

BOARD OF REGENTS  
BRIEFING PAPER

**Agenda Item Title:** University of Nevada School of Medicine  
Lease Located at 5190 Neil Road, Reno,  
Nevada

**Meeting Date:** March 5 - 6, 2015

**1. BACKGROUND & POLICY CONTEXT OF ISSUE:**

The University of Nevada School of Medicine (UNSOM) and its Department of Psychiatry and Behavioral Sciences request approval of new leased office space to provide psychiatric services and psychological therapy for patients.

The Department of Psychiatry currently has more demand for mental health services than it can meet at its current location. The current space does not allow for the increased faculty and clinical staff needed to meet the demand for mental health services. The additional space would also allow for development of resident clinics and to employ non-physician clinicians to improve the educational experience and improve the department's financial performance.

After reviewing and touring several locations in the area, a site was selected and a Lease Agreement has been negotiated for approximately 7,740 sf located at 5190 Neil Road (Exhibits 1 & 2). UNSOM Senior Associate Dean for Legal Affairs, University of Nevada, Reno General Counsel, and NSHE Counsel/Director of Real Estate Planning have reviewed and approved the Lease Agreement (Exhibit 3).

General Terms of the Lease Agreement

- **Lease Term:** 88 months. The rent for the first 6 months is abated.
- **Rental Rate:** \$1.78 per sf per month (effective rent of \$1.66 per sf with 6 months abated rent). Annual lease payments are expected to be \$165,326. Actual first year expenses are \$82,663, due to the six months' abated rent.
- **Lease Type:** Full service, base year lease with scaled annual increases.
- **Tenant Improvements:** Substantial Turn-key tenant improvements at Landlord's expense estimated at over \$225,000 or approximately \$29 per sf.

**2. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:**

University of Nevada, Reno President Marc Johnson is requesting Board of Regents' approval of the Lease Agreement of approximately 7,740 sf within 5190 Neil Road, Reno, NV 89502 for a term of 88 months.

**3. IMPETUS (WHY NOW?):**

- This lease provides an opportunity for UNSOM to expand its Psychiatry and Behavioral Sciences program and offer more services to the community.
- Space in 5190 Neil Road is available now.

- Northern Nevada has a substantial shortage of mental health care, especially psychiatric care.
- The ability to improve financial performance is limited by the size of the current faculty and clinical staff.
- Relocation will allow for improved resident and fellowship program training opportunities while increasing productivity among supervising physicians, which will in turn increase the department's financial stability.

**4. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:**

- The space within the 5190 Neil Road property is available now.
- Substantial built-to-suit improvements for UNSOM's occupancy are to be delivered to UNSOM on a turn-key basis at Landlord's sole expense.
- UNSOM has outgrown its current space that houses its Psychiatry and Behavioral Sciences program.

**5. POTENTIAL ARGUMENTS AGAINST THE REQUEST RECOMMENDATION:**

- The Psychiatry and Behavioral Sciences program expansion is an additional cost to UNSOM.

**6. ALTERNATIVE(S) TO WHAT IS BEING REQUESTED/RECOMMENDED:**

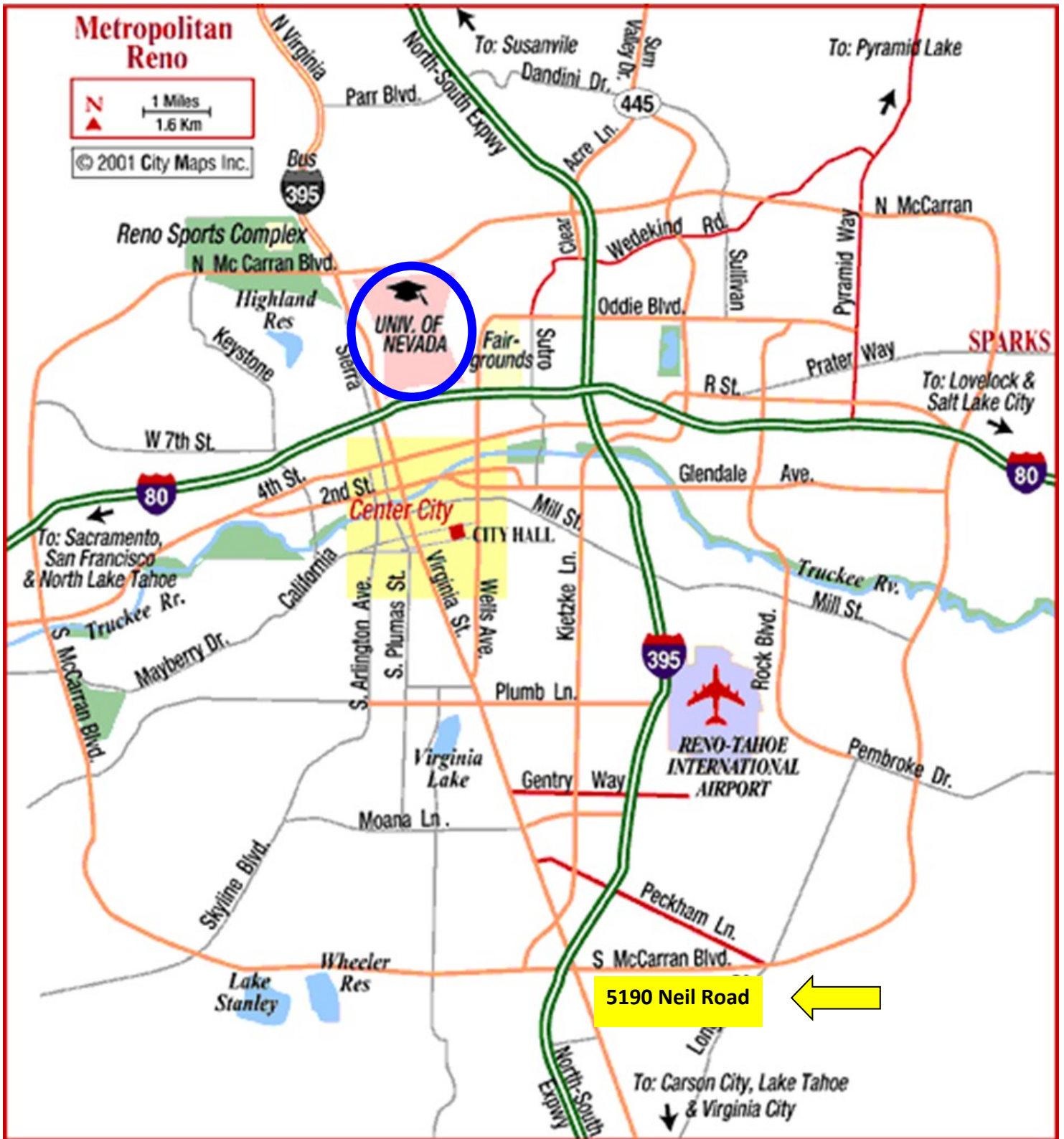
- UNSOM can keep the Psychiatry Department and Behavioral Sciences program in its current location and not expand. This would not allow for an increase in faculty and staff or for program enhancements.

**7. COMPLIANCE WITH BOARD POLICY:**

- X Consistent With Current Board Policy: Title #4 Chapter #10 Section #1.9  
 Amends Current Board Policy: Title # \_\_\_\_\_ Chapter # \_\_\_\_\_ Section # \_\_\_\_\_  
 Other: \_  
 X Fiscal Impact: Yes X\_ No \_\_\_\_  
 Explain: This request for lease will result in annual lease payments of \$165,326 plus annual increases. Actual first year expenses are \$82,663, due to the six months' abated rent.

