of the Property or in the surrounding areas or the construction materials used thereon, the Property may have hazardous or undesirable metals (including lead-based paint), minerals (including asbestos), chemicals, hydrocarbons, petroleum-related compounds, or biological or radioactive/emissive items (including electrical and magnetic fields) in soils, water, building components, above or below-ground tanks/containers or elsewhere in areas that may or may not be accessible or noticeable or discoverable from a visual inspection. Such items may leak or otherwise be released. Asbestos has been used in items such as fireproofing, heating/cooling systems, insulation, spray-on and tile acoustical materials, floor tiles and coverings, roofing, drywall and plaster. If the Property was built before 1978 and has a residential unit, Lessors/Lessees must disclose all reports, surveys and other information known to them regarding lead-based paint to Lessees allow for inspections (42 United States Code Sections 4851 et seq.). Lessors are required to advise Lessees if they have any reasonable cause to believe that any hazardous substance has come to be located on or beneath the Property (Health and Safety Code Section 25359.7), and Lessors/Lessees must disclose reports and surveys regarding asbestos to certain persons, including their employees, contractors, and Lessees (Health and Safety Code Sections 25915 et seq.); Lessees have similar obligations. In addition, various regulations including but not limited to the Comprehensive Environmental Response Compensation and Liability Act (42 United States Code Section 9601 et seq.) Clean Water Act (33 United States Code Section 1251), Hazardous Materials Transportation Act (49 United States Code Section 1801), Resource Conservation and Recovery Act (42 United States Code Section 6901) and the Toxic Substances Control Act (15 United States Code Section 2601) may apply to the Property. Because Broker has not independently verified the existence or lack of existence of these conditions, we advise you to have your experts investigate and evaluate them.

**Property Inspections and Evaluations.** Lessees should have the Property thoroughly inspected and all parties should have the transaction thoroughly evaluated by the experts of their choice. Ask your experts what investigations and testing may be appropriate as well as the risks of not performing any such investigations or tests. Information regarding the Property supplied by the Broker has been received from third party sources and has not been independently verified by the Broker and should not be relied upon by any person as complete or accurate information. Have your experts verify all information regarding the Property, including any linear or area measurements, the condition of improvements and the availability of utilities. Also have your expert examine title, encumbrances, surveys and appraisals of the Property. All work should be inspected and evaluated by your experts. Any projections or estimates are for example only, are based on assumptions that may not occur and do not represent the current or future performances of the Property. Real Estate brokers are not experts concerning nor can they determine if any expert is qualified to provide advice on legal, tax, design, ADA, engineering, construction, zoning, building code, soils, title, survey, fire/life safety, insurance, hazardous materials, or other matters that may affect the Property. Such issues require special education and, generally, special licenses not possessed by real estate brokers. Broker recommends that you consult with legal, tax, insurance, title and other competent professionals on all matters affecting the value or desirability of the Property.

**Lessee Disclosure, Delivery of Reports, Control Reports and Compliance with Laws** Lessors are requested to disclose directly to Lessees all information known to Lessors regarding the Property, including but not limited to hazardous materials, zoning, construction, design, engineering, soils, title, survey, fire/life safety, and other matters, and to provide Lessees with copies of all reports in the possession of or accessible to Lessors/Lessees regarding the Property. If a pest control report is a condition of the purchase contract, are entitled to receive a copy of the report and any certification and notice of work completed. Lessors and Lessees must comply with all applicable federal, state and local laws, regulations, codes, or ordinances and administrative orders, including, but not limited to, the 1984 Civil Rights Act and all amendments thereto, the Foreign Investment in Real Property Tax Act, the Comprehensive Environmental Response Compensation and Liability Act, and the Americans With Disabilities Act. Broker has no verified knowledge of the Property's compliance with any such laws and regulations adopted pursuant thereto.

**Taxes.** Sales, leases and other real estate transactions can have federal, state and local tax consequences. The foregoing are general statements and Broker expresses no opinion as to the tax consequences of this transaction. Have your tax and financial professionals investigate and evaluate these matters.

**RECEIPT OF THIS NOTICE AND AGREEMENT IS HEREBY ACKNOWLEDGED:**

**Lessor: Sinner Brothers Inc.**

By: Mary L. Rickards Date: \_\_\_\_\_  
Signature of Lessor: Mary Rickards, an Individual

By: John Rickards Date: 4-18-14  
Signature of Lessor: John Rickards, President

By: Adam Knopf Date: 4/18/14  
Signature of Lessee: Adam Knopf or Assignee

By: Brad Talbert Date: 4/18/14  
Agent: Brad Talbert





## SALE DISCLOSURES

Property: 3452-3460 Hancock St, San Diego, CA 92110 APN # 441-581-12-00 & 441-581-11-00

**Americans with Disabilities Act (ADA).** The Americans With Disabilities Act (42 United States Code sections 12101 et seq.) and other related federal, state and local requirements may require changes, even substantial improvements, to the Property in order to comply with these regulations. Landowners, Lessors and Lessees may be liable for any deficiency in accessibility under the ADA. Broker recommends that you have your experts investigate and evaluate ADA and related regulations with respect to the Property.

- (a) The Premises: X have not undergone an inspection by a Certified Access Specialist (CASp). \_\_\_ have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises met all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. \_\_\_ have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises did not meet all applicable construction related accessibility standards pursuant to California Civil Code §55.51 et seq.
- (b) Since compliance with the American with Disabilities Act (ADA) is dependent upon Buyer's specific use of the Premises, Seller makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation.

**As is Where is.** Buyer acknowledges that the above property is sold in its Present "AS IS WHERE IS" Condition, including all defects, known or unknown. Buyer acknowledges the property MAY NOT be in compliance with applicable building, zoning, health, (ADA) Americans with Disabilities Act or other laws or codes, and that the property MAY NOT be in habitable Condition. Buyer acknowledges that Pacific Coast Commercial, and its agents have not made any warranties, expressed or implied, relating to the condition of the property. Pacific Coast Commercial and its agents shall not be responsible for the repair, replacement or modification of any deficiencies malfunctions or defect in the material, workmanship or mechanical components of the structure, improvements or land prior or subsequent to the occupancy. This includes, but is not limited to, heating, plumbing, disposal system, well or other water systems, drainage or moisture conditions, toxic mold, foundation, electrical, air conditioning, hot water heater, appliances, roofs or damage by pest or other organisms. Furthermore, Buyer agrees that Pacific Coast Commercial, and its agents shall have NO LIABILITY for any claim of losses that the Buyer may incur as a result of defects, which may now or hereafter exist with respect to the property.

Buyer is strongly advised to exercise the right to conduct inspections, investigations, tests, surveys, and other inspections at the Buyer's expense and to make Buyer's own selection of professionals with appropriate qualifications to conduct inspections of the entire property. IF BUYER DOES NOT EXERCISE THESE RIGHTS, BUYER IS ACTING AGAINST THE RECOMMENDATION AND ADVICE OF THE BROKERS. Buyers are aware that Pacific Coast Commercial and its agents DO NOT GUARANTEE and in no way assume responsibility for the condition of the property. Buyer is aware of Buyer's own affirmative duty to exercise reasonable care to protect him, including those facts, which are known to or within the diligent attention and observation of the Buyer. (California Civil Code Section 2079.5)

Buyer is aware Seller may not have copies of any permits pertaining to the property on file. Said property MAY OR MAY NOT be constructed in compliance with the local building codes. In the event it is not, Buyer may be required to expend additional sums to bring property to code or to remove, as determined by the local government agency. Having been so advised, Buyer holds Pacific Coast Commercial, its agents and associated companies harmless from any and all claims, losses or liability arising out of such matters.

**Broker Representation.** Pacific Coast Commercial a regional brokerage firm representing a variety of clients in office, industrial, retail and investment transactions. Depending on the circumstances, Pacific Coast Commercial may represent both the seller/landlord and the buyer/lessee in a transaction, or you may be interested in a property that may be of interest to another Pacific Coast Commercial client. If Pacific Coast Commercial represents more than one party with respect to a property, Pacific Coast Commercial may have multiple duties to different principals, but will not disclose the confidential information of one principal to any other. Broker's services are performed in compliance with all federal, state and local anti-discrimination laws.

**Earthquakes.** Earthquakes occur throughout California. According to the Alquist-Priolo Earthquake Fault Zoning Act Fault-Rupture Hazard Zones in California (Publication 42, revised 1994), the Property may or may not be situated in an Earthquake Fault Zone and/or a Seismic Hazard Zone (Sections 2821 et seq. and Sections 2890 et seq. of the Public Resource Code, respectively). Property development and construction in such zones generally are subject to the findings of a geologic report prepared by a state-registered geologist. Whether or not located in such a zone, all properties in California are subject to earthquake risks and may be subject to a variety of state and local earthquake-related requirements, including retrofit requirements. Among other items, all new and existing water heaters must be braced, anchored or strapped to resist falling or horizontal displacement, and in sales transactions, sellers must execute a written certification that the water heaters are so braced, anchored or strapped (Health and Safety Code Section 19211). If this is the sale of an unreinforced masonry building or a precast or reinforced masonry building with wood frame floors or roofs built before 1975, the buyer must be given a copy of The Commercial Property Owner's Guide to Earthquake Safety (Government Code Sections 8875.6 and 8893.2). Broker does not have a copy of this guide. Buyers should have their experts confirm whether the Property is in any earthquake zone and otherwise investigate and evaluate all geologic and seismic issues.

**Fires.** California Public Resource Codes Sections 4126 et seq. require sellers of real property located within state responsibility areas to advise buyers that the property is located within such a wildland zone, that the state does not have the responsibility to provide fire protection services to any structure within such a zone and that such zones may contain substantial forest/wildland fire risks. Government Code Sections 51178 et seq. require sellers of real property located within certain fire hazard zones to disclose that the property is located in such a zone. Sellers must disclose that a property located in a wildland or fire hazard zone is subject to the fire prevention requirements of Public Resources Code Section 4291 and Government Code Section 51182, respectively. Sellers must make such disclosure if either the sellers have actual knowledge that a property in such a zone or a map showing the property to be in such a zone has been provided to the county assessor. Properties, whether or not located in such a zone, are subject to fire/life safety risks and may be subject to state and local fire/life safety related requirements, including retrofit requirements. Broker has no verified knowledge of such zones, fire hazards or safety requirements with respect to the Property. Have your experts investigate and evaluate these matters.

**Flood Zones.** According to Federal Emergency Management Agency (Fidelity National Flood Map No. 6073C-1361F dated 5/19/97), the Property may or may not be located in an A or V flood zone and/or a dam inundation zone (Government Code Section 8589.5). Many lenders require flood insurance for properties located in flood zones, and government authorities may regulate problems, especially properties on a slope or in low-lying areas. Broker has not independently verified the existence or lack of existence of these conditions with respect to the Property. Buyers should have their experts confirm whether the Property is in a flood zone and otherwise investigate and evaluate these matters.

**Hazardous Materials and Underground Storage Tanks.** Due to prior or current uses of the Property or in the surrounding areas or the construction materials used thereon, the Property may have hazardous or undesirable metals (including lead-based paint), minerals (including asbestos), chemicals, hydrocarbons, petroleum-related compounds, or biological or radioactive/emissive items (including electrical and magnetic fields) in soils, water, building components, above or below-ground tanks/containers or elsewhere in areas that may or may not be accessible or noticeable or discoverable from a visual inspection. Such items may leak or otherwise be released. Asbestos has been used in items such as fireproofing, heating/cooling systems, insulation, spray-on and tile acoustical materials, floor tiles and coverings, roofing, drywall and plaster. If the Property was built before 1978 and has a residential unit, sellers must disclose all reports, surveys and other information known to them regarding lead-based paint to buyers and allow for inspections (42 United States Code Sections 4851 et seq.). Sellers are required to advise buyers if they have any reasonable cause to believe that any hazardous substance has come to be located on or beneath the Property (Health and Safety Code Section 25359.7), and sellers/landlords must disclose reports and surveys regarding asbestos to certain persons, including their employees, contractors, buyers (Health and Safety Code Sections 25915 et seq.); buyers have similar obligations. In addition, various regulations including but not limited to the Comprehensive Environmental Response Compensation and Liability Act (42 United States Code Section 9601 et seq.) Clean Water Act (33 United States Code Section 1251), Hazardous Materials Transportation Act (49 United States Code Section 1801), Resource Conservation and Recovery Act (42 United States Code Section 6901) and the Toxic Substances Control Act (15 United States Code Section 2601) may apply to the Property. Because Broker has not independently verified the existence or lack of existence of these conditions, we advise you to have your experts investigate and evaluate them.

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**Seller/Landlord Disclosure, Delivery of Reports, Pest Control Reports and Compliance with Laws.** Sellers are requested to disclose directly to buyers all information known to sellers regarding the Property, including but not limited to, hazardous materials, zoning, construction, design, engineering, soils, title, survey, fire/life safety, and other matters, and to provide buyers with copies of all reports in the possession of or accessible to sellers regarding the Property. If a pest control report is a condition of the purchase contract, buyers are entitled to receive a copy of the report and any certification and notice of work completed. Sellers and buyer must comply with all applicable federal, state and local laws, regulations, codes, or ordinances and administrative orders, including, but not limited to, the 1984 Civil Rights Act and all amendments thereto, the Foreign Investment in Real Property Tax Act, the Comprehensive Environmental Response Compensation and Liability Act, and the Americans With Disabilities Act. Broker has no verified knowledge of the Property's compliance with any such laws and regulations adopted pursuant thereto.


**Taxes.** Sales, leases and other real estate transactions can have federal, state and local tax consequences. The foregoing are general statements and Broker expresses no opinion as to the tax consequences of this transaction. Have your tax and financial professionals investigate and evaluate these matters.

RECEIPT OF THIS NOTICE AND AGREEMENT IS HEREBY ACKNOWLEDGED:


Seller: Sinner Brothers Inc.

By:   
Signature of Seller: Mary Rickards, an Individual

Date: 4-18-14

By:   
Signature of Seller: John Rickards, President

Date: 4-18-14

By:   
Signature of Buyer: Adam Knopf or Assignee

Date: 4/18/14

By:   
Agent: Brad Talbert

Date: 4/15/14



# EXHIBIT 2



**Modification of the Clarification of Agreement for the Exclusive Right to Sell all or any Portion of Real Property/Lease Other Terms #11.2**

**Other Terms: 11.2** Because at the time that the **Clarification of Agreement for the Exclusive Right to Sell all or any Portion of Real Property/Lease** was entered into it was anticipated that broker, George S. Louis, would have sufficient time to maximize the sales price but due to new time pressure that John Rickards owner of Sinner Brothers, Inc. now desires for the sale the of his property which include but are not limited to his changing financial needs, the 5% commission shall now apply to the full Sale Price of all or any part of John Rickards and Sinner Brothers property at 3452 – 3460 Hancock Street, San Diego, California 92110 regardless of who the buyer is including but not limited to a purchase by the Lessee.

This agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single agreement.

**Warranty:** Either party warrants and represents that the undersigned is duly authorized to sign and has the necessary right to execute this Agreement. This agreement may be signed and initialed in counterparts.

**INTENDING TO BE BOUND**, the parties hereto have signed this Agreement as of the date second signature set forth below.

By: John W. Rickards Date: OCT 23, 2018

Printed name: JOHN W. RICKARDS

By: George S. Louis Date: OCT 26, 2018

Printed name: GEORGE S. LOUIS

- g.  Home warranty policy
- h.  Smoke detector and water heater anchor installation
- i.  Local ordinance sale or occupancy compliance
- j.  Well water quality and quantity reports
- k.  \_\_\_\_\_
- l.  \_\_\_\_\_

9. EXCHANGE TERMS:

9.1 Seller will exchange the property for or reinvest the sales proceeds in the following property:  
 Type \_\_\_\_\_  
 Location \_\_\_\_\_  
 Assume or originate financing up to \$ \_\_\_\_\_

10. OPTION TERMS:

10.1 For option money in the amount of \$ \_\_\_\_\_, Seller will grant an option to purchase on any of the sale terms stated above, for a period of \_\_\_\_\_ months.

11. OTHER TERMS:

11.1 Buyer shall not have possession of the property before \_\_\_\_\_

11.2 The above stated 5.0% commission shall only be on the amount of the Sale Price that's greater than \$1,950,000.00 based upon the written offer attached hereto and incorporated by reference as Exhibit "A". The 5.0% commission shall include the value of all exchanges and value of all leases/leasebacks and extensions thereof on a per square foot basis of the highest value of a lease space less the total cost of the lease to John Rickards. John Rickards may make monthly payments on any leasebacks as long as they are still in effect. George S. Louis, Broker, is responsible for all his expenses related to marketing the property and will hold John Rickards harmless therefrom. END # #####

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I agree to render services on the terms stated above.

Date: 9/13 2018

Broker's Name: George S. Louis

CalBRE #: 529450

Agent's Name: George S. Louis

CalBRE #: 529450

Signature: George S. Louis

Address: 1575 Kimberly Woods Dr., El Cajon, CA 92020

I agree to employ broker on the terms stated above.  
 See attached Signature Page Addendum (RP Form 257)

Date: AUG 30 2018

Seller's Name: JOHN RICKARDS  
SINNER BROTHERS INC

Signature: John Rickards

Seller's Name: JOHN RICKARDS

Signature: \_\_\_\_\_

# EXHIBIT 3

1 Gina M. Austin (SBN 246833)  
E-mail: *gaustin@austinlegalgroup.com*  
2 Tamara M. Leetham (SBN 234419)  
E-mail: *tamara@austinlegalgroup.com*  
3 AUSTIN LEGAL GROUP, APC  
3990 Old Town Ave, Ste A-112  
4 San Diego, CA 92110  
Phone: (619) 924-9600  
5 Facsimile: (619) 881-0045

6 Attorneys for Defendants  
GSG PL, Inc.

7  
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF SAN DIEGO**

10 GSG PL, INC., a California corporation,  
ADAM KNOPF, an individual,

11 Plaintiff,

12 vs.

13 SINNER BROTHERS, INC., a California  
14 corporation, JOHN W. RICKARDS, an  
individual, and DOES 1-50, inclusive;

15 Defendants.

**CASE NO. 37-2018-00052589-CU-BC-CTL**

**VERIFIED COMPLAINT FOR:**

- 1. **BREACH OF CONTRACT**
- 2. **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**
- 3. **FRAUD – FALSE PROMISE**
- 4. **SPECIFIC PERFORMANCE**
- 5. **DECLARATORY RELIEF**

**Unlimited Civil Case**

**Demand For Jury Trial**

16  
17  
18  
19  
20 Plaintiffs GSG PL, Inc. and Adam Knopf (collectively, “Plaintiffs”) allege as follows:

21 **PARTIES AND JURISDICTION**

- 22 1. Plaintiff GSG PL, Inc. (“GSG”) is a California corporation with its principal place  
23 of business in San Diego County, California.
- 24 2. Plaintiff Adam Knopf (“Knopf”) is an individual and resident of San Diego,  
25 California.
- 26 3. Defendant Sinner Brothers, Inc. (“Sinner Brothers”) is a California corporation  
27 with its principal place of business in San Diego County, California.
- 28 4. Defendant John W. Rickards (“Rickards”) is an individual and resident of San

1 Diego, California.

2 5. Plaintiff is informed and believes, and thereon alleges, that each of the DOE  
3 Defendants sued herein was and is the agent or employee of the other defendant(s) and at all  
4 times relevant to this Complaint acted within the course and scope of the agency and employment  
5 and with the permission and consent of the other defendant(s). Defendants knowingly and  
6 willfully conspired and agreed among themselves to commit the wrongful acts alleged herein.  
7 Defendants and each of them did the acts and things alleged herein pursuant to, and in furtherance  
8 of, the conspiracy and agreement to commit the wrongful acts alleged herein. Each defendant  
9 further ratified the acts of the other.

10 6. Jurisdiction is proper with the above-entitled Court as both parties are domiciled in  
11 California and the lease agreement that is the subject of this action was entered into in this  
12 jurisdiction and was to be performed entirely within the jurisdiction of this Court.

13 **STATEMENT OF FACTS**

14 1. In the early part of 2014, the City of San Diego (the "City") passed an ordinance  
15 permitting a limited number of medical marijuana dispensaries to operate in approved zones if the  
16 City approved a conditional use permit ("CUP"). On learning this information, Plaintiff Adam  
17 Knopf decided to go through the application process to open a medical marijuana dispensary.

18 2. In April 2014, to start the CUP application process, Knopf identified the properties  
19 at 3452 Hancock Street, San Diego, CA 92110 ("3452 Hancock") and 3460 Hancock Street, San  
20 Diego, CA 92110 ("3460 Hancock") (collectively, the "Subject Properties") that appeared to meet  
21 the City's zoning criteria. The property was owned by Defendant Sinner Brothers, Inc.

22 3. Under the Lease Agreement (defined below) 3452-3460 Hancock Street is  
23 described as: "[A]n Approximate, 4,080 square foot industrial property situated on an  
24 approximate 13,198 square foot lot. APN # 441-581-12-00 & 441-581-11-00."

25 4. Mr. Knopf, on behalf of his yet to be formed corporation, and John Rickards, the  
26 President of Sinner Brothers, Inc., held negotiations over leasing the Subject Properties.  
27 Negotiations over certain terms and provisions were important to Mr. Knopf due to the nature of  
28

1 the proposed business, the legality of medical marijuana in the City and state of California, and  
2 the cost from application through the opening of the dispensary.

3 5. Due to California law, a medical marijuana dispensary could only be operated in  
4 the form of a collective or cooperative corporation.

5 6. On or around April 17, 2014, Knopf entered into a lease for 3452-3460 Hancock  
6 Street, San Diego, California 92110 (the "Lease Agreement").

7 7. Mr. Knopf was sure to have the Lease Agreement in his name and an assignee due  
8 to California law requiring a collective or cooperative as the only approved corporate structure.  
9 He was aware of the real estate contract norm of using "or assignee" as a placeholder for an  
10 entity. As such, it was contemplated by the parties that his name on the lease was merely a  
11 placeholder for his soon-to-be-formed entity.

12 8. The Lease Agreement contemplated that the agreed upon use for the property was  
13 a medical marijuana dispensary. All discussions with respect to the Lease Agreement  
14 contemplated the opening of a medical marijuana dispensary. The Lease Agreement was subject  
15 to the issuance of the CUP.  
16

- 17 9. In addition, the Lease Agreement also carved out the following important terms:  
18
- 19 a. Section 16(c) provides that: "[I]f Lessor desires to finance, refinance, or sell  
20 the Premises, or any part thereof, Lessee and all Guarantors shall within 10  
21 days after written notice from Lessor deliver to any potential lender or  
22 purchaser designated by Lessor such financial statements as ay be reasonably  
23 required by such lender or purchase, including but not limited to Lessee's  
24 financial statements for the past 3 years."
  - 25 b. Section 53 titled "Option to Extend Lease" states: "Lessee shall have Two (2)  
26 options to extend lease for period of Sixty (60) months. Lease rates to be  
27 reevaluated and agreed upon for each option and lease rate to fall in line with  
28 current lease rates."

1 c. Section 54 titled "Option to Purchase/Expand" states: "Lessee to have first  
2 right of refusal to purchase and/or lease additional space at subject property as  
3 well as property located at 3460 Hancock St., San Diego, CA 92110. Lease  
4 rates to follow the above rates for any additional lease space." (collectively  
5 with Section 53, the "Options")

6 10. Sections 53 and 54 were crucial in the Lease Agreement because it guaranteed that  
7 the proposed medical marijuana dispensary would be able to operate for a long time and the  
8 Subject Properties would not be sold out from underneath Plaintiffs. Without the promises of the  
9 long term plans contained in section 53 and 54, the Lease Agreement would not have been  
10 entered into.

11 11. On April 23, 2014, on behalf of PLPCC (defined below), Mr. Knopf submitted a  
12 "General Application" to the City for a conditional use permit for a medical marijuana consumer  
13 cooperative. Mr. Rickards signed the owner authorization form, as the record owner of the  
14 Subject Properties.

15 12. On or around April 24, 2014, Mr. Knopf formed Point Loma Patients Consumer  
16 Cooperative Corporation ("PLPCC") through the California Secretary of State.

17 13. In March 2015, the City Planning Commission approved PLPCC's CUP  
18 application. Mr. Knopf and Mr. Rickards were both present at the hearing approving PLPCC's  
19 CUP application.

20 14. On April 3, 2015, PLPCC's CUP was recorded with the San Diego County  
21 recorder as document number 2015-0157638.

22 15. In August 2015, PLPCC opened its doors.

23 16. On or around November 1, 2015, more than a year after the Lease Agreement was  
24 signed and months after PLPCC opened for business, an amendment to the Lease Agreement was  
25 entered into by Sinner Brothers and Mr. Knopf. The terms of the amendment provided that  
26 PLPCC and Knopf would lease additional space and that all other terms of the lease including  
27  
28

1 options to extend and first right of refusal for purchase of the building are still applicable. Mr.  
2 Rickards worked on the premises of 3452 Hancock, too. At the time of the amendment, and prior  
3 to, it was clearly PLPCC operating out of 3452 Hancock.