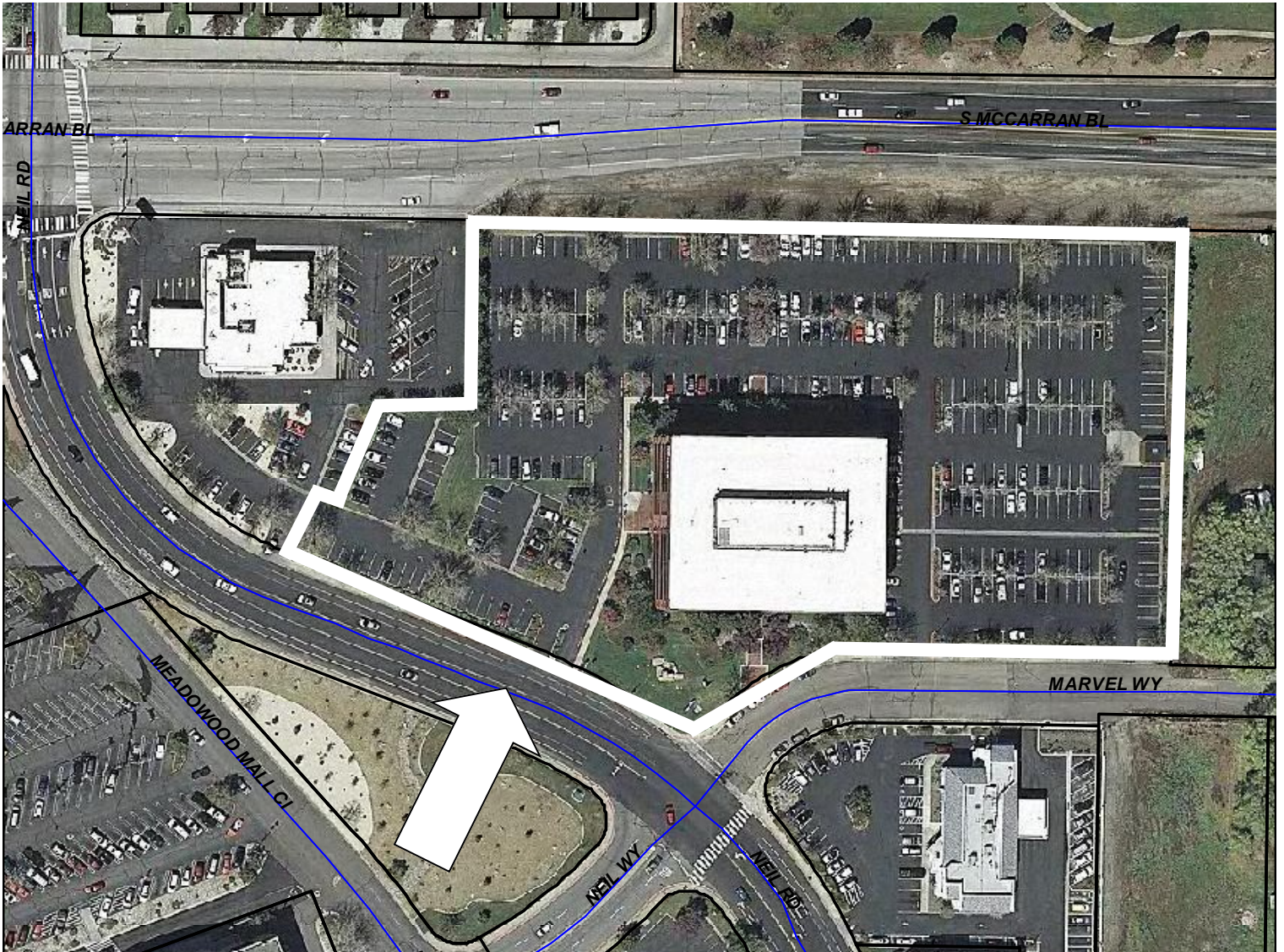
# EXHIBIT 1

## 5190 Neil Road, Reno, Nevada



## EXHIBIT 2

### 5190 Neil Road, Reno, Nevada Street Location



White arrow shows the location of 5190 Neil Road in Reno, Nevada.

**MULTI-TENANT  
OFFICE LEASE (FSG)**

**U.S. BANK CENTRE BUILDING  
Reno, Nevada**

**LANDLORD:**

**LBA REALTY FUND II-WBP II, LLC,  
a Delaware limited liability company**

**TENANT:**

**The BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION on behalf of the  
UNIVERSITY OF NEVADA SCHOOL OF MEDICINE hereafter referred to as "NSHE",**

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**EXHIBITS:**

Exhibit A	Premises Floor Plan
Exhibit B	Site Plan
Exhibit C	Work Letter
Exhibit D	Notice of Lease Term Dates
Exhibit E	Rules and Regulations
Exhibit F	Estoppel Certificate

THIS LEASE, entered into as of this \_\_\_ day of \_\_\_\_\_, 2015 for reference purposes, is by and between LBA REALTY FUND II-WBP II, LLC, a Delaware limited liability company, hereinafter referred to as "Landlord", and the BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION ("NSHE"), a constitutional entity of the State of Nevada, on behalf of the UNIVERSITY OF NEVADA SCHOOL OF MEDICINE, hereinafter referred to as "Tenant" or "UNSOM".

**ARTICLE 1 - LEASE SUMMARY AND PROPERTY SPECIFIC PROVISIONS**

1.1 **Landlord's Address:** LBA Realty Fund II-WBP II, LLC  
 c/o LBA Realty  
 3347 Michelson Drive, Suite 200  
 Irvine, California 92612  
 Attn: SVP - Operations  
 Telephone: (949) 833-0400  
 Facsimile: (949) 955-9350  
 E-mail: \_\_\_\_\_

With copies to: NAI Alliance  
 6995 Sierra Center Parkway, Suite 100  
 Reno, Nevada 89511  
 Attention: Carrie L. Lashley  
 Telephone: (775) 336-4677  
 Facsimile: (775) 336-4699  
 E-mail: \_\_\_\_\_

For payment of Rent: LBA Realty Fund II-WBP II, LLC  
 P.O Box 51364  
 Los Angeles, California 90051-5594

1.2 **Tenant's Address:** University of Nevada School of Medicine  
 Office of the Dean  
 Pennington Medical Education Building  
 University of Nevada, Reno/MS-332  
 Reno, Nevada 89557-0332  
 Telephone: (775) 784-6001

With copies to: Matthew T, Milone  
 Senior Associate Dean for Legal Affairs  
 University of Nevada School of Medicine  
 Pennington Medical Education Building  
 University of Nevada, Reno/MS-1332  
 Reno, Nevada 89557-1332

Tenant Billing Address: University of Nevada School of Medicine  
 Attn: Budget and Finance  
 University of Nevada, Reno/MS-0346  
 Reno, Nevada 89557-0346

1.3 **Building:** The Building commonly known as 5190 Neil Road, Reno, Nevada. The Building, together with all other buildings, improvements and facilities, now or subsequently located upon the land (the "Site") as shown on the Site Plan attached hereto as Exhibit B as such area may be expanded or reduced from time to time is referred to herein as the "Property". Landlord and Tenant stipulate and agree that the Property and the Building contains 106,097 rentable square feet in the aggregate, for all purposes of this Lease.

1.4 **Premises:** Suite 215 on the 2nd floor of the Building, as outlined on the Premises Floor Plan attached hereto as Exhibit A. The estimated rentable square feet of the Premises is 7,740, subject to adjustment pursuant to Section 3.2 of the Standard Provisions.

1.5 **City:** The City of Reno, County of Washoe, State of Nevada.

1.6 **Commencement Date:** The date for commencement of the Term, to be determined pursuant to the Work Letter attached as Exhibit C hereto. **Estimated Commencement Date:** March 1, 2015.

1.7 **Term:** Eighty-Eight (88) months, plus any partial month at the beginning of the Term, commencing on the Commencement Date and ending on the last day of the Eighty-Eighth (88th) full calendar month following the Commencement Date ("Expiration Date").

1.8 **Monthly Base Rent:**

<u>Months or Period</u>	<u>Monthly Base Rent</u>
*1 – 16**	\$13,777.20**

17 - 28	\$14,328.29
29 - 40	\$14,901.42
41 - 52	\$15,497.48
53 - 64	\$16,117.38
65 - 76	\$16,762.07
77 - 88	\$17,432.55

\*Including any partial month at the beginning of the Term.