4 17. On or around September 9, 2016, PLPCC applied for an amendment to the CUP  
5 which would expand its original 832 square foot space to 1,503 square feet. The CUP  
6 amendment required Mr. Knopf's signature on behalf of PLPCC and John Rickards' signature on  
7 behalf of Sinner Brothers. Mr. Rickards signed the CUP amendment application.  
8

9 18. On September 24, 2016, the amendment to the CUP was approved.

10 19. On September 30, 2016, the amendment to the CUP was recorded with the San  
11 Diego County recorder as document number 2016-0523756.

12 20. It cost hundreds of thousands of dollars to submit the CUP application, complete  
13 the build out and tenant improvements, and then to amend the CUP.

14 21. Mr. Knopf, on behalf of PLPCC, put his livelihood on the line in order to get  
15 PLPCC off of the ground and running.

16 22. On or around December of 2017, PLPCC began submitting applications to the  
17 California Bureau of Cannabis Control for proper state licensing.

18 23. On or around December 22, 2017, John Rickards signed an owner authorization  
19 stating that "Sinner Brothers, Inc. understands and agrees that Point Loma Patients Consumer  
20 Cooperative engages in commercial cannabis activity on the Property [defined as 3452 Hancock  
21 Street, San Diego, CA 92110] and Sinner Brothers, Inc. expressly allows such use to occur."  
22

23 24. On or around March 28, 2018, PLPCC was converted from a cooperative  
24 corporation to a for-profit corporation. In doing so, the corporation's name was changed to GSG  
25 PL, Inc. GSG retained its corporate charter and tax identification number.

26 25. On or around April of 2018, Mr. Knopf began speaking to John Rickards of Sinner  
27 Brothers, to discuss the sale of 3452 Hancock.

28 26. On or around April 17 2018, Mr. Knopf submitted a purchase offer to Mr.



1 Rickards.

2 27. On or around April 26, 2018, Mr. Knopf began negotiating the purchase of 3452  
3 Hancock with Mr. Rickards' broker, Lanz Correia.

4 28. On or around May 2, 2018, Mr. Rickards through his broker Lanz Correia,  
5 responded with a counteroffer of Two Million Two Hundred and Twenty-Two Thousand Dollars  
6 (\$2,222,000).

7 29. The purchase did not materialize and the parties continued negotiations.

8 30. On October 10, 2018, Plaintiffs' broker submitted an offer to purchase 3452  
9 Hancock to Defendants Sinner Brothers and John Rickards, and their attorney and new broker  
10 George Louis. The offer came after discussions between the parties and after Mr. Rickards  
11 provided a price he would like to receive: two million three hundred thousand dollars  
12 (\$2,300,000.00).

13 31. On October 11, 2018, Defendants' counsel George Louis responded to Plaintiffs'  
14 offer to purchase and summarily rejected it. Mr. Louis reiterated that "all rights of first refusal are  
15 off the table" and that all offers from Plaintiffs must be accompanied with financial statements.  
16

17 32. On October 12, 2018, John Rickards delivered a letter to Mr. Knopf stating "all of  
18 3452 Hancock Street, San Diego, California 92110 and possibly some or all of 3460 Hancock  
19 Street, San Diego, California 92110 are now for sale." He further stated in his letter that "under  
20 16(c) of the Lease and Amended Lease of 3452 Hancock Street, San Diego, California 92110  
21 between you and John Rickards, President of Sinner Brothers, Inc. that within ten (10) days you  
22 provide me with at least the last three (3) years of the Lessee's financial statements."  
23

24 33. On or around October 15, 2018, GSG, through its counsel of record, submitting a  
25 signed letter to Defendant's counsel providing notice of GSG's intent to exercise the option to  
26 extend the lease, as laid out in Section 53 of the Lease Agreement.

27 34. On or around October 16, 2018, Mr. Knopf hand delivered a signed letter to  
28 Defendant Rickards providing notice of GSG's intent to exercise its option to extend the lease,

1 under Section 53 of the Lease Agreement.

2 35. On or around October 16, 2018, George Louis communicated to Mr. Knopf's  
3 broker that the option to extend the lease is denied.

4 **FIRST CAUSE OF ACTION**

5 **Breach of Contract**

6 36. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 35 as  
7 through set forth herein.

8 37. On or around April 17, 2014, Plaintiffs and Defendants entered into the Lease  
9 Agreement. Due to the anticipated expenditures associated with the medical marijuana dispensary  
10 application, Mr. Knopf on behalf of PLPCC made sure to negotiate specific provisions to allow  
11 for the continued operation of the new business. Specifically, sections 53 and 54 of the Lease  
12 Agreement which provided the option to extend the term of the Lease Agreement by sixty months  
13 and the right of first refusal, respectively.

14 38. Plaintiff has performed its obligations, covenants, and conditions required of it  
15 under the Lease, except to the extent any such obligations, covenants, or conditions have been  
16 excused, prevented, or waived by Defendant's acts or omissions.

17 39. Plaintiffs bargained for two options in the Lease Agreement: (1) the option to  
18 extend the lease, and (2) the right of first refusal on any offers to purchase. On October 12, 2018,  
19 Defendants' attorney and broker George Louis stated unequivocally that the Options were off the  
20 table. On October 16 2018, Plaintiff Adam Knopf hand delivered a formal letter exercising his  
21 option to extend the lease to Defendant John Rickards. Mr. Louis communicated that the option to  
22 extend was denied.

23 40. Furthermore, Defendants have already made clear that they are shopping the  
24 Subject Properties and Plaintiffs are under the belief that an offer has been received. Plaintiffs  
25 have made clear that the right of first refusal must be given, per the Lease Agreement. Defendants  
26 and their agents have said the right of first refusal is off the table.

27 41. Defendants are acting in bad faith and are in breach of the Lease Agreement.  
28 Pursuant to the Lease Agreement, Plaintiffs possess an option to extend the lease terms and a

1 right of first refusal should Defendant try to sell the Subject Properties. Now, Defendants have  
2 made clear that they are refusing to accept the validity of the option to extend the Lease  
3 Agreement. Furthermore, Defendants have made it clear to Plaintiffs that the Subject Properties  
4 are for sale and three years of Plaintiff's financial documents are required.

5 42. Plaintiffs have been damaged as a direct result of Defendant's breach in an amount  
6 to be determined at trial.

7 **SECOND CAUSE OF ACTION**

8 **Intentional Infliction of Emotional Distress**

9 43. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 42 as set  
10 forth herein.

11 44. Since 2014, Plaintiffs and Defendant have been parties to the Lease Agreement  
12 and bound to all of the terms and conditions contained therein. At all times leading up to the entry  
13 of the Lease Agreement and thereafter, Plaintiff Adam Knopf believed he was entering a long-  
14 term landlord-tenant relationship. The Lease Agreement carved out the Options that ensure Mr.  
15 Knopf and GSG remain at the Subject Properties for at least 15 years. Furthermore, Mr. Knopf  
16 contracted to obtain an option for the right of first refusal, so Defendant John Rickards through  
17 Defendant Sinner Brothers could not sell the Subject Properties without providing Plaintiffs the  
18 opportunity to take over ownership.

19 45. Now, more than four years after the Lease Agreement was first executed,  
20 Defendant Rickards is stymieing the landlord-tenant relationship through intentional actions that  
21 are not only in bad faith, but designed to cause deleterious effects to Mr. Knopf. Mr. Knopf has  
22 been attempting to purchase the Subject Properties since April of 2018. Mr. Knopf, through his  
23 broker, has made two purchase offers. The second of which was the price that Mr. Rickards told  
24 Mr. Knopf he was looking to receive. Both offers were rejected. Meanwhile, Mr. Rickards is  
25 denying the validity of the Options which provide Mr. Knopf and GSG with long-term stability.  
26 Defendants' counsel and exclusive broker is demanding financial statements in order to inflate the  
27 value of the Subject Properties, specifically 3452 Hancock, before Defendant even contemplates  
28 an offer from Mr. Knopf.

1           46. Plaintiff Adam Knopf is now in between a rock and a hard place as Defendants are  
2 refusing to provide him details on the potential sale of the Subject Properties, refusing to validate  
3 the clear-cut Options contained in the Lease Agreement, and attempting to use Plaintiffs' business  
4 as a means of artificially inflating the value of the Subject Properties.

5           47. Defendants have full and complete knowledge of the importance of maintaining a  
6 long-term interest in the Subject Properties. Defendant dangled the proverbial carrot in front of  
7 Mr. Knopf by giving him a price for which he would sell 3452 Hancock for, and pulling it away  
8 upon receipt of such an offer. Defendant is knowingly engaging in extreme and outrageous  
9 conduct in his refusal to validate the Options and in trying to drive the sales price of 3452  
10 Hancock up. While Mr. Knopf was making the aforementioned purchase offers, Defendant was  
11 using another tool to his benefit: refusing to sign an owner authorization form necessary to GSG's  
12 California license application. Defendant knew that the owner authorization was crucial to GSG  
13 and Mr. Knopf's ongoing application process and that without it, GSG would not receive  
14 approval from the State of California's licensing body.

15           48. Mr. Rickards conduct put Plaintiff in serious legal jeopardy as he was facing  
16 losing his legal status as a medical marijuana dispensary, losing his right to continue the Lease  
17 Agreement beyond the initial term, and losing the contractual right of first refusal. Mr. Knopf has  
18 spent the last four years putting his livelihood into GSG. Defendant has acted knowingly, with the  
19 intention of causing, or with extreme reckless disregard for indifference to the legal and financial  
20 wellbeing of Plaintiff Adam Knopf, and with the probability of causing severe emotional distress.

21           49. Defendant has shown a complete disregard for the legal and financial wellbeing of  
22 Plaintiff which is outrageous in light of years of model tenancy and Defendant's prior compliance  
23 and acceptance of the Lease Agreement's terms. The withholding of the owner authorization,  
24 thereby jeopardizing Plaintiff GSG's legal standing and status with California, while listing the  
25 Subject Properties for sale, and summarily rejecting Plaintiff's purchase offer – that Defendant  
26 requested – is so extreme it exceeds all bounds of legal behavior tolerated by the State of  
27 California and puts Plaintiff at risk of legal and financial jeopardy.

28           50. It was reasonably foreseeable that Plaintiff would suffer emotional injury and

1 distress from Defendant's actions due to the time and resources Mr. Knopf has poured into the  
2 Subject Properties over the last four years.

3 51. As a direct, actual and proximate result of Defendant's conduct as complained of  
4 herein, Plaintiff now suffers from the constant fear that the Subject Properties will be sold without  
5 any knowledge of his rights under the Lease Agreement, that GSG could lose its status as a  
6 licensed medical marijuana dispensary and be subject to potential criminal liability should Mr.  
7 Rickards decide to withhold necessary compliance documents again, losing the right to extend the  
8 Lease Agreement causing Mr. Knopf and GSG to shutter its doors, cause the unemployment of  
9 more than one hundred and twenty employees, and lose millions of dollars as a result. Plaintiff  
10 has suffered, and continues to suffer, extreme emotional distress in a manner and amount to be  
11 proved at the trial of this matter. In light of Defendant's egregious actions and conduct, Plaintiff  
12 is entitled to compensatory, exemplary and punitive damages for Defendant's intentional, wanton,  
13 reckless, and extreme disregard for Plaintiff's legal rights.

### 14 **THIRD CAUSE OF ACTION**

#### 15 **Fraud – False Promise**

16 52. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 51 as set  
17 forth herein.

18 53. The Lease Agreement provided several safeguards to Plaintiff with respect to  
19 ensuring GSG would be able to continue its operations well beyond the initial five year lease. The  
20 promise made by Defendant Rickards that Mr. Knopf and GSG would be able to extend the lease  
21 for additional sixty-month terms, and the right of first refusal on purchase offers, were necessary  
22 to Mr. Knopf's signing the Lease Agreement. Mr. Knopf would not have entered into a lease  
23 without the Options and without the assurance that forming an entity, as assignee, would  
24 invalidate the Options. Mr. Rickards knew this.

25 54. Defendant did not intend to fulfill the promise of granting the Options at the time  
26 the promise was made. Mr. Rickards knew from the start of lease negotiations that Mr. Knopf was  
27 not going to be the operator of the medical marijuana dispensary and that Options would not  
28 extend beyond Mr. Knopf, despite knowing Mr. Knopf never intended that to be the case. Mr.

1 Knopf never represented that he would be the operator and California law forbade it. Mr.  
2 Rickards intent was not to fulfill the promise of the Options because his property value would be  
3 increased tremendously at the end of the Lease Agreement.