\*\* Notwithstanding the foregoing, provided Tenant is not in default under this Lease, Landlord hereby agrees to abate Tenant's obligation to pay the entire Monthly Base Rent due during the first six (6) calendar months of the Term (such amount of abated Monthly Base Rent being hereinafter collectively referred to as the "Abated Amount"). During such abatement period, Tenant will still be responsible for the payment of all other monetary obligations under this Lease.

1.9 **Security Deposit:** N/A.

1.10 **Permitted Use:** General office, administrative use, psychiatric services, and psychological therapy for Tenant's patients, subject to the provisions set forth in this Lease and as permitted by law. This may include clinical training of resident physicians in accordance with Nevada law and the Program Requirements for Graduate Medical Education in Psychiatry of the Accreditation Council for Graduate Medical Education (ACGME). Clinical training includes, generally, encounters between resident physicians and patients, which are supervised or reviewed by fully licensed practitioners. In no event shall Tenant use the Premises for medical uses unrelated to providing psychiatric services, including, without limitation, in-patient care, non-psychiatric out-patient care, surgery center, x-ray use, dispensing drugs, or as a clinical or pathological laboratory.

1.11 **Parking:** Thirty (30) unreserved parking spaces, subject to the terms of Article 11 of the Standard Lease Provisions.

1.12 **Brokers:** Colliers International representing Landlord and Tenant.

1.13 **Interest Rate:** The lesser of: (a) Ten percent (10%) or (b) the maximum rate permitted by law in the State where the Property is located, whichever is less.

1.14 **Insurance Amounts:**

a. **Commercial General Liability Insurance:** General liability of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the aggregate.

b. **Commercial Automobile Liability Insurance:** Limit of liability of not less than One Million Dollars (\$1,000,000.00) per accident.

c. **Worker's Compensation and Employers Liability Insurance:** With limits as mandated pursuant to the laws in the State in which the Property is located, or One Million Dollars (\$1,000,000.00) per person, disease and accident, whichever is greater.

d. **Umbrella Liability Insurance:** Limits of not less than Three Million Dollars (\$3,000,000.00) per occurrence.

e. **If Tenant's business includes professional services, Professional Liability (also known as errors and omissions insurance):** Not less than the minimum limits required by law for Tenant's profession, and in any event, not less than One Million Dollars (\$1,000,000.00) per occurrence. Such insurance may be purchased by Tenant on a claims made basis

f. **Limitation on Tenant Insurance Requirements:** Tenant is self-insured, and its tort liability is subject to the limitations set forth in Chapter 41 of the Nevada Revised Statutes. Tenant shall be permitted to meet the insurance obligations under this section 1.14 through a program of self-insurance.

1.15 **Tenant Improvements:** The improvements previously installed in the Premises, if any, and the tenant improvements to be installed in the Premises by Landlord as described in the Work Letter attached hereto as Exhibit C (the "Work Letter").

1.16 **Tenant's Percentage:** 7.295%, which is the ratio that the rentable square footage of the Premises bears to the rentable square footage of the Property. Accordingly, as more particularly set forth in Section 1.18 hereof, Tenant shall pay to Landlord: (a) 7.295% of the Operating Expenses (as defined in Section 1.18 b.) during each calendar year after the Base Year in excess of the Operating Expenses for the Base Year; (b) 7.295% of the Taxes (as defined in Section 1.18 c.) during each calendar year after the Base Year in excess of the Taxes for the Base Year; (c) 7.295% of the Insurance Costs (as defined in Section 7.4 of the Standard Lease Provisions) during each calendar year after the Base Year in excess of the Insurance Costs for the Base Year; and (d) 7.295% of the Utilities Costs (as defined in Section 1.18 e.) during each calendar year after the Base Year in excess of Utilities Costs for the Base Year. Tenant's Percentage is subject to adjustment in accordance with Sections 1.4 and 3.2 of this Lease.



1.17 **Common Areas; Definitions; Tenant's Rights.** During the Term, Tenant shall have the non-exclusive right to use, in common with other tenants in the Property, and subject to the Rules and Regulations referred to in Article 9 of the Standard Lease Provisions, those portions of the Property (the "Common Areas") not leased or designated for lease to tenants that are provided for use in common by Landlord, Tenant and any other tenants of the Property (or by the sublessees, agents, employees, customers invitees, guests or licensees of any such party), whether or not those areas are open to the general public. The Common Areas shall include, without limitation, all areas of the Building outside of the Premises and outside of any premises leased or designated for lease to tenants, the common entrances, lobbies, common restrooms, access ways, loading docks, ramps, drives and platforms and any passageways and service ways thereto to the extent not exclusively serving another tenant or contained within another tenant's premises, and the common pipes, conduits, wires and appurtenant equipment serving the Premises, the parking areas (subject to Article 11 of the Standard Lease Provisions), loading and unloading areas, trash areas, roadways, sidewalks, walkways, parkways, driveways and landscaped areas appurtenant to the Building, fixtures, systems, decor, facilities and landscaping contained, maintained or used in connection with those areas, and shall be deemed to include any city sidewalks adjacent to the Property, any pedestrian walkway system, park or other facilities located on the Site and open to the general public.

1.18 **Operating Expenses, Taxes, Insurance Costs and Utilities Costs**

a. **Base Costs:** As used in this Lease, the term "Base Costs" shall mean Tenant's Percentage of Operating Expenses, Taxes, Insurance Costs and Utilities Costs, respectively, incurred and paid by Landlord during calendar year 2015 (the "Base Year").

b. **Definition of Operating Expenses.** As used in this Lease, the term "Operating Expenses" shall consist of all costs and expenses of operation, maintenance and repair of the Property, Site Building and Common Areas as determined by standard accounting practices and calculated assuming the Property is at least ninety-five percent (95%) occupied. Operating Expenses include the following costs by way of illustration but not limitation: (i) any and all assessments imposed with respect to the Building, Common Areas, and/or Site pursuant to any covenants, conditions and restrictions affecting the Property; (ii) costs, levies or assessments resulting from statutes or regulations promulgated by any government authority in connection with the use or occupancy of the Site, Building or the Premises or the parking facilities serving the Site, Building or the Premises; (iii) waste disposal and janitorial services; (iv) security; (v) costs incurred in the management of the Site, Building and Common Areas, including, without limitation: (1) supplies, materials, equipment and tools, (2) wages, salaries, benefits, pension payments, fringe benefits, uniforms and dry-cleaning thereof (and payroll taxes, insurance and similar governmental charges related thereto) of employees used in the operation and maintenance of the Site, Building and Common Areas, (3) the rental of personal property used by Landlord's personnel in the maintenance, repair and operation of the Property, (4) management office expenses including rent and operating costs, (5) accounting fees, legal fees and real estate consultant's fees, and (6) a management/administrative fee; (vi) repair and maintenance of other portions of the Building other than such portions as are maintained by Tenant, including the elevators, restrooms, structural and non-structural portions of the Building, and the plumbing, heating, ventilating, air-conditioning and electrical systems installed or furnished by Landlord and not maintained by Tenant pursuant to Section 8.2 of the Standard Provisions; (vii) maintenance, costs and upkeep of all parking and Common Areas; (viii) amortization on a straight-line basis over the useful life together with interest at the Interest Rate (as defined in Section 1.13 of the Lease Summary) on the unamortized balance of all costs of a capital nature (including, without limitation, capital improvements, capital replacements, capital repairs, capital equipment and capital tools): (1) reasonably intended to produce a reduction in operating charges or energy consumption; or (2) required after the date of this Lease under any Law that was not applicable to the Building at the time it was originally constructed; or (3) for repair or replacement of any equipment or improvements needed to operate and/or maintain the Building, the Common Areas and/or the Site at the same quality levels as prior to the repair or replacement; (ix) costs and expenses of gardening and landscaping; (x) maintenance of signs (other than signs of tenants of the Site); (xi) personal property taxes levied on or attributable to personal property used in connection with the Building, the Common Areas and/or the Site; and (xii) costs and expenses of repairs, resurfacing, repairing, maintenance, painting, lighting, cleaning, refuse removal, security and similar items, including appropriate reserves.