4 55. At the time the Lease Agreement was being negotiated and entered into, Mr.  
5 Knopf or Assignee was listed as the original lessee. It is a common practice in business and real  
6 estate to list not only the person signing the lease, but also an assignee, because the party signing  
7 is merely the promoter acting on behalf of the soon-to-be-formed entity. Both Plaintiff and  
8 Defendant had a broker assisting on the executing of the Lease Agreement and were aware of its  
9 connotation and usage.

10 56. Defendant intended that Plaintiff would rely on the promise of the Options.  
11 Defendant knew at the time of the Lease Agreement that Plaintiff was about to spend substantial  
12 amounts of money to obtain a coveted CUP in the City of San Diego. Defendant knew prior to  
13 entering into the Lease Agreement that the Options were critical to Mr. Knopf signing the Lease  
14 Agreement. The Options provided Plaintiff with a long term plan for a long term investment –  
15 first providing an additional ten years onto the original lease term and then through the ability to  
16 purchase the Subject Properties if Defendant chose to sell.

17 57. It is clear that the facts giving rise to Mr. Rickards’ reasoning in invalidating the  
18 Options have not changed since the date negotiations began, through Mr. Rickards being present  
19 during the buildout of the medical marijuana dispensary, through Mr. Rickards signing off on  
20 years of owner authorization forms for PLPCC and GSG, through present day. Mr. Rickards’  
21 intention to never allow enforcement of the Options because he is actively trying to sell the  
22 Subject Properties and demanding financial statements from GSG to justify an inflated price.

23 58. Defendant has failed to fulfill the promise of delivering the Options. With respect  
24 to the option to extend the lease, Defendant has willfully refused to accept Plaintiff’s exercising  
25 of said option. As to the right of first refusal, Defendant through counsel has made clear on  
26 numerous occasions that it would not be available. Furthermore, Defendant has demanded  
27 financial statements with respect to its statement that the Subject Properties are up for sale,  
28 indicating that a buyer has been obtained.

1           59.     Plaintiff relied on Defendant Rickards’ promise. Since the Lease Agreement and  
2 Options were entered into, Plaintiffs have expended hundreds of thousands of dollars in an effort  
3 to apply for the CUP, build out the medical marijuana dispensary, operate the business, and  
4 maintain continued compliance with local and state regulations. If not for the false promises made  
5 by Mr. Rickards, Plaintiff would have never entered into the Lease Agreement. Now, Defendant  
6 stands to make an unbelievable profit in the sale of the Subject Properties to Plaintiff’s detriment.

7           60.     As a result, Plaintiff has suffered damages to be determined at trial.

8                                                       **FIFTH CAUSE OF ACTION**

9                                                       **Specific Performance**

10           61.     Plaintiff re-alleges and incorporated by reference paragraphs 1 through 60 as set  
11 forth herein.

12           62.     Plaintiff and Sinner Brothers entered into the Lease Agreement with specific  
13 options contained therein, an enforceable contract, sufficiently certain in its terms, and requiring  
14 each party operate in good faith.

15           63.     The Lease Agreement contains adequate consideration and is a just and reasonable  
16 contract.

17           64.     Plaintiff has performed under the Lease Agreement or was excused for any non-  
18 performance.

19           65.     Defendant has breached the Lease Agreement by its communication to Plaintiff  
20 that the right of first refusal, contained in section 54 of the Lease Agreement, is “off the table”  
21 with respect to a prospective purchaser of the Subject Properties. Defendant has already  
22 communicated its interest in purchasing the Subject Properties and Plaintiff has made clear that  
23 the Subject Properties are for sale. Further, Plaintiff believes that Defendant has a purchaser for  
24 the Subject Properties, which prompted Defendant to demand financial statements from Plaintiff  
25 as required in the Lease Agreement when Defendant has a purchaser.

26           66.     Plaintiff has an inadequate remedy at law in that the Subject Properties are unique  
27 and the Lease Agreement allows Plaintiff to specifically receive a right of first refusal so  
28 Defendant cannot sell the Subject Properties out from underneath Plaintiff.



1 **SIXTH COURSE OF ACTION**

2 **Declaratory Relief**

3 67. Plaintiff re-alleges and incorporated by reference paragraphs 1 through 66 as set  
4 forth herein.

5 68. An actual controversy has arisen and now exists between Plaintiff and Defendant  
6 concerning the respective rights, duties and obligations of Plaintiff and Defendant relative to the  
7 Lease Agreement, in that Plaintiff contends that Defendant is obligated to deliver an option to  
8 extend the Lease Agreement for an additional sixty (60) months and a right of first refusal should  
9 the Subject Properties be deemed for sale, pursuant to the terms of the Lease Agreement.

10 69. Plaintiff is informed and believes, and thereon alleges, that Defendant disputes  
11 some or all of these contentions, and instead contends that Defendant is not presently obligated to  
12 deliver an option to extend the Lease Agreement under section 53 and a right of first refusal to the  
13 Subject Properties under section 54 of the Lease Agreement.

14 70. Plaintiff seeks a judicial declaration as to the parties' rights, duties and obligations  
15 under the Lease Agreement. Plaintiffs are concerned that Defendants will sell the Subject  
16 Properties without providing Plaintiffs' contractual right of first refusal. A judicial declaration is  
17 necessary and appropriate at this time and under the circumstances in order that the parties may  
18 ascertain their rights, duties and obligations as to unique real property.

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**PRAYER FOR RELIEF**

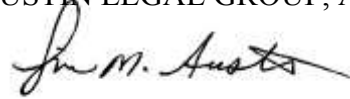
Wherefore, Plaintiff prays for judgment as follows:

1. General and special damages against Defendant which will be shown according to proof at trial;
2. Specific performance of the Lease Agreement and the Options contained therein.
3. Punitive damages;
4. For attorney's fees;
5. For costs of suit incurred herein;
6. For prejudgment interest in an amount according to proof; and
7. For such other and further relief as the Court may deem just and proper

Dated: October 17, 2018

Respectfully Submitted,

AUSTIN LEGAL GROUP, APC



By: Gina M. Austin/Tamara M. Leetham  
Attorneys For Defendants GSG PL, Inc. and  
Adam Knopf

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**DEMAND FOR JURY TRIAL**

Plaintiffs demand a jury trial on all claims and matters which they are entitled to a trial by

jury.

Dated: October 17, 2018

Respectfully Submitted,

AUSTIN LEGAL GROUP, APC

By: Gina M. Austin/Tamara M. Leetham  
Attorneys For Defendants GSG PL, Inc. and  
Adam Knopf

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**VERIFICATION**

I am the President of GSG PL, Inc., and a Plaintiff in the above-entitled action. I have read the foregoing Complaint and know the contents thereof; and I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon my information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: October 17, 2018

By:   
Adam Knopf, individual and as  
President of GSG PL, Inc.

# EXHIBIT 4



STANDARD OFFER, AGREEMENT AND ESCROW INSTRUCTIONS
FOR PURCHASE OF REAL ESTATE

(Non-Residential)

Dated: March 23, 2019

1. Buyer. 1.1 STADLOV FAMILY HOLDINGS, INC AND/OR ASSIGNS, ("Buyer") hereby offers to purchase the real property, hereinafter described, from the owner thereof ("Seller") (collectively, the "Parties" or individually, a "Party"), through an escrow ("Escrow") to close 30 or 20 days after the waiver or expiration of the Buyer's Contingencies, ("Expected Closing Date") to be held by Seller Choice ("Escrow Holder") whose address is

upon the terms and conditions set forth in this agreement ("Agreement"). Buyer shall have the right to assign Buyer's rights hereunder, but any such assignment shall not relieve Buyer of Buyer's obligations herein unless Seller expressly releases Buyer.

1.2 The term "Date of Agreement" as used herein shall be the date when by execution and delivery (as defined in paragraph 20.2) of this document or a subsequent counteroffer thereto, Buyer and Seller have reached agreement in writing whereby Seller agrees to sell, and Buyer agrees to purchase, the Property upon terms accepted by both Parties.

2. Property.

2.1 The real property ("Property") that is the subject of this offer consists of (insert a brief physical description) A four thousand square foot retail building

is located in the City of San Diego, County of San Diego, State of CA, is commonly known by the street address of 3452 Hancock Street

and is legally described as: Block: 1 Map Ref: 000578 Abbreviated Description: BLK:1 CITY:SAN DIEGO

SUBD: SUBDIVISION OF PUEBLO LOT 277 000578 BLK 1\* City/Muni/Twp: SAN DIEGO

(APN: 441-581-12-00).

2.2 If the legal description of the Property is not complete or is inaccurate, this Agreement shall not be invalid and the legal description shall be completed or corrected to meet the requirements of Seller Choice ("Title Company"), which shall issue the title policy hereinafter described.

2.3 The Property includes, at no additional cost to Buyer, the permanent improvements thereon, including those items which pursuant to applicable law are a part of the property, as well as the following items, if any, owned by Seller and at present located on the Property: electrical distribution systems (power panel, bus ducting, conduits, disconnects, lighting fixtures); telephone distribution systems (lines, jacks and connections only); space heaters; heating, ventilating, air conditioning equipment ("HVAC"); air lines; fire sprinkler systems; security and fire detection systems; carpets; window coverings; wall coverings; and seller is obligated to remove all personal equipment (foundry etc.) from the premises on or before October, 15, 2019.

(collectively, the "Improvements").

2.4 The fire sprinkler monitor: [ ] is owned by Seller and included in the Purchase Price, [ ] is leased by Seller, and Buyer will need to negotiate a new lease with the fire monitoring company, [ ] ownership will be determined during Escrow, or [ ] there is no fire sprinkler monitor.

2.5 Except as provided in Paragraph 2.3, the Purchase Price does not include Seller's personal property, furniture and furnishings, and

all of which shall be removed by Seller prior to Closing.

3. Purchase Price.

3.1 The purchase price ("Purchase Price") to be paid by Buyer to Seller for the Property shall be \$ 4,400,000.00, payable as follows:

(a) Cash down payment, including the Deposit as defined in paragraph 4.3 (or if an all cash transaction, the Purchase Price): \$ 175,000.00

(Strike if not applicable) (b) Amount of "New Loan" as defined in paragraph 5.1, if any: \$

(c) Buyer shall take title to the Property subject to and/or assume the following existing deed(s) of trust ("Existing Deed(s) of Trust") securing the existing promissory note(s) ("Existing Note(s)"):

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OFA-20.00, Revised 01-03-2017

Sperry Van Ness Asset Advisory Group, 4849 Ronson Court # 216 San Diego, CA 92111

Phone: (858)829-2322

Fax:

Shelly Bird

3452 Hancock St

(i) An Existing Note ("**First Note**") with an unpaid principal balance as of the Closing of approximately: \$ \_\_\_\_\_  
 Said First Note is payable at \$ \_\_\_\_\_ per month,  
 including interest at the rate of \_\_\_\_\_ % per annum until paid (and/or the  
 entire unpaid balance is due on \_\_\_\_\_).  
 (Strike if not applicable)

(ii) An Existing Note ("**Second Note**") with an unpaid principal balance as of the Closing of approximately: \$ \_\_\_\_\_  
 Said Second Note is payable at \$ \_\_\_\_\_ per month,  
 including interest at the rate of \_\_\_\_\_ % per annum until paid (and/or the  
 entire unpaid balance is due on \_\_\_\_\_).  
 (Strike if not applicable)

(d) Buyer shall give Seller a deed of trust ("**Purchase Money Deed of Trust**") on the property, to secure the promissory note of Buyer to Seller described in paragraph 6 ("**Purchase Money Note**") in the amount of: \$ \_\_\_\_\_

Total Purchase Price: \$ 4,400,000.00

3.2 If Buyer is taking title to the Property subject to, or assuming, an Existing Deed of Trust and such deed of trust permits the beneficiary to demand payment of fees including, but not limited to, points, processing fees, and appraisal fees as a condition to the transfer of the Property, Buyer agrees to pay such fees up to a maximum of 1.5% of the unpaid principal balance of the applicable Existing Note.

**4. Deposits.**

4.1  Buyer has delivered to Broker a check in the sum of \$ 175,000.00, payable to Escrow Holder, to be delivered by Broker to Escrow Holder within 2 or 5 business days after both Parties have executed this Agreement and the executed Agreement has been delivered to Escrow Holder, or  within 2 or \_\_\_\_\_ business days after both Parties have executed this Agreement and the executed Agreement has been delivered to Escrow Holder Buyer shall deliver to Escrow Holder a check in the sum of \$ 175,000.00. If said check is not received by Escrow Holder within said time period then Seller may elect to unilaterally terminate this transaction by giving written notice of such election to Escrow Holder whereupon neither Party shall have any further liability to the other under this Agreement. Should Buyer and Seller not enter into an agreement for purchase and sale, Buyer's check or funds shall, upon request by Buyer, be promptly returned to Buyer.

4.2 Additional deposits:

(a) Within 5 business days after the Date of Agreement, Buyer shall deposit with Escrow Holder the additional sum of \$ \_\_\_\_\_ to be applied to the Purchase Price at the Closing.

(b) Within 5 business days after the contingencies discussed in paragraph 9.1 (a) through (m) are approved or waived, Buyer shall deposit with Escrow Holder the additional sum of \$ \_\_\_\_\_ to be applied to the Purchase Price at the Closing.

(c) If an Additional Deposit is not received by Escrow Holder within the time period provided then Seller may notify Buyer, Escrow Holder, and Brokers, in writing that, unless the Additional Deposit is received by Escrow Holder within 2 business days following said notice, the Escrow shall be deemed terminated without further notice or instructions.

4.3 Escrow Holder shall deposit the funds deposited with it by Buyer pursuant to paragraphs 4.1 and 4.2 (collectively the "**Deposit**"), in a State or Federally chartered bank in an interest bearing account whose term is appropriate and consistent with the timing requirements of this transaction. The interest therefrom shall accrue to the benefit of Buyer, who hereby acknowledges that there may be penalties or interest forfeitures if the applicable instrument is redeemed prior to its specified maturity. Buyer's Federal Tax Identification Number is \_\_\_\_\_ . NOTE: Such interest bearing account cannot be opened until Buyer's Federal Tax Identification Number is provided.

4.4 Notwithstanding the foregoing, within 5 days after Escrow Holder receives the monies described in paragraph 4.1 above, Escrow Holder shall release \$100 of said monies to Seller as and for independent consideration for Seller's execution of this Agreement and the granting of the contingency period to Buyer as herein provided. Such independent consideration is non-refundable to Buyer but shall be credited to the Purchase Price in the event that the purchase of the Property is completed.

4.5 Upon waiver of all of Buyer's contingencies the Deposit shall become non-refundable but applicable to the Purchase Price except in the event of a Seller breach, or in the event that the Escrow is terminated pursuant to the provisions of Paragraph 9.1(n) (Destruction, Damage or Loss) or 9.1(o) (Material Change).

**5. Financing Contingency. (Strike if not applicable)**

5.1 This offer is contingent upon Buyer obtaining from an insurance company, financial institution or other lender, a commitment to lend to Buyer a sum equal to at least \_\_\_\_\_ % of the Purchase Price, on terms reasonably acceptable to Buyer. Such loan ("**New Loan**") shall be secured by a first deed of trust or mortgage on the Property. If this Agreement provides for Seller to carry back junior financing, then Seller shall have the right to approve the terms of the New Loan. Seller shall have 7 days from receipt of the commitment setting forth the proposed terms of the New Loan to approve or disapprove of such proposed terms. If Seller fails to notify Escrow Holder, in writing, of the disapproval within said 7 days it shall be conclusively presumed that Seller has approved the terms of the New Loan.

5.2 Buyer hereby agrees to diligently pursue obtaining the New Loan. **If Buyer shall fail to notify its Broker, Escrow Holder and Seller, in writing within \_\_\_\_\_ days following the Date of Agreement, that the New Loan has not been obtained, it shall be conclusively presumed that Buyer has either obtained said New Loan or has waived this New Loan contingency.**

5.3 If, after due diligence, Buyer shall notify its Broker, Escrow Holder and Seller, in writing, within the time specified in paragraph 5.2 hereof, that Buyer has not obtained said New Loan, this Agreement shall be terminated, and Buyer shall be entitled to the prompt return of the Deposit, plus any interest earned thereon, less only Escrow Holder and Title Company cancellation fees and costs, which Buyer shall pay.

**6. Seller Financing (Purchase Money Note). (Strike if not applicable)**

6.1 If Seller approves Buyer's financials (see paragraph 6.5) the Purchase Money Note shall provide for interest on unpaid principal at the rate of \_\_\_\_\_ % per annum, with principal and interest paid as follows: Buyer is interested in seller financing as long as the note is in 2nd position. If the seller desires, terms to be agreed upon before entering into escrow.

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The Purchase Money Note and Purchase Money Deed of Trust shall be on the current forms commonly used by Escrow Holder, and be junior and subordinate only to the Existing Note(s) and/or the New Loan expressly called for by this Agreement.

6.2 The Purchase Money Note and/or the Purchase Money Deed of Trust shall contain provisions regarding the following (see also paragraph 10.3 (b)):

(a) *Prepayment*. Principal may be prepaid in whole or in part at any time without penalty, at the option of the Buyer.

(b) *Late Charge*. A late charge of 6% shall be payable with respect to any payment of principal, interest, or other charges, not made within 10 days after it is due.

(c) *Due On Sale*. In the event the Buyer sells or transfers title to the Property or any portion thereof, then the Seller may, at Seller's option, require the entire unpaid balance of said Note to be paid in full.

6.3 If the Purchase Money Deed of Trust is to be subordinate to other financing, Escrow Holder shall, at Buyer's expense prepare and record on Seller's behalf a request for notice of default and/or sale with regard to each mortgage or deed of trust to which it will be subordinate.

6.4 **WARNING: CALIFORNIA LAW DOES NOT ALLOW DEFICIENCY JUDGEMENTS ON SELLER FINANCING. IF BUYER ULTIMATELY DEFAULTS ON THE LOAN, SELLER'S SOLE REMEDY IS TO FORECLOSE ON THE PROPERTY.**

6.5 Seller's obligation to provide financing is contingent upon Seller's reasonable approval of Buyer's financial condition. Buyer to provide a current financial statement and copies of its Federal tax returns for the last 3 years to Seller within 10 days following the Date of Agreement. Seller has 10 days following receipt of such documentation to satisfy itself with regard to Buyer's financial condition and to notify Escrow Holder as to whether or not Buyer's financial condition is acceptable. If Seller fails to notify Escrow Holder, in writing, of the disapproval of this contingency within said time period, it shall be conclusively presumed that Seller has approved Buyer's financial condition. If Seller is not satisfied with Buyer's financial condition or if Buyer fails to deliver the required documentation then Seller may notify Escrow Holder in writing that Seller Financing will not be available, and Buyer shall have the option, within 10 days of the receipt of such notice, to either terminate this transaction or to purchase the Property without Seller financing. If Buyer fails to notify Escrow Holder within said time period of its election to terminate this transaction then Buyer shall be conclusively presumed to have elected to purchase the Property without Seller financing. If Buyer elects to terminate, Buyer's Deposit shall be refunded less Title Company and Escrow Holder cancellation fees and costs, all of which shall be Buyer's obligation.

7. **Real Estate Brokers.**

7.1 The following real estate broker(s) ("**Brokers**") and brokerage relationships exist in this transaction and are consented to by the Parties (check the applicable boxes):

- Landlords Realty represents Seller exclusively ("**Seller's Broker**");
- SVN Asset Advisory Group represents Buyer exclusively ("**Buyer's Broker**"); or
- \_\_\_\_\_ represents both Seller and Buyer ("**Dual Agency**").

The Parties acknowledge that other than the Brokers listed above, there are no other brokers representing the Parties or due any fees and/or commissions under this Agreement. See paragraph 24 regarding the nature of a real estate agency relationship. Buyer shall use the services of Buyer's Broker exclusively in connection with any and all negotiations and offers with respect to the Property for a period of 1 year from the date inserted for reference purposes at the top of page 1.

7.2 Buyer and Seller each represent and warrant to the other that he/she/it has had no dealings with any person, firm, broker or finder in connection with the negotiation of this Agreement and/or the consummation of the purchase and sale contemplated herein, other than the Brokers named in paragraph 7.1, and no broker or other person, firm or entity, other than said Brokers is/are entitled to any commission or finder's fee in connection with this transaction as the result of any dealings or acts of such Party. Buyer and Seller do each hereby agree to indemnify, defend, protect and hold the other harmless from and against any costs, expenses or liability for compensation, commission or charges which may be claimed by any broker, finder or other similar party, other than said named Brokers by reason of any dealings or act of the indemnifying Party.

8. **Escrow and Closing.**

8.1 Upon acceptance hereof by Seller, this Agreement, including any counteroffers incorporated herein by the Parties, shall constitute not only the agreement of purchase and sale between Buyer and Seller, but also instructions to Escrow Holder for the consummation of the Agreement through the Escrow. Escrow Holder shall not prepare any further escrow instructions restating or amending the Agreement unless specifically so instructed by the Parties or a Broker herein. Subject to the reasonable approval of the Parties, Escrow Holder may, however, include its standard general escrow provisions. In the event that there is any conflict between the provisions of the Agreement and the provisions of any additional escrow instructions the provisions of the Agreement shall prevail as to the Parties and the Escrow Holder.

8.2 As soon as practical after the receipt of this Agreement and any relevant counteroffers, Escrow Holder shall ascertain the Date of Agreement as defined in paragraphs 1.2 and 20.2 and advise the Parties and Brokers, in writing, of the date ascertained.

8.3 Escrow Holder is hereby authorized and instructed to conduct the Escrow in accordance with this Agreement, applicable law and custom and practice of the community in which Escrow Holder is located, including any reporting requirements of the Internal Revenue Code. In the event of a conflict between the law of the state where the Property is located and the law of the state where the Escrow Holder is located, the law of the state where the Property is located shall prevail.

8.4 Subject to satisfaction of the contingencies herein described, Escrow Holder shall close this escrow (the "**Closing**") by recording a general warranty deed (a grant deed in California) and the other documents required to be recorded, and by disbursing the funds and documents in accordance with this Agreement.

8.5 Buyer and Seller shall each pay one-half of the Escrow Holder's charges and Seller shall pay the usual recording fees and any required documentary transfer taxes. Seller shall pay the premium for a standard coverage owner's or joint protection policy of title insurance. (See also paragraph 11)

8.6 Escrow Holder shall verify that all of Buyer's contingencies have been satisfied or waived prior to Closing. The matters contained in paragraphs 9.1 subparagraphs (b), (c), (d), (e), (g), (i), (n), and (o), 9.4, 9.5, 12, 13, 14, 16, 18, 20, 21, 22, and 24 are, however, matters of agreement between the Parties only and are not instructions to Escrow Holder.

8.7 If this transaction is terminated for non-satisfaction and non-waiver of a Buyer's Contingency, as defined in paragraph 9.2, then neither of the Parties shall thereafter have any liability to the other under this Agreement, except to the extent of a breach of any affirmative covenant or warranty in this Agreement. In the event of such termination, Buyer shall, subject to the provisions of paragraph 8.10, be promptly refunded all funds deposited by Buyer with Escrow Holder, less only the \$100 provided for in paragraph 4.4 and the Title Company and Escrow Holder cancellation fees and costs, all of which shall be Buyer's obligation. If this transaction is terminated as a result of Seller's breach of this Agreement then Seller shall pay the Title Company and Escrow Holder cancellation fees and costs.

8.8 The Closing shall occur on the Expected Closing Date, or as soon thereafter as the Escrow is in condition for Closing; provided, however, that if the Closing does not occur by the Expected Closing Date and said Date is not extended by mutual instructions of the Parties, a Party not then in default under this Agreement may notify the other Party, Escrow Holder, and Brokers, in writing that, unless the Closing occurs within 5 business days following said notice, the Escrow shall be deemed terminated without further notice or instructions.

8.9 Except as otherwise provided herein, the termination of Escrow shall not relieve or release either Party from any obligation to pay Escrow Holder's fees and costs or constitute a waiver, release or discharge of any breach or default that has occurred in the performance of the obligations, agreements, covenants or warranties contained therein.

8.10 If this sale of the Property is not consummated for any reason other than Seller's breach or default, then at Seller's request, and as a condition to any obligation to return Buyer's deposit (see paragraph 21), Buyer shall within 5 days after written request deliver to Seller, at no charge, copies of all surveys, engineering studies, soil reports, maps, master plans, feasibility studies and other similar items prepared by or for Buyer that pertain to the Property. Provided, however, that Buyer shall not be required to deliver any such report if the written contract which Buyer entered into with the consultant who prepared such report specifically forbids the dissemination of the report to others.

#### 9. Contingencies to Closing.

9.1 The Closing of this transaction is contingent upon the satisfaction or waiver of the following contingencies. **IF BUYER FAILS TO NOTIFY ESCROW HOLDER, IN WRITING, OF THE DISAPPROVAL OF ANY OF SAID CONTINGENCIES WITHIN THE TIME SPECIFIED THEREIN, IT SHALL BE CONCLUSIVELY PRESUMED THAT BUYER HAS APPROVED SUCH ITEM, MATTER OR DOCUMENT.** Buyer's conditional approval shall constitute disapproval, unless provision is made by the Seller within the time specified therefore by the Buyer in such conditional approval or by this Agreement, whichever is later, for the satisfaction of the condition imposed by the Buyer. Escrow Holder shall promptly provide all Parties with copies of any written disapproval or conditional approval which it receives. With regard to subparagraphs (a) through (m) the pre-printed time periods shall control unless a different number of days is inserted in the spaces provided.