For purposes of determining the Operating Expenses for the Base Year, Operating Expenses shall not include one-time special assessments, charges, costs or fees or extraordinary charges or costs incurred in the Base Year only, including those attributable to boycotts, embargoes, strikes or other shortages of services or supplies or amortized costs relating to capital improvements. Operating Expenses shall not include Taxes, Insurance Costs or Utilities Costs which shall be separately accounted for under the terms of this Lease.

c. **Taxes.** Taxes are defined in Section 7.3 of the Standard Lease Provisions. All Taxes shall be adjusted to reflect an assumption that the Building is fully assessed for real property tax purposes as a completed building(s) ready for occupancy. Notwithstanding anything herein to the contrary, if after the Commencement Date Taxes are reduced, then for purposes of all subsequent calendar years, including the calendar year in which the reduction occurs, the Base Costs of Taxes shall be proportionately reduced. Such reduction in the Base Costs of Taxes shall not be limited to the initial reduction, if any, but may, at Landlord's election, be subject to reduction annually upon each subsequent reduction in Taxes. When calculating Taxes for purposes of establishing the Taxes for the Base Year, Taxes shall not include Taxes attributable to one-time special assessments, charges, costs, or fees arising from modifications or changes in Laws, including, but not limited to, the institution of a split tax roll during the Base Year.

d. **Definition of Insurance Costs.** Insurance Costs are defined in Section 7.4 of the Standard Lease Provisions.

e. **Definition of Utilities Costs.** As used in this Lease, “Utilities Costs” shall mean all actual charges for utilities for the Property, Site, Building and Common Areas calculated assuming the Property is at least ninety-five percent (95%) occupied, including but not limited to water, sewer and electricity, and the costs of heating, ventilating and air conditioning and other utilities (but excluding those charges for which tenants are individually responsible) as well as related fees, assessments and surcharges. For purposes of determining the Base Costs with respect to Utilities Costs, Utilities Costs shall not include any one time special charges, costs or fees or any extraordinary charges or costs incurred in the Base Year only, including, without limitation, utility rate increases and other costs arising from extraordinary market circumstances such as by way of example, boycotts, black-outs, brown-outs, the leasing of auxiliary power supply equipment, embargoes, strikes or other shortages of services or fuel (whether or not such shortages are deemed actual or manufactured), or any conservation surcharges, penalties or fines incurred by Landlord. Furthermore, notwithstanding any contrary provision in this Lease, if at any time after the Commencement Date, the amount of Utilities Costs decreases, then for purposes of the calendar year in which such decrease in Utilities Costs occurs, and for all subsequent calendar years, the Base Costs with respect to Utilities Costs shall be reduced by an amount equal to such decrease in Utilities Costs. Such decrease in the Base Costs of Utilities Costs shall not be limited to the initial decrease, if any, but may, at Landlord’s election, be subject to decrease annually upon each subsequent decrease in Utilities Costs.

f. **Excess Expenses, Taxes, Insurance Costs and Utilities Costs.** In addition to the Monthly Base Rent required to be paid by Tenant pursuant to Section 1.8 above, during each month during the Term (after the Base Year), Tenant shall pay to Landlord the amount by which Tenant’s Percentage of Operating Expenses, Taxes, Insurance Costs and Utilities Costs for such calendar year exceeds the Operating Expenses, Taxes, Insurance Costs and Utilities Costs for the Base Year (such amounts shall be referred to in this Section 1.18 as the “Excess Expenses,” “Excess Taxes,” “Excess Insurance Costs,” and “Excess Utilities Costs,” respectively), in the manner and at the times set forth in the following provisions of this Section 1.18. No reduction in Operating Expenses, Taxes, Insurance Costs, or Utilities Costs after the Base Year will reduce the Monthly Base Rent payable by Tenant hereunder or entitle Tenant to receive a credit against future installments of Operating Expenses, Taxes, Insurance Costs, Utilities Costs, or other Additional Rent due hereunder. Notwithstanding anything to the contrary in this Lease, Landlord shall have the right, from time to time, to equitably allocate some or all of the Operating Expenses, Taxes, Insurance Costs and Utilities Costs among different tenants, buildings and/or premises of the Property based upon differing levels of use, demand, risk or other distinctions among such tenants, buildings or premises (the “Cost Pools”). Such Cost Pools may include, for example, all office space tenants or industrial/R&D space tenants in the Property and may be modified to take into account the addition of any additional buildings within the Property. Accordingly, in the event of such allocations into Cost Pools, Tenant’s Percentage shall be appropriately adjusted to reflect such allocation. In addition, if Landlord does not furnish a particular service or work (the cost of which, if furnished by Landlord would be included in Operating Expenses, Insurance Costs, Utilities Costs or Taxes) to a tenant (other than Tenant) that has undertaken to perform such service or work in lieu of receiving it from Landlord, then Operating Expenses, Insurance Costs, Utilities Costs and/or Taxes, as applicable, shall be considered to be increased by an amount equal to the additional Operating Expenses, Insurance Costs, Utilities Costs and/or Taxes that Landlord would reasonably have incurred had Landlord furnished such service or work to that tenant.

g. **Estimate Statement.** By the first day of April (or as soon as practicable thereafter) of each calendar year during the Term after the Base Year, Landlord shall endeavor to deliver to Tenant a statement (“Estimate Statement”) estimating the Operating Expenses, Taxes, Insurance Costs, and Utilities Costs for the current calendar year and the estimated amount of Excess Expenses, Excess Taxes, Excess Insurance Costs, and Excess Utilities Costs payable by Tenant. If at any time during the Term, but not more often than quarterly, Landlord reasonably determines that the estimated amount of Excess Expenses, Excess Taxes, Excess Insurance Costs or Excess Utilities Costs payable by Tenant for the current calendar year will be greater or less than the amount set forth in the then current Estimate Statement, Landlord may issue a revised Estimate Statement and Tenant agrees to pay Landlord, within Thirty (30) days after receipt of the revised Estimate Statement, the difference between the amount owed by Tenant under such revised Estimate Statement and the amount owed by Tenant under the original Estimate Statement for the portion of the then current calendar year which has expired. Thereafter Tenant agrees to pay Excess Expenses, Excess Taxes, Excess Insurance Costs and Excess Utilities Costs based on such revised Estimate Statement until Tenant receives the next calendar year’s Estimate Statement or a new revised Estimate Statement for the current calendar year. The Excess Expenses, Excess Taxes, Excess Insurance Costs, and/or Excess Utilities Costs shown on the Estimate Statement (or revised Estimate Statement, as applicable) shall be divided into twelve (12) equal monthly installments, and Tenant shall pay to Landlord, concurrently with the regular monthly payment of Rent next due following the receipt of the Estimate Statement (or revised Estimate Statement, as applicable), an amount equal to one (1) monthly installment of such Excess Expenses, Excess Taxes, Excess Insurance Costs, and Excess Utilities Costs multiplied by the number of months from January in the calendar year in which such statement is submitted to the month of such payment, both months inclusive (less any amounts previously paid by Tenant with respect to any previously delivered Estimate Statement or revised Estimate Statement for such calendar year). Subsequent installments shall be paid concurrently with the regular monthly payments of Rent for the balance of the calendar year and shall continue until the next calendar year’s Estimate Statement (or current calendar year’s revised Estimate Statement) is received.

h. **Actual Statement.** By the first day of June (or as soon as practicable thereafter) of each subsequent calendar year during the Term after the Base Year, Landlord shall endeavor to deliver to Tenant a statement (“Actual Statement”) which states the Tenant’s Percentage of actual Operating Expenses, Taxes, Insurance Costs, and Utilities Costs and Excess Expenses, Excess Taxes, Excess Insurance Costs, and Excess Utilities Costs payable by Tenant for the immediately preceding calendar year. If the Actual Statement reveals that Excess Expenses, Excess Taxes, Excess Insurance Costs, and/or Excess Utilities Costs were under-stated in any Estimate Statement (or revised Estimate Statement) previously delivered by Landlord pursuant to Section 1.18 g. above, then within thirty (30) days after Landlord’s delivery of the Actual Statement to Tenant, Tenant shall pay to Landlord the amount of any such under-payment. Such obligation will be a continuing one which will survive the

expiration or earlier termination of this Lease. If the Actual Statement reveals that the Excess Expenses, Excess Taxes, Excess Insurance Costs, and/or Excess Utilities Costs were over-stated in any Estimate Statement (or revised Estimate Statement), Landlord will credit any overpayment toward the next monthly installment(s) of Rent due from Tenant. Prior to the expiration or sooner termination of the Term and Landlord's acceptance of Tenant's surrender of the Premises, Landlord will have the right to estimate the actual Operating Expenses, Taxes, Insurance Costs, and Utilities Costs for the then current calendar year and to collect from Tenant prior to Tenant's surrender of the Premises, Tenant's Percentage of any excess of such actual Operating Expenses, Taxes, Insurance Costs, and Utilities Costs over the estimated Operating Expenses, Taxes, Insurance Costs, and Utilities Costs paid by Tenant in such calendar year.

i. **No Release.** Any delay or failure by Landlord in delivering any Estimate Statement or Actual Statement pursuant to this Section 1.18 shall not constitute a waiver of its right to receive Tenant's payment of Excess Expenses, Excess Taxes, Excess Insurance Costs, and Excess Utilities Costs, nor shall it relieve Tenant of its obligations to pay Excess Expenses, Excess Taxes, Excess Insurance Costs, and Excess Utilities Costs pursuant to this Section 1.18, except that Tenant shall not be obligated to make any payments based on such Estimate Statement or Actual Statement until thirty (30) days after receipt of such statement. Notwithstanding the foregoing provisions of this clause j., in the event Landlord fails to furnish any Estimate Statement or Actual Statement within two (2) years after the end of the lease year to which such statements relate (the "**Subject Lease Year**"), Landlord shall be deemed to waive its right to receive Tenant's payment of Excess Expenses, Excess Taxes, Excess Insurance Costs, and Excess Utilities Costs for such Subject Lease Year.

j. **Exclusions from Operating Expenses, Taxes, Insurance Costs and Utilities Costs.** Notwithstanding anything to the contrary contained elsewhere in this Section 1.18, the following items shall be excluded from Operating Expenses, Taxes, Insurance Costs, and Utilities Costs, as applicable: Costs of decorating, redecorating, or special cleaning or other services provided to certain tenants and not provided on a regular basis to all tenants of the Building; (ii) Any charge for depreciation of the Building or equipment and any interest or other financing charge; (iii) All costs relating to activities for the marketing, solicitation, negotiation and execution of leases of space in the Building, including without limitation, costs of tenant improvements, allowances, concession and other costs incurred in readying space for other tenants; (iv) All costs for which Tenant or any other tenant in the Building is being charged other than pursuant to the operating expense clauses of leases for the Building; (v) The cost of correcting defects (including latent defects) in the construction of the Building, Building equipment, parking areas or other improvements, except that conditions (not occasioned by construction defects) resulting from ordinary wear and tear will not be deemed defects for the purpose of this category; (vi) To the extent Landlord is reimbursed by third parties, the cost of repair made by Landlord because of the total or partial destruction of the Building or the condemnation of a portion of the Building; (vii) The cost of any items for which Landlord is reimbursed by insurance or otherwise compensated by parties other than tenants of the Building pursuant to clauses similar to this paragraph; (viii) Any operating expense representing an amount paid to a related corporation, entity, or person which is in excess of the amount which would be paid in the absence of such relationship; (ix) The cost of any work or service performed for or facilities furnished to any tenant of the Building to a greater extent or in a manner more favorable to such tenant than that performed for or furnished to Tenant; (x) The cost of alterations of space in the Building leased to other tenants; (xi) Ground rent or similar payments to a ground lessor; (xii) Legal fees and related expenses incurred by Landlord (together with any damages awarded against Landlord) due to the negligent or willful misconduct of Landlord; (xiii) Costs arising from the presence of any Hazardous Materials within, upon or beneath the Property by reason of Landlord's introduction thereof to the Property in violation of Environmental Law applicable as of the date of such introduction; (xiv) Costs for sculpture, paintings or other objects of art in the Building which exceed those typically incurred in other similar office buildings in the area in which the Building is located; (xv) Salaries and compensation of ownership and management personnel to the extent that such persons provide services to properties other than the Building; (xvi) Costs of selling or financing the Building; (xvii) Leasing commissions, attorney's fees and other expenses incurred in connection with the negotiations for leases with other tenants, and similar costs in connection with disputes arising between Landlord and other tenants of the Building; (xviii) Costs, including penalties, fines and legal expenses, incurred due to the violation by Landlord, its agents, employees, and officers, of any applicable federal, state or other government law, ordinances, rules, orders and regulations; (xix) Costs incurred in removing from the Building tenants or other occupants, including attorney's fees and costs; and (xx) Bad debt loss, rent loss, or reserves for bad debt or rent loss.

k. **Controllable Operating Expenses.** Notwithstanding anything to the contrary contained herein, Tenant's Percentage of "controllable expenses" shall not increase by an average of more than five percent (5%) of such controllable expenses per calendar year on a cumulative, compounded basis. As used herein, the term "controllable expenses" means all Operating Expenses other than (a) Utilities Costs, (b) Taxes, (c) Insurance Costs, (d) union wages, (e) services competitively bid to two or more service providers, (f) costs levied, assessed or imposed by, or at the direction of, or resulting from statutes or regulations or interpretations thereof promulgated by, any federal, state, regional, municipal or local governmental authority in connection with the use or occupancy of the Building or the Property or the parking facility serving the Building or the Property, and (g) all fees fixed under contracts in existence on the date hereof.

l. **Review.** Within sixty (60) days after receiving Landlord's Actual Statement, Tenant may, upon advance written notice to Landlord and during reasonable business hours, cause a review of Landlord's books and records with respect to the preceding calendar year only to determine the accuracy of Landlord's Actual Statement. Landlord shall make all pertinent records available for inspection that are reasonably necessary for Tenant to conduct its review. If any records are maintained at a location other than the office of the Building, Tenant may either inspect the records at such other location or pay for the reasonable cost of copying and shipping the records. If Tenant retains an agent, at Tenant's sole cost and expense, to review Landlord's records, the agent shall be an independent accountant of national standing which is reasonably acceptable to Landlord, is not compensated on a contingency basis and is also subject to a confidentiality agreement. Within sixty (60) days after

the records are made available to Tenant, Tenant shall have the right to give Landlord written notice (an “**Objection Notice**”) stating in reasonable detail any objection to the Actual Statement for that year. If Tenant provides Landlord with a timely Objection Notice, Landlord and Tenant shall work together in good faith to resolve any issues raised in Tenant’s Objection Notice. If Tenant fails to provide Landlord with a timely Objection Notice, Landlord’s Actual Statement shall be deemed final and binding, and Tenant shall have no further right to review or object to such statement. If Landlord and Tenant determine that Operating Expenses, Taxes, Insurance Costs and/or Utilities Costs for the calendar year are less than reported, Landlord shall provide Tenant with a credit against the next installment of Rent in the amount of the overpayment by Tenant. Likewise, if Landlord and Tenant determine that Operating Expenses, Taxes, Insurance Costs and/or Utilities Costs for the calendar year are greater than reported, Tenant shall pay Landlord the amount of any underpayment within thirty (30) days after such determination. The records obtained by Tenant shall be treated as confidential. In no event shall Tenant be permitted to review Landlord’s records or to dispute any statement of Operating Expenses, Taxes, Insurance Costs or Utilities Costs unless Tenant has paid and continues to pay all Rent when due.