(a) *Disclosure.* Seller shall make to Buyer, through Escrow, all of the applicable disclosures required by law (See AIR Commercial Real Estate Association ("AIR") standard form entitled "Seller's Mandatory Disclosure Statement") and provide Buyer with a completed Property Information Sheet ("**Property Information Sheet**") concerning the Property, duly executed by or on behalf of Seller in the current form or equivalent to that published by the AIR within 10 or 30 days following the Date of Agreement. Buyer has 10 days from the receipt of said disclosures to approve or disapprove the matters disclosed.

(b) *Physical Inspection.* Buyer has 10 or 30 days following the receipt of the Property Information Sheet or the Date of Agreement, whichever is later, to satisfy itself with regard to the physical aspects and size of the Property.

(c) *Hazardous Substance Conditions Report.* Buyer has 30 or \_\_\_\_\_ days following the receipt of the Property Information Sheet or the Date of Agreement, whichever is later, to satisfy itself with regard to the environmental aspects of the Property. Seller recommends that Buyer obtain a Hazardous Substance Conditions Report concerning the Property and relevant adjoining properties. Any such report shall be paid for by Buyer. A "**Hazardous Substance**" for purposes of this Agreement is defined as any substance whose nature and/or quantity of existence, use, manufacture, disposal or effect, render it subject to Federal, state or local regulation, investigation, remediation or removal as potentially injurious to public health or welfare. A "**Hazardous Substance Condition**" for purposes of this Agreement is defined as the existence on, under or relevantly adjacent to the Property of a Hazardous Substance that would require remediation and/or removal under applicable Federal, state or local law.

(d) *Soil Inspection.* Buyer has 30 or \_\_\_\_\_ days following the receipt of the Property Information Sheet or the Date of Agreement, whichever is later, to satisfy itself with regard to the condition of the soils on the Property. Seller recommends that Buyer obtain a soil test report. Any such report shall be paid for by Buyer. Seller shall provide Buyer copies of any soils report that Seller may have within 10 days of the Date of Agreement.

(e) *Governmental Approvals.* Buyer has 30 or \_\_\_\_\_ days following the Date of Agreement to satisfy itself with regard to approvals and permits from governmental agencies or departments which have or may have jurisdiction over the Property and which Buyer deems necessary or desirable in connection with its intended use of the Property, including, but not limited to, permits and approvals required with respect to zoning, planning, building and safety, fire, police, handicapped and Americans with Disabilities Act requirements, transportation and environmental matters.

(f) *Conditions of Title.* Escrow Holder shall cause a current commitment for title insurance ("**Title Commitment**") concerning the Property issued by the Title Company, as well as legible copies of all documents referred to in the Title Commitment ("**Underlying Documents**"), and a scaled and dimensioned plot showing the location of any easements to be delivered to Buyer within 10 or 30 days following the Date of Agreement. Buyer has 10 days from the receipt of the Title Commitment, the Underlying Documents and the plot plan to satisfy itself with regard to the condition of title. The disapproval by Buyer of any monetary encumbrance, which by the terms of this Agreement is not to remain against the Property after the Closing, shall not be considered a failure of this contingency, as Seller shall have the obligation, at Seller's expense, to satisfy and remove such disapproved monetary encumbrance at or before the Closing.

(g) *Survey.* Buyer has 30 or \_\_\_\_\_ days following the receipt of the Title Commitment and Underlying Documents to satisfy itself with regard to any ALTA title supplement based upon a survey prepared to American Land Title Association ("**ALTA**") standards for an owner's policy by a licensed surveyor, showing the legal description and boundary lines of the Property, any easements of record, and any improvements, poles, structures and things located within 10 feet of either side of the Property boundary lines. Any such survey shall be prepared at Buyer's direction and expense. If Buyer has obtained a survey and approved the ALTA title supplement, Buyer may elect within the period allowed for Buyer's approval of a survey to have an ALTA extended coverage owner's form of title policy, in which event Buyer shall pay any additional premium attributable thereto.

(h) *Existing Leases and Tenancy Statements.* Seller shall within 10 or 30 days following the Date of Agreement provide both

Buyer and Escrow Holder with legible copies of all leases, subleases or rental arrangements (collectively, "Existing Leases") affecting the Property, and with a tenancy statement ("Estoppel Certificate") in the latest form or equivalent to that published by the AIR, executed by Seller and/or each tenant and subtenant of the Property. Seller shall use its best efforts to have each tenant complete and execute an Estoppel Certificate. If any tenant fails or refuses to provide an Estoppel Certificate then Seller shall complete and execute an Estoppel Certificate for that tenancy. Buyer has 10 days from the receipt of said Existing Leases and Estoppel Certificates to satisfy itself with regard to the Existing Leases and any other tenancy issues.

(i) *Owner's Association.* Seller shall within 10 or 30 days following the Date of Agreement provide Buyer with a statement and transfer package from any owner's association servicing the Property. Such transfer package shall at a minimum include: copies of the association's bylaws, articles of incorporation, current budget and financial statement. Buyer has 10 days from the receipt of such documents to satisfy itself with regard to the association.

(j) *Other Agreements.* Seller shall within 10 or 30 days following the Date of Agreement provide Buyer with legible copies of all other agreements ("Other Agreements") known to Seller that will affect the Property after Closing. Buyer has 10 days from the receipt of said Other Agreements to satisfy itself with regard to such Agreements.

(k) *Financing.* If paragraph 5 hereof dealing with a financing contingency has not been stricken, the satisfaction or waiver of such New Loan contingency.

(l) *Existing Notes.* If paragraph 3.1(c) has not been stricken, Seller shall within 10 or 30 days following the Date of Agreement provide Buyer with legible copies of the Existing Notes, Existing Deeds of Trust and related agreements (collectively, "Loan Documents") to which the Property will remain subject after the Closing. Escrow Holder shall promptly request from the holders of the Existing Notes a beneficiary statement ("Beneficiary Statement") confirming: (1) the amount of the unpaid principal balance, the current interest rate, and the date to which interest is paid, and (2) the nature and amount of any impounds held by the beneficiary in connection with such loan. Buyer has 10 or 30 days following the receipt of the Loan Documents and Beneficiary Statements to satisfy itself with regard to such financing. Buyer's obligation to close is conditioned upon Buyer being able to purchase the Property without acceleration or change in the terms of any Existing Notes or charges to Buyer except as otherwise provided in this Agreement or approved by Buyer, provided, however, Buyer shall pay the transfer fee referred to in paragraph 3.2 hereof. Likewise if Seller is to carry back a Purchase Money Note then Seller shall within 10 or 30 days following the Date of Agreement provide Buyer with a copy of the proposed Purchase Money Note and Purchase Money Deed of Trust. Buyer has 10 or 30 days from the receipt of such documents to satisfy itself with regard to the form and content thereof.

(m) *Personal Property.* In the event that any personal property is included in the Purchase Price, Buyer has 10 or 30 days following the Date of Agreement to satisfy itself with regard to the title condition of such personal property. Seller recommends that Buyer obtain a UCC-1 report. Any such report shall be paid for by Buyer. Seller shall provide Buyer copies of any liens or encumbrances affecting such personal property that it is aware of within 10 or 30 days following the Date of Agreement.

(n) *Destruction, Damage or Loss.* Subsequent to the Date of Agreement and prior to Closing there shall not have occurred a destruction, or damage or loss to, the Property or any portion thereof, from any cause whatsoever, which would cost more than \$10,000.00 to repair or cure. If the cost of repair or cure is \$10,000.00 or less, Seller shall repair or cure the loss prior to the Closing. Buyer shall have the option, within 10 days after receipt of written notice of a loss costing more than \$10,000.00 to repair or cure, to either terminate this Agreement or to purchase the Property notwithstanding such loss, but without deduction or offset against the Purchase Price. If the cost to repair or cure is more than \$10,000.00, and Buyer does not elect to terminate this Agreement, Buyer shall be entitled to any insurance proceeds applicable to such loss. Unless otherwise notified in writing, Escrow Holder shall assume no such destruction, damage or loss has occurred prior to Closing.

(o) *Material Change.* Buyer shall have 10 days following receipt of written notice of a Material Change within which to satisfy itself with regard to such change. "Material Change" shall mean a substantial adverse change in the use, occupancy, tenants, title, or condition of the Property that occurs after the date of this offer and prior to the Closing. Unless otherwise notified in writing, Escrow Holder shall assume that no Material Change has occurred prior to the Closing.

(p) *Seller Performance.* The delivery of all documents and the due performance by Seller of each and every undertaking and agreement to be performed by Seller under this Agreement.

(q) *Brokerage Fee.* Payment at the Closing of such brokerage fee as is specified in this Agreement or later written instructions to Escrow Holder executed by Seller and Brokers ("Brokerage Fee"). It is agreed by the Parties and Escrow Holder that Brokers are a third party beneficiary of this Agreement insofar as the Brokerage Fee is concerned, and that no change shall be made with respect to the payment of the Brokerage Fee specified in this Agreement, without the written consent of Brokers.

9.2 All of the contingencies specified in subparagraphs (a) through (m) of paragraph 9.1 are for the benefit of, and may be waived by, Buyer, and may be elsewhere herein referred to as "Buyer's Contingencies."

9.3 If any of Buyer's Contingencies or any other matter subject to Buyer's approval is disapproved as provided for herein in a timely manner ("Disapproved Item"), Seller shall have the right within 10 days following the receipt of notice of Buyer's disapproval to elect to cure such Disapproved Item prior to the Expected Closing Date ("Seller's Election"). Seller's failure to give to Buyer within such period, written notice of Seller's commitment to cure such Disapproved Item on or before the Expected Closing Date shall be conclusively presumed to be Seller's Election not to cure such Disapproved Item. If Seller elects, either by written notice or failure to give written notice, not to cure a Disapproved Item, Buyer shall have the right, within 10 days after Seller's Election to either accept title to the Property subject to such Disapproved Item, or to terminate this Agreement. Buyer's failure to notify Seller in writing of Buyer's election to accept title to the Property subject to the Disapproved Item without deduction or offset shall constitute Buyer's election to terminate this Agreement. Unless expressly provided otherwise herein, Seller's right to cure shall not apply to the remediation of Hazardous Substance Conditions or to the Financing Contingency. Unless the Parties mutually instruct otherwise, if the time periods for the satisfaction of contingencies or for Seller's and Buyer's elections would expire on a date after the Expected Closing Date, the Expected Closing Date shall be deemed extended for 3 business days following the expiration of: (a) the applicable contingency period(s), (b) the period within which the Seller may elect to cure the Disapproved Item, or (c) if Seller elects not to cure, the period within which Buyer may elect to proceed with this transaction, whichever is later.

9.4 The Parties acknowledge that extensive local, state and Federal legislation establish broad liability upon owners and/or users of real property for the investigation and remediation of Hazardous Substances. The determination of the existence of a Hazardous Substance Condition and the evaluation of the impact of such a condition are highly technical and beyond the expertise of Brokers. The Parties acknowledge that they have been advised by Brokers to consult their own technical and legal experts with respect to the possible presence of Hazardous Substances on the Property or adjoining properties, and Buyer and Seller are not relying upon any investigation by or statement of Brokers with respect thereto. The Parties hereby assume all responsibility for the impact of such Hazardous Substances upon their respective interests herein.

**10. Documents Required at or Before Closing:**

10.1 Five days prior to the Closing date Escrow Holder shall obtain an updated Title Commitment concerning the Property from the Title Company and provide copies thereof to each of the Parties.

10.2 Seller shall deliver to Escrow Holder in time for delivery to Buyer at the Closing:

- (a) Grant or general warranty deed, duly executed and in recordable form, conveying fee title to the Property to Buyer.
- (b) If applicable, the Beneficiary Statements concerning Existing Note(s).
- (c) If applicable, the Existing Leases and Other Agreements together with duly executed assignments thereof by Seller and Buyer.

The assignment of Existing Leases shall be on the most recent Assignment and Assumption of Lessor's Interest in Lease form published by the AIR or its equivalent.

(d) If applicable, Estoppel Certificates executed by Seller and/or the tenant(s) of the Property.

(e) An affidavit executed by Seller to the effect that Seller is not a "foreign person" within the meaning of Internal Revenue Code Section 1445 or successor statutes. If Seller does not provide such affidavit in form reasonably satisfactory to Buyer at least 3 business days prior to the Closing, Escrow Holder shall at the Closing deduct from Seller's proceeds and remit to the Internal Revenue Service such sum as is required by applicable Federal law with respect to purchases from foreign sellers.