**1.19 Utilities and Services.**

a. **Standard Utilities and Services.** So long as Tenant is not in default beyond applicable notice and cure periods under any provisions of this Lease, and subject to the terms and conditions of this Lease, and the obligations of Tenant as set forth hereinbelow, Landlord shall furnish or cause to be furnished to the Premises the following utilities and services (Landlord reserves the right to adopt non-discriminatory modifications and additions to the following provisions from time to time):

(i) Landlord shall make the elevator of the Building available for Tenant’s non-exclusive use, twenty-four (24) hours per day.

(ii) Landlord shall furnish during the Business Hours for the Building specified in Section 1.21, HVAC for the Premises as required in Landlord’s judgment for the comfortable and normal office occupancy of the Premises. The cost of maintenance and service calls to adjust and regulate the HVAC system shall be charged to Tenant if the need for maintenance work results from either Tenant’s adjustment of room thermostats or Tenant’s failure to comply with its obligations under this Section 1.19, including keeping window coverings closed as needed. Such work shall be charged at hourly rates equal to then-current journeyman’s wages for HVAC mechanics. If Tenant desires HVAC at any time other than during the Business Hours for the Building, Landlord shall provide such “**after-hours**” usage after advance reasonable request by Tenant, and Tenant shall pay to Landlord, as Additional Rent (and not as part of the Operating Expenses) the cost, as fairly determined by Landlord, of such after-hours usage (as well as the cost of any HVAC used by Tenant in excess of what Landlord considers reasonable or normal), including any minimum hour charges for after-hours requests and any special start-up costs for after-hours services which requires a special start-up (such as late evenings, weekends and holidays).

(iii) Landlord shall furnish to the Premises twenty-four (24) hours per day, reasonable quantities of electric current as required in Landlord’s reasonable judgment for normal lighting and normal fractional horsepower office business machines. In no event shall Tenant’s use of electric current ever exceed the capacity of the feeders to the Building or the risers or wiring installation of the Building. Landlord shall also furnish water to the Building twenty-four (24) hours per day for drinking and lavatory purposes, in such quantities as required in Landlord’s reasonable judgment for the comfortable and normal use of the Building. If Tenant requires or consumes water or electrical power in excess of what is considered reasonable or normal by Landlord and Landlord has notified Tenant in writing of such issue with reasonable time to correct such issue prior to charging Tenant, Landlord may require Tenant to pay to Landlord, as Additional Rent, the cost as fairly determined by Landlord incurred for such excess usage.

(iv) Landlord shall furnish janitorial services to the Premises five (5) days per week pursuant to janitorial and cleaning specifications as may be adopted by Landlord from time to time. No person(s) other than those persons approved by Landlord shall be permitted to enter the Premises for such purposes. Janitor service shall include ordinary dusting and cleaning by the janitor assigned to do such work and shall not include cleaning of carpets or rugs, except normal vacuuming, or moving of furniture, interior window cleaning, coffee or eating area cleaning and other special services. Such additional services may be rendered by Landlord pursuant to written agreement with Tenant as to the extent of such services and the payment of the cost thereof. Janitor service will not be furnished on nights when rooms are occupied after 7:30 p.m. or to rooms which are locked unless a key is furnished to the Landlord for use by the janitorial contractor. Window cleaning shall be done only by Landlord, at such time and frequency as determined by Landlord at Landlord’s sole discretion. Tenant shall pay to Landlord, as Additional Rent, the cost of removal of any of Tenant’s refuse and rubbish to the extent that the same exceeds the refuse and rubbish usually attendant upon the use of the Premises as offices.

(v) Landlord may provide security service or protection in the Building, in any manner deemed reasonable by Landlord at Landlord’s sole discretion, from the Commencement Date throughout the Term. Landlord shall have no liability in connection with the decision whether or not to provide such services and Tenant hereby waives all claims based thereon. Landlord shall not be liable for losses due to theft, vandalism or similar causes.

(vi) At Landlord’s option and with at least ten (10) days advance written notice to Tenant, Landlord may install water, electricity and/or HVAC meters in the Premises to measure Tenant’s consumption of such utilities, including any after-hours and extraordinary usage described above. Tenant shall pay to Landlord, as Additional Rent, within ten (10) days after demand, the cost of the installation, maintenance and repair of such meter(s), but only if such meters are installed to measure extraordinary usage reasonably suspected by Landlord.

Subject to Section 1.18 and any other applicable provisions of this Lease, the costs of Building services shall be included in Operating Expenses and all charges with respect to utilities shall be included in Utilities Costs as defined in Section 1.18 e. above. Landlord may, but is not obligated to, provide additional services hereunder. All costs payable for excess, after-hours or above-standard services or utilities, as provided above, shall be due and payable at the same time as the installment of Monthly Base Rent with which the same are billed, or if billed separately, shall be due within ten (10) days after such billing.

Landlord shall have the right at any time and from time-to-time during the Term to contract for service from any company or companies providing electricity service ("**Service Provider**"). Tenant shall cooperate with Landlord and the Service Provider at all times and, as reasonably necessary, shall allow Landlord and Service Provider reasonable access to the Building's electric lines, feeders, risers, wiring, and any other machinery within the Premises. Landlord shall reasonably cooperate with Tenant's effort to obtain cable and internet service at the Premises from Charter Communications. Landlord shall contribute up to \$24,880 ("**Landlord's Communication Contribution**") for the cost of securing such service, which cost shall be paid by Landlord directly to Charter Communications upon receipt of invoices from Charter Communications. Tenant shall then reimburse Landlord for a portion of Landlord's Communication Contribution, which portion is currently estimated to be \$6,250. Tenant shall reimburse Landlord for such amounts within thirty (30) days of receipt of an invoice from Landlord.

Landlord shall in no way be liable or responsible for any loss, damage, or expense that Tenant may sustain or incur by reason of any change, failure, interference, disruption, or defect in the supply or character of the electric energy furnished by the Service Provider, or if the quantity or character of the electric energy supplied by the Service Provider is no longer available or suitable for Tenant's requirements, no such change, failure, defect, unavailability, or unsuitability shall constitute an actual or constructive eviction, in whole or in part, or entitle Tenant to any abatement or diminution of Rent, or relieve Tenant from any of its obligations under this Lease. However, if the Premises, or a material portion of the Premises, are made untenantable for a period in excess of 10 consecutive days as a result of a failure of any equipment, the performance of maintenance, repairs, improvements or alterations, utility interruptions (collectively a "**Service Failure**") that is reasonably within the control of Landlord to correct, then Tenant, as its sole remedy, shall be entitled to receive an abatement of Rent payable hereunder during the period beginning on the 10th consecutive day of the Service Failure and ending on the day the service has been restored. If the entire Premises have not been rendered untenantable by the Service Failure, the amount of abatement shall be equitably prorated.

b. **Tenant's Obligations.** Tenant shall cooperate fully at all times with Landlord, and abide by all reasonable regulations and requirements which Landlord may prescribe for the proper functioning and protection of the Building's services and systems. Tenant shall not use any apparatus or device in, upon or about the Premises which may in any unreasonable way increase the amount of services or utilities usually furnished or supplied to the Premises or other premises in the Building. In addition, Tenant shall not connect any conduit, pipe, apparatus or other device to the Building's water, waste or other supply lines or systems for any purpose. Neither Tenant nor its employees, agents, contractors, licensees or invitees shall at any time enter, adjust, tamper with, touch or otherwise in any manner affect the mechanical installations or facilities of the Building. Additionally, Tenant hereby consents to any applicable utility company providing utility consumption information for the Premises to Landlord, and if requested, shall promptly sign any reasonable business standard documentation requested by the utility company to evidence such consent.