(f) If the Property is located in California, an affidavit executed by Seller to the effect that Seller is not a "nonresident" within the meaning of California Revenue and Tax Code Section 18662 or successor statutes. If Seller does not provide such affidavit in form reasonably satisfactory to Buyer at least 3 business days prior to the Closing, Escrow Holder shall at the Closing deduct from Seller's proceeds and remit to the Franchise Tax Board such sum as is required by such statute.

(g) If applicable, a bill of sale, duly executed, conveying title to any included personal property to Buyer.

(h) If the Seller is a corporation, a duly executed corporate resolution authorizing the execution of this Agreement and the sale of the Property.

10.3 Buyer shall deliver to Seller through Escrow:

(a) The cash portion of the Purchase Price and such additional sums as are required of Buyer under this Agreement shall be deposited by Buyer with Escrow Holder, by federal funds wire transfer, or any other method acceptable to Escrow Holder in immediately collectable funds, no later than 2:00 P.M. on the business day prior to the Expected Closing Date provided, however, that Buyer shall not be required to deposit such monies into Escrow if at the time set for the deposit of such monies Seller is in default or has indicated that it will not perform any of its obligations hereunder. Instead, in such circumstances in order to reserve its rights to proceed Buyer need only provide Escrow with evidence establishing that the required monies were available.

(b) If a Purchase Money Note and Purchase Money Deed of Trust are called for by this Agreement, the duly executed originals of those documents, the Purchase Money Deed of Trust being in recordable form, together with evidence of fire insurance on the improvements in the amount of the full replacement cost naming Seller as a mortgage loss payee, and a real estate tax service contract (at Buyer's expense), assuring Seller of notice of the status of payment of real property taxes during the life of the Purchase Money Note.

(c) The Assignment and Assumption of Lessor's Interest in Lease form specified in paragraph 10.2(c) above, duly executed by Buyer.

(d) Assumptions duly executed by Buyer of the obligations of Seller that accrue after Closing under any Other Agreements.

(e) If applicable, a written assumption duly executed by Buyer of the loan documents with respect to Existing Notes.

(f) If the Buyer is a corporation, a duly executed corporate resolution authorizing the execution of this Agreement and the purchase of the Property.

10.4 At Closing, Escrow Holder shall cause to be issued to Buyer a standard coverage (or ALTA extended, if elected pursuant to 9.1(g)) owner's form policy of title insurance effective as of the Closing, issued by the Title Company in the full amount of the Purchase Price, insuring title to the Property vested in Buyer, subject only to the exceptions approved by Buyer. In the event there is a Purchase Money Deed of Trust in this transaction, the policy of title insurance shall be a joint protection policy insuring both Buyer and Seller.

**IMPORTANT: IN A PURCHASE OR EXCHANGE OF REAL PROPERTY, IT MAY BE ADVISABLE TO OBTAIN TITLE INSURANCE IN CONNECTION WITH THE CLOSE OF ESCROW SINCE THERE MAY BE PRIOR RECORDED LIENS AND ENCUMBRANCES WHICH AFFECT YOUR INTEREST IN THE PROPERTY BEING ACQUIRED. A NEW POLICY OF TITLE INSURANCE SHOULD BE OBTAINED IN ORDER TO ENSURE YOUR INTEREST IN THE PROPERTY THAT YOU ARE ACQUIRING.**

**11. Prorations and Adjustments.**

11.1 *Taxes.* Applicable real property taxes and special assessment bonds shall be prorated through Escrow as of the date of the Closing, based upon the latest tax bill available. The Parties agree to prorate as of the Closing any taxes assessed against the Property by supplemental bill levied by reason of events occurring prior to the Closing. Payment of the prorated amount shall be made promptly in cash upon receipt of a copy of any supplemental bill.

11.2 *Insurance.* **WARNING:** Any insurance which Seller may have maintained will terminate on the Closing. Buyer is advised to obtain appropriate insurance to cover the Property.

11.3 *Rentals, Interest and Expenses.* Scheduled rentals, interest on Existing Notes, utilities, and operating expenses shall be prorated as of the date of Closing. The Parties agree to promptly adjust between themselves outside of Escrow any rents received after the Closing.

11.4 *Security Deposit.* Security Deposits held by Seller shall be given to Buyer as a credit to the cash required of Buyer at the Closing.

11.5 *Post Closing Matters.* Any item to be prorated that is not determined or determinable at the Closing shall be promptly adjusted by the Parties by appropriate cash payment outside of the Escrow when the amount due is determined.

11.6 *Variations in Existing Note Balances.* In the event that Buyer is purchasing the Property subject to an Existing Deed of Trust(s), and in the event that a Beneficiary Statement as to the applicable Existing Note(s) discloses that the unpaid principal balance of such Existing Note(s) at the closing will be more or less than the amount set forth in paragraph 3.1(c) hereof ("**Existing Note Variation**"), then the Purchase Money Note(s) shall be reduced or increased by an amount equal to such Existing Note Variation. If there is to be no Purchase Money Note, the cash required at the Closing per paragraph 3.1(a) shall be reduced or increased by the amount of such Existing Note Variation.

11.7 *Variations in New Loan Balance.* In the event Buyer is obtaining a New Loan and the amount ultimately obtained exceeds the amount set forth in paragraph 5.1, then the amount of the Purchase Money Note, if any, shall be reduced by the amount of such excess.

11.8 *Owner's Association Fees.* Escrow Holder shall: (i) bring Seller's account with the association current and pay any delinquencies or transfer fees from Seller's proceeds, and (ii) pay any up front fees required by the association from Buyer's funds.

## 12. Representations and Warranties of Seller and Disclaimers.

12.1 Seller's warranties and representations shall survive the Closing and delivery of the deed for a period of 3 years, and any lawsuit or action based upon them must be commenced within such time period. Seller's warranties and representations are true, material and relied upon by Buyer and Brokers in all respects. Seller hereby makes the following warranties and representations to Buyer and Brokers:

(a) *Authority of Seller.* Seller is the owner of the Property and/or has the full right, power and authority to sell, convey and transfer the Property to Buyer as provided herein, and to perform Seller's obligations hereunder.

(b) *Maintenance During Escrow and Equipment Condition At Closing.* Except as otherwise provided in paragraph 9.1(n) hereof, Seller shall maintain the Property until the Closing in its present condition, ordinary wear and tear excepted.

(c) *Hazardous Substances/Storage Tanks.* Seller has no knowledge, except as otherwise disclosed to Buyer in writing, of the existence or prior existence on the Property of any Hazardous Substance, nor of the existence or prior existence of any above or below ground storage tank.

(d) *Compliance.* Seller has no knowledge of any aspect or condition of the Property which violates applicable laws, rules, regulations, codes or covenants, conditions or restrictions, or of improvements or alterations made to the Property without a permit where one was required, or of any unfulfilled order or directive of any applicable governmental agency or casualty insurance company requiring any investigation, remediation, repair, maintenance or improvement be performed on the Property.

(e) *Changes in Agreements.* Prior to the Closing, Seller will not violate or modify any Existing Lease or Other Agreement, or create any new leases or other agreements affecting the Property, without Buyer's written approval, which approval will not be unreasonably withheld.

(f) *Possessory Rights.* Seller has no knowledge that anyone will, at the Closing, have any right to possession of the Property, except as disclosed by this Agreement or otherwise in writing to Buyer.

(g) *Mechanics' Liens.* There are no unsatisfied mechanics' or materialmen's lien rights concerning the Property.

(h) *Actions, Suits or Proceedings.* Seller has no knowledge of any actions, suits or proceedings pending or threatened before any commission, board, bureau, agency, arbitrator, court or tribunal that would affect the Property or the right to occupy or utilize same.

(i) *Notice of Changes.* Seller will promptly notify Buyer and Brokers in writing of any Material Change (see paragraph 9.1(o)) affecting the Property that becomes known to Seller prior to the Closing.

(j) *No Tenant Bankruptcy Proceedings.* Seller has no notice or knowledge that any tenant of the Property is the subject of a bankruptcy or insolvency proceeding.

(k) *No Seller Bankruptcy Proceedings.* Seller is not the subject of a bankruptcy, insolvency or probate proceeding.

(l) *Personal Property.* Seller has no knowledge that anyone will, at the Closing, have any right to possession of any personal property included in the Purchase Price nor knowledge of any liens or encumbrances affecting such personal property, except as disclosed by this Agreement or otherwise in writing to Buyer.

12.2 Buyer hereby acknowledges that, except as otherwise stated in this Agreement, Buyer is purchasing the Property in its existing condition and will, by the time called for herein, make or have waived all inspections of the Property Buyer believes are necessary to protect its own interest in, and its contemplated use of, the Property. The Parties acknowledge that, except as otherwise stated in this Agreement, no representations, inducements, promises, agreements, assurances, oral or written, concerning the Property, or any aspect of the occupational safety and health laws, Hazardous Substance laws, or any other act, ordinance or law, have been made by either Party or Brokers, or relied upon by either Party hereto.

12.3 In the event that Buyer learns that a Seller representation or warranty might be untrue prior to the Closing, and Buyer elects to purchase the Property anyway then, and in that event, Buyer waives any right that it may have to bring an action or proceeding against Seller or Brokers regarding said representation or warranty.

12.4 Any environmental reports, soil reports, surveys, and other similar documents which were prepared by third party consultants and provided to Buyer by Seller or Seller's representatives, have been delivered as an accommodation to Buyer and without any representation or warranty as to the sufficiency, accuracy, completeness, and/or validity of said documents, all of which Buyer relies on at its own risk. Seller believes said documents to be accurate, but Buyer is advised to retain appropriate consultants to review said documents and investigate the Property.

## 13. Possession.

Possession of the Property shall be given to Buyer at the Closing subject to the rights of tenants under Existing Leases.

## 14. Buyer's Entry.

At any time during the Escrow period, Buyer, and its agents and representatives, shall have the right at reasonable times and subject to rights of tenants, to enter upon the Property for the purpose of making inspections and tests specified in this Agreement. No destructive testing shall be conducted, however, without Seller's prior approval which shall not be unreasonably withheld. Following any such entry or work, unless otherwise directed in writing by Seller, Buyer shall return the Property to the condition it was in prior to such entry or work, including the recompaction or removal of any disrupted soil or material as Seller may reasonably direct. All such inspections and tests and any other work conducted or

materials furnished with respect to the Property by or for Buyer shall be paid for by Buyer as and when due and Buyer shall indemnify, defend, protect and hold harmless Seller and the Property of and from any and all claims, liabilities, losses, expenses (including reasonable attorneys' fees), damages, including those for injury to person or property, arising out of or relating to any such work or materials or the acts or omissions of Buyer, its agents or employees in connection therewith.

**15. Further Documents and Assurances.**

The Parties shall each, diligently and in good faith, undertake all actions and procedures reasonably required to place the Escrow in condition for Closing as and when required by this Agreement. The Parties agree to provide all further information, and to execute and deliver all further documents, reasonably required by Escrow Holder or the Title Company.

**16. Attorneys' Fees.**

If any Party or Broker brings an action or proceeding (including arbitration) involving the Property whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees and costs. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term "Prevailing Party" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred.

**17. Prior Agreements/Amendments.**

17.1 This Agreement supersedes any and all prior agreements between Seller and Buyer regarding the Property.

17.2 Amendments to this Agreement are effective only if made in writing and executed by Buyer and Seller.

**18. Broker's Rights.**

18.1 If this sale is not consummated due to the default of either the Buyer or Seller, the defaulting Party shall be liable to and shall pay to Brokers the Brokerage Fee that Brokers would have received had the sale been consummated. If Buyer is the defaulting party, payment of said Brokerage Fee is in addition to any obligation with respect to liquidated or other damages.

18.2 Upon the Closing, Brokers are authorized to publicize the facts of this transaction.

**19. Notices.**

19.1 Whenever any Party, Escrow Holder or Brokers herein shall desire to give or serve any notice, demand, request, approval, disapproval or other communication, each such communication shall be in writing and shall be delivered personally, by messenger or by mail, postage prepaid, to the address set forth in this Agreement or by facsimile transmission, electronic signature, digital signature, or email.

19.2 Service of any such communication shall be deemed made on the date of actual receipt if personally delivered, or transmitted by facsimile transmission, electronic signature, digital signature, or email. Any such communication sent by regular mail shall be deemed given 48 hours after the same is mailed. Communications sent by United States Express Mail or overnight courier that guarantee next day delivery shall be deemed delivered 24 hours after delivery of the same to the Postal Service or courier. If such communication is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

19.3 Any Party or Broker hereto may from time to time, by notice in writing, designate a different address to which, or a different person or additional persons to whom, all communications are thereafter to be made.