#### 1.20 **Additional Repairs.**

a. **Landlord's Additional Repair Obligations.** Landlord, at Landlord's cost (subject to inclusion in Operating Expenses as provided in Section 1.18 of the Summary), shall repair, maintain and replace as necessary, the foundation and structural elements of the Building (including structural load bearing walls and roof structure), and utility meters, electrical lines, pipes and conduits serving the Building and the Premises; provided, however, to the extent such maintenance, repairs or replacements are required as a result of any act, neglect, fault or omission of Tenant or any of Tenant's Parties, Tenant shall pay to Landlord, as Additional Rent, the costs of such maintenance, repairs and replacements subject to the applicable limitation of Chapter 41 of the Nevada Revised Statutes. In addition, and subject to Sections 17.1 and 17.2 of the Standard Lease Provisions, Landlord shall, as part of the Operating Expenses, repair, maintain and replace, as necessary (a) the basic heating, ventilating, air conditioning ("**HVAC**"), sprinkler and electrical systems within the Building core and standard conduits, connections and distribution systems thereof within the Premises (but not any above standard improvements installed in the Premises such as, for example, but not by way of limitation, custom lighting, special or supplementary HVAC or plumbing systems or distribution extensions, special or supplemental electrical panels or distribution systems, or kitchen or restroom facilities and appliances to the extent such facilities and appliances are intended for the exclusive use of Tenant), and (b) the Common Areas, if any; provided, however, to the extent such maintenance, repairs or replacements are required as a result of any act, neglect, fault or omission of Tenant or any of Tenant's Parties, Tenant shall pay to Landlord, as Additional Rent within ten (10) days after demand, the costs of such maintenance, repairs and replacements subject to the applicable limitations of Chapter 41 of the Nevada Revised Statutes. Landlord shall not be liable to Tenant for failure to perform any such maintenance, repairs or replacements, unless Landlord shall fail to make such maintenance, repairs or replacements and such failure shall continue for an unreasonable time following written notice from Tenant to Landlord of the need therefor. Without limiting the foregoing, Tenant waives the right to make repairs at Landlord's expense under any applicable Laws now or hereafter in effect.

b. **Reserved.**

1.21 **Business Hours for the Building:** 7:00 a.m. to 6:00 p.m., Mondays through Fridays (except Building Holidays) and 9:00 a.m. to 1:00 p.m. on Saturdays (except Building Holidays). **Building Holidays:** New

Year's Day, Labor Day, Presidents' Day, Thanksgiving Day, Memorial Day, Independence Day and Christmas Day and such other national holidays as are adopted by Landlord as holidays for the Building.

**1.22 Intentionally Deleted.**

**1.23 Occupancy Level.** Landlord and Tenant acknowledge and agree that the Premises is designed for a maximum occupancy level of persons. Tenant therefore covenants and agrees that the number of persons occupying the Premises shall not exceed the applicable Law for occupancy (the "**Maximum Occupancy**"). If Landlord at any time reasonably determines that the Premises is being occupied in excess of the Maximum Occupancy on a day-to day basis, Landlord shall notify Tenant and Tenant shall have ten (10) business days following the date of Landlord's notice to either (a) reduce the occupancy level to the Maximum Occupancy or less or (b) notify Landlord of Tenant's desire to lease additional space in the Building or elsewhere in the Property. If Landlord does not receive notice of Tenant's desire to lease additional space in the Building or the Property within ten (10) business days after the date of Landlord's notice of the violation of the maximum occupancy provision, and if the Premises occupancy level remains in excess of the maximum allocation as of the tenth (10th) business day following the date of Landlord's notice, Tenant shall automatically be deemed in default of this Lease and Landlord shall be entitled to exercise any and all remedies set forth in this Lease or at law or in equity by reason of such default. If Tenant selects option (b), subject to the availability of space in the Building or the Property, the parties shall in good faith, negotiate a proposal to expand the Premises. If no space will be available in the Building or elsewhere in the Property within ninety (90) days after Landlord's receipt of Tenant's request to lease additional space, or if Landlord and Tenant have not reached an agreement with respect to any available expansion space within thirty (30) days after Landlord's receipt of Tenant's request to lease additional space, Tenant shall have an additional ten (10) days after the date Landlord notifies Tenant that no such space is available or after the expiration of said thirty (30) day period, as the case may be, to reduce the occupancy level of the Premises to the required maximum. Should Tenant fail to reduce the occupancy level within said additional ten (10) day period, Tenant shall automatically be deemed in default of this Lease and Landlord shall be entitled to exercise any and all remedies set forth in this Lease or at law or in equity by reason of such default.

**1.24 Arbitration.** Except as otherwise specifically provided herein, Landlord and Tenant hereby agree that all controversies, claims and matters of difference arising under this Lease shall be submitted to Arbitration according to the rules and practices set forth in this Lease and Nevada's Uniform Arbitration Act (Chapter 38 of the Nevada Revised Statutes). The submittal of all matters to arbitration in accordance with the terms of this Section 1.24 shall be the sole and exclusive method, means and procedure to resolve any and all claims, disputes or disagreements arising under the terms of this Lease, except for all claims by either party under this Lease which involve non-payment of rent or are primarily founded upon matters of fraud, willful misconduct, or bad faith, and seek the award of punitive or exemplary damages. The parties hereby irrevocably waive any and all rights to the contrary and shall at all times conduct themselves in strict, full, complete and timely accordance with the terms of this Section 1.24 and all attempts to circumvent the terms of this Section 1.24 shall be absolutely null and void and of no force or effect whatsoever. As to any matter submitted to arbitration (except with respect to the payment of money) to determine whether a matter would, with the passage of time, constitute a default, such passage of time shall not commence to run until any such affirmative arbitrated determination, as long as it is simultaneously determined in such arbitration that the challenge of such matter as a potential default was made in good faith. As to any matter submitted to arbitration with respect to the payment of money, to determine whether a matter would, with the passage of time, constitute a default, such passage of time shall not commence to run in the event that the party which is obligated to make the payment does in fact make the payment to the other party. Such payment can be made "under protest," which shall occur when such payment is accompanied by a good faith notice stating the reasons that the party has elected to make a payment under protest. Such protest will be deemed waived unless the subject matter identified in the protest is submitted to arbitration as set forth in this Section 1.24.

a. **Mediator and Notice.** Any dispute to be arbitrated pursuant to the provisions of Section 1.24 shall be determined by binding arbitration before a qualified mediator with experience in deciding landlord tenant disputes (the "**Arbitrator**") under Nevada Revised Statutes Chapter 38 mutually selected by Landlord and Tenant. Such arbitration shall be initiated by the parties, or either of them, within ten (10) days after either party sends written notice (the "**Arbitration Notice**") of a demand to arbitrate by registered or certified mail to the other party.. The Arbitration Notice shall contain a description of the subject matter of the arbitration, the dispute with respect thereto, the amount involved, if any, and the remedy or determination sought. If they are unable to promptly agree, arbitrators shall be selected pursuant to and Nevada's Uniform Arbitration Act (Chapter 38 of the Nevada Revised Statutes).

b. **Arbitration Procedure.**

(i) **Pre-Decision Actions.** The Arbitrator shall schedule a pre-hearing conference to resolve procedural matters, arrange for the exchange of information, obtain stipulations, and narrow the issues. The parties will submit proposed discovery schedules to the Arbitrator at the pre-hearing conference. The scope and duration of discovery will be within the sole discretion of the Arbitrator. The Arbitrator shall have the discretion to order a pre-hearing exchange of information by the parties, including, without limitation, production of requested documents, exchange of summaries of testimony of proposed witnesses, and examination by deposition of parties and third-party witnesses. This discretion shall be exercised in favor of discovery reasonable under the circumstances. To the extent discovery is allowed, it shall be conducted in accordance with the Nevada Rules of Civil Procedure.

(ii) **The Decision.** The arbitration shall be conducted in Reno, Nevada. Any party may be represented by counsel or other authorized representative. In rendering an award, the Arbitrator shall determine the rights and obligations of the parties according to the substantive and procedural Laws of the State of

Nevada and the terms and provisions of this Lease. The Arbitrator's award shall be based on the evidence introduced at the hearing, including all logical and reasonable inferences therefrom. The Arbitrator may make any determination, and/or grant any remedy or relief that is just and equitable. The award must be based on, and accompanied by, a written statement of award explaining the factual and legal basis for the award as to each of the principal controverted issues. The award shall be conclusive and binding, and it may thereafter be confirmed as a judgment by the Court of the State of Nevada in accordance with applicable Laws. The Arbitrator may award costs, including without limitation attorneys' fees, and expert and witness costs, to the prevailing party, if any, as determined by the Arbitrator in his/her discretion. The Arbitrator's fees and costs shall be paid by the non-prevailing party as determined by the Arbitrator in his/her discretion.