**20. Duration of Offer.**

20.1 If this offer is not accepted by Seller on or before 5:00 P.M. according to the time standard applicable to the city of San Diego on the date of April 12, 2019,

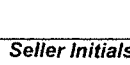
it shall be deemed automatically revoked.

20.2 The acceptance of this offer, or of any subsequent counteroffer hereto, that creates an agreement between the Parties as described in paragraph 1.2, shall be deemed made upon delivery to the other Party or either Broker herein of a duly executed writing unconditionally accepting the last outstanding offer or counteroffer.

**21. LIQUIDATED DAMAGES. (This Liquidated Damages paragraph is applicable only if initialed by both Parties).**

THE PARTIES AGREE THAT IT WOULD BE IMPRACTICABLE OR EXTREMELY DIFFICULT TO FIX, PRIOR TO SIGNING THIS AGREEMENT, THE ACTUAL DAMAGES WHICH WOULD BE SUFFERED BY SELLER IF BUYER FAILS TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT. THEREFORE, IF, AFTER THE SATISFACTION OR WAIVER OF ALL CONTINGENCIES PROVIDED FOR THE BUYER'S BENEFIT, BUYER BREACHES THIS AGREEMENT, SELLER SHALL BE ENTITLED TO LIQUIDATED DAMAGES IN THE AMOUNT OF \$175,000.00. UPON PAYMENT OF SAID SUM TO SELLER, BUYER SHALL BE RELEASED FROM ANY FURTHER LIABILITY TO SELLER, AND ANY ESCROW CANCELLATION FEES AND TITLE COMPANY CHARGES SHALL BE PAID BY SELLER.

  
Buyer Initials

  
Seller Initials

**22. ARBITRATION OF DISPUTES. (This Arbitration of Disputes paragraph is applicable only if initialed by both Parties.)**

22.1 ANY CONTROVERSY AS TO WHETHER SELLER IS ENTITLED TO THE LIQUIDATED DAMAGES AND/OR BUYER IS ENTITLED TO THE RETURN OF DEPOSIT MONEY, SHALL BE DETERMINED BY BINDING ARBITRATION BY, AND UNDER THE COMMERCIAL RULES OF THE AMERICAN ARBITRATION ASSOCIATION ("COMMERCIAL RULES"). ARBITRATION HEARINGS SHALL BE HELD IN THE COUNTY WHERE THE PROPERTY IS LOCATED. THE NUMBER OF ARBITRATORS SHALL BE AS PROVIDED IN THE COMMERCIAL RULES AND EACH SUCH ARBITRATOR SHALL BE AN IMPARTIAL REAL ESTATE BROKER WITH AT LEAST 5 YEARS OF FULL TIME EXPERIENCE IN BOTH THE AREA WHERE THE PROPERTY IS LOCATED AND THE TYPE OF REAL ESTATE THAT IS THE SUBJECT OF THIS AGREEMENT. THE ARBITRATOR OR ARBITRATORS SHALL BE APPOINTED UNDER THE COMMERCIAL RULES AND SHALL HEAR AND DETERMINE SAID CONTROVERSY IN ACCORDANCE WITH APPLICABLE LAW, THE INTENTION OF THE PARTIES AS EXPRESSED IN THIS AGREEMENT AND ANY AMENDMENTS THERETO, AND UPON THE EVIDENCE PRODUCED AT AN ARBITRATION



HEARING. PRE-ARBITRATION DISCOVERY SHALL BE PERMITTED IN ACCORDANCE WITH THE COMMERCIAL RULES OR STATE LAW APPLICABLE TO ARBITRATION PROCEEDINGS. THE AWARD SHALL BE RENDERED WITHIN 30 DAYS AFTER THE CONCLUSION OF THE HEARING, AND MAY INCLUDE ATTORNEYS' FEES AND COSTS TO THE PREVAILING PARTY PER PARAGRAPH 16 HEREOF. JUDGMENT MAY BE ENTERED ON THE AWARD IN ANY COURT OF COMPETENT JURISDICTION NOTWITHSTANDING THE FAILURE OF A PARTY DULY NOTIFIED OF THE ARBITRATION HEARING TO APPEAR THEREAT.

22.2 BUYER'S RESORT TO OR PARTICIPATION IN SUCH ARBITRATION PROCEEDINGS SHALL NOT BAR SUIT IN A COURT OF COMPETENT JURISDICTION BY THE BUYER FOR DAMAGES AND/OR SPECIFIC PERFORMANCE UNLESS AND UNTIL THE ARBITRATION RESULTS IN AN AWARD TO THE SELLER OF LIQUIDATED DAMAGES, IN WHICH EVENT SUCH AWARD SHALL ACT AS A BAR AGAINST ANY ACTION BY BUYER FOR DAMAGES AND/OR SPECIFIC PERFORMANCE.

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

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

  
Buyer Initials

\_\_\_\_\_  
Seller Initials

**23. Miscellaneous.**

23.1 **Binding Effect.** This Agreement shall be binding on the Parties without regard to whether or not paragraphs 21 and 22 are initialed by both of the Parties. Paragraphs 21 and 22 are each incorporated into this Agreement only if initialed by both Parties at the time that the Agreement is executed.

23.2 **Applicable Law.** This Agreement shall be governed by, and paragraph 22.3 is amended to refer to, the laws of the state in which the Property is located. Any litigation or arbitration between the Parties hereto concerning this Agreement shall be initiated in the county in which the Property is located.

23.3 **Time of Essence.** Time is of the essence of this Agreement.

23.4 **Counterparts.** This Agreement may be executed by Buyer and Seller in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Escrow Holder, after verifying that the counterparts are identical except for the signatures, is authorized and instructed to combine the signed signature pages on one of the counterparts, which shall then constitute the Agreement.

23.5 **Waiver of Jury Trial.** THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.

23.6 **Conflict.** Any conflict between the printed provisions of this Agreement and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions. Seller and Buyer must initial any and all handwritten provisions.

23.7 **1031 Exchange.** Both Seller and Buyer agree to cooperate with each other in the event that either or both wish to participate in a 1031 exchange. Any party initiating an exchange shall bear all costs of such exchange. The cooperating Party shall not have any liability (special or otherwise) for damages to the exchanging Party in the event that the sale is delayed and/or that the sale otherwise fails to qualify as a 1031 exchange.

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

**24. Disclosures Regarding The Nature of a Real Estate Agency Relationship.**

24.1 The Parties and Brokers agree that their relationship(s) shall be governed by the principles set forth in the applicable sections of the California Civil Code, as summarized in paragraph 24.2.

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

(a) **Seller's Agent.** A Seller's agent under a listing agreement with the Seller acts as the agent for the Seller only. A Seller's agent or subagent has the following affirmative obligations: (1) *To the Seller:* A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Seller. (2) *To the Buyer and the Seller:* a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(b) **Buyer's Agent.** A selling agent can, with a Buyer's consent, agree to act as agent for the Buyer only. In these situations, the agent is not the Seller's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Seller. An agent acting only for a Buyer has the following affirmative obligations. (1) *To the Buyer:* A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Buyer. (2) *To the Buyer and the Seller:* a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(c) **Agent Representing Both Seller and Buyer.** A real estate agent, either acting directly or through one or more associate licenses, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the



Buyer. (1) In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer: a. A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Seller or the Buyer. b. Other duties to the Seller and the Buyer as stated above in their respective sections (a) or (b) of this paragraph 24.2. (2) In representing both Seller and Buyer, the agent may not without the express permission of the respective Party, disclose to the other Party that the Seller will accept a price less than the listing price or that the Buyer will pay a price greater than the price offered. (3) The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect their own interests. Buyer and Seller should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

(d) *Further Disclosures.* Throughout this transaction Buyer and Seller may receive more than one disclosure, depending upon the number of agents assisting in the transaction. Buyer and Seller should each read its contents each time it is presented, considering the relationship between them and the real estate agent in this transaction and that disclosure. Buyer and Seller each acknowledge receipt of a disclosure of the possibility of multiple representation by the Broker representing that principal. This disclosure may be part of a listing agreement, buyer representation agreement or separate document. Buyer understands that Broker representing Buyer may also represent other potential buyers, who may consider, make offers on or ultimately acquire the Property. Seller understands that Broker representing Seller may also represent other sellers with competing properties that may be of interest to this Buyer. Brokers have no responsibility with respect to any default or breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to this transaction may be brought against Broker more than one year after the Date of Agreement and that the liability (including court costs and attorneys' fees), of any Broker with respect to any breach of duty, error or omission relating to this Agreement shall not exceed the fee received by such Broker pursuant to this Agreement; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

24.3 *Confidential Information:* Buyer and Seller agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.

25. **Construction of Agreement.** In construing this Agreement, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Agreement. Whenever required by the context, the singular shall include the plural and vice versa. This Agreement shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

26. **Additional Provisions:**

Additional provisions of this offer, if any, are as follows or are attached hereto by an addendum or addenda consisting of paragraphs \_\_\_\_\_ through \_\_\_\_\_. (If there are no additional provisions write "NONE".)

Seller shall remain as a tenant on the property until October 15th, 2019 or before. The lease rate shall be \$1.00 (One Dollar) per month after the close of escrow. Post closing occupancy terms will be executed with a formal agreement between landlord and tenant.

Seller to confirm existence or compliance with any associations.

Seller financing is of interest, terms to be determined. Financing will be in 2nd position.

**ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE AIR CRE OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS AGREEMENT OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:**

1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS AGREEMENT.
2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PROPERTY. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING OF THE PROPERTY, THE INTEGRITY AND CONDITION OF ANY STRUCTURES AND OPERATING SYSTEMS, AND THE SUITABILITY OF THE PROPERTY FOR BUYER'S INTENDED USE.

**WARNING: IF THE PROPERTY IS LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THIS AGREEMENT MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED.**

**NOTE:**

1. THIS FORM IS NOT FOR USE IN CONNECTION WITH THE SALE OF RESIDENTIAL PROPERTY.
2. IF EITHER PARTY IS A CORPORATION, IT IS RECOMMENDED THAT THIS AGREEMENT BE SIGNED BY TWO CORPORATE OFFICERS.

The undersigned Buyer offers and agrees to buy the Property on the terms and conditions stated and acknowledges receipt of a copy hereof.

Date: March 23, 2019

**BROKER**

SVN Asset Advisory Group

Att: Tony Yousif

Title: Director

Address: 4849 Ronson Court, Suite 216

San Diego, CA 92111

Phone: (858) 810-3623

Fax: \_\_\_\_\_

Email: tony.yousif@svn.com

Federal ID No.: 45-4394245

Broker/Agent BRE License #: HTC Realty Group, Inc

01910691

Tony Yousif 01773885

**BUYER**

STADCON FAMILY HOLDINGS INC

By: \_\_\_\_\_

Name Printed: Josiah H STADCON

Title: Manager

Phone: 951-605-1640

Fax: \_\_\_\_\_

Email: Josiah@STADCONFH.COM

By: \_\_\_\_\_

Name Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Address: 5100 HALLOWOOD BLVD  
HALLOWOOD CA 93041

Federal ID No.: \_\_\_\_\_

**27. Acceptance.**

27.1 Seller accepts the foregoing offer to purchase the Property and hereby agrees to sell the Property to Buyer on the terms and conditions therein specified.

27.2 In consideration of real estate brokerage service rendered by Brokers, Seller agrees to pay Brokers a real estate Brokerage Fee in a sum equal to 5.000 % of the Purchase Price to be divided between the Brokers as follows: Seller's Broker 2.500 % and Buyer's Broker 2.500 %. This Agreement shall serve as an irrevocable instruction to Escrow Holder to pay such Brokerage Fee to Brokers out of the proceeds accruing to the account of Seller at the Closing.

27.3 Seller acknowledges receipt of a copy hereof and authorizes Brokers to deliver a signed copy to Buyer.

**NOTE: A PROPERTY INFORMATION SHEET IS REQUIRED TO BE DELIVERED TO BUYER BY SELLER UNDER THIS AGREEMENT.**

Date: March 23, 2019

**BROKER**

Landlords Realty

Att: George Louis

Title: Broker

Address: 1573 Kimberly Woods Dr.

El Cajon, CA 92020

Phone: (619) 401-9876

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Federal ID No.: \_\_\_\_\_

Broker/Agent BRE License #: 00529450

**SELLER**

Sinner Brothers Inc

By: \_\_\_\_\_

Name Printed: John Rickards

Title: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

By: \_\_\_\_\_

Name Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Address: \_\_\_\_\_

Federal ID No.: \_\_\_\_\_

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INITIALS

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