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## STANDARD LEASE PROVISIONS

### ARTICLE 2 - LEASE

2.1 **Lease Elements; Definitions; Exhibits.** The Lease is comprised of the Lease Summary and Property Specific Provisions (the “Summary”), these Standard Lease Provisions (“Standard Provisions”) and all exhibits, and riders attached hereto (collectively, “Exhibits”), all of which are incorporated together as part of one and the same instrument. All references in any such documents and instruments to “Lease” means the Summary, these Standard Provisions and all Exhibits attached hereto. All terms used in this Lease shall have the meanings ascribed to such terms in the Summary, these Standard Provisions and any Exhibits. To the extent of any inconsistency between the terms and conditions of the Summary, these Standard Provisions, or any Exhibits attached hereto, the Summary and any Exhibits attached hereto shall control over these Standard Provisions.

### ARTICLE 3 - PREMISES

3.1 **Lease of Premises.** Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises, upon and subject to, the terms, covenants and conditions of this Lease. Each party covenants and agrees, as a material part of the consideration for this Lease, to keep and perform their respective obligations under this Lease.

3.2 **Landlord’s Reserved Rights.** Landlord reserves the right from time to time to do any of the following: (a) expand the Building and construct or alter other buildings or improvements on the Property as long as Tenant’s parking ratio is not adversely impacted; (b) make any changes, additions, improvements, maintenance, repairs or replacements in or to the Property, Common Areas and/or the Building (including the Premises if required to do so by any applicable Laws or to the extent necessary in conjunction with any improvements to the Property, Common Areas and/or the Building, provided that Tenant’s use of the Premises is not materially and adversely affected), and the fixtures and equipment thereof, including, without limitation: (i) maintenance, replacement and relocation of pipes, ducts, conduits, wires and meters and equipment above the ceiling surfaces, below the floor surfaces and within the walls of the Building and the Premises; and (ii) changes in the location, size, shape and number of driveways, entrances, stairways, elevators, loading and unloading areas, ingress, egress, direction of traffic, landscaped areas and walkways, easements, parking spaces and parking areas as long as Tenant’s parking ratio is not substantially and adversely impacted; (c) close temporarily any of the Property while engaged in making repairs, improvements or alterations to the Property; and (d) perform such other acts and make such other changes with respect to the Property, as Landlord may, in the exercise of good faith business judgment, deem to be appropriate. If Landlord is required to reconfigure the Premises as a result of any changes to the Property, Common Areas and/or the Building as a result of Landlord’s exercise of its rights under this Section 3.2, Landlord shall provide Tenant with reasonable advance written notice of the construction schedule to the extent that the Premises are affected, and Landlord shall endeavor to minimize, as reasonably practicable, the interference with Tenant’s business as a result of any such construction. All measurements of rentable area in this Lease shall be deemed to be correct; provided, however, if the square footage of the Premises set forth in Section 1.4 is an estimate at the time of execution of this Lease, at Landlord’s option, Landlord’s architect may later determine and redetermine the actual rentable square footage of the Premises, and thereupon Rent and other applicable terms of this Lease will be adjusted accordingly.

### ARTICLE 4 - TERM AND POSSESSION

4.1 **Term; Notice of Lease Dates.** The Term shall be for the period designated in the Summary commencing on the Commencement Date and ending on the Expiration Date, unless the Term is sooner terminated or extended as provided in this Lease. If the Commencement Date falls on any day other than the first day of a calendar month then the Term will be measured from the first day of the month following the month in which the Commencement Date occurs. Within ten (10) business days after Landlord’s written request, Tenant shall execute a written confirmation of the Commencement Date and Expiration Date of the Term in the form of the Notice of Lease Term Dates attached hereto as Exhibit D. The Notice of Lease Term Dates shall be binding upon Tenant unless Tenant reasonably objects thereto in writing within such ten (10) business day period.

4.2 **Possession.** Landlord shall deliver possession of the Premises to Tenant as provided in the Work Letter. Notwithstanding the foregoing, Landlord will not be obligated to deliver possession of the Premises to Tenant until Landlord has received from Tenant all of the following: (i) a copy of this Lease fully executed by Tenant; (ii) the first installment of Monthly Base Rent and Additional Rent, if any, due under this Lease; and (iii) copies of Tenant’s insurance certificates as required hereunder.

4.3 **Condition of Premises.** Tenant acknowledges that, except as otherwise expressly set forth in this Lease and the Work Letter, if any, (i) neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the Premises, the Building or the Property or their condition, or with respect to the suitability thereof for the conduct of Tenant’s business, and Tenant shall accept the Premises in its then as-is condition on delivery by Landlord, and (ii) the acceptance of possession of the Premises by Tenant shall establish that the Premises, the Building and the Property were at such time complete and in good, sanitary and satisfactory condition and repair with all work required to be performed by Landlord, if any, pursuant to the Work Letter completed and without any obligation on Landlord’s part to make any further alterations, upgrades or improvements thereto, subject only to completion of minor punch-list items identified by the parties to be corrected by Landlord, if any, as provided in the Work Letter.

4.4 **Early Access.** So long as Landlord has received from Tenant the first month’s Monthly Base Rent due pursuant to Section 5.1 of this Lease, certificates satisfactory to Landlord evidencing the insurance



required to be carried by Tenant under this Lease, and, as applicable, the Security Deposit and the fully executed Guaranty, and so long as the Tenant and its contractors and employees do not interfere with the completion of the Tenant Improvements, Landlord shall use reasonable efforts to give Tenant's designated contractors access to the Premises approximately ten (10) days prior to the estimated Commencement Date (the "**Early Access Period**") for purposes of installing Tenant's furniture, fixtures, and equipment ("**Tenant's Work**"). Tenant's Work shall be performed by Tenant at Tenant's sole cost and expense. Tenant's access to the Premises during the Early Access Period shall be subject to all terms and conditions of this Lease, except that Tenant shall not be obligated to pay Rent during the Early Access Period until the Commencement Date. Tenant agrees to provide Landlord with prior notice of any such intended early access and to cooperate with Landlord during the period of any such early access so as not to interfere with Landlord in the completion of any Landlord's work in the Premises pursuant to the Work Letter (the "**Landlord's Work**"). Should Landlord determine such early access unreasonably or materially interferes with Landlord's Work, Landlord may deny Tenant access to the Premises until Landlord's Work is substantially completed. Tenant shall promptly surrender any keys of other means of access to the Premises and otherwise comply with such denial.

## **ARTICLE 5 - RENT**

5.1 **Monthly Base Rent.** Tenant agrees to pay Landlord, the Monthly Base Rent as designated in the Summary. Monthly Base Rent and recurring monthly charges of Additional Rent (defined below) shall be paid by Tenant in advance on the first day of each and every calendar month ("**Due Date**") during the Term, except that the first full month's Monthly Base Rent and Additional Rent, if any, shall be paid upon Tenant's execution and delivery of this Lease to Landlord. Monthly Base Rent for any partial month shall be prorated in the proportion that the number of days this Lease is in effect during such month bears to the actual number of days in such month.

5.2 **Additional Rent.** All amounts and charges payable by Tenant under this Lease in addition to Monthly Base Rent, if any, including, without limitation, payments for Operating Expenses, Taxes, Insurance Costs and Utilities Costs to the extent payable by Tenant under this Lease shall be considered "**Additional Rent**", and the word "**Rent**" in this Lease shall include Monthly Base Rent and all such Additional Rent unless the context specifically states or clearly implies that only Monthly Base Rent is referenced. Rent shall be paid to Landlord, without any prior notice or demand therefor and without any notice, deduction or offset, in lawful money of the United States of America.

5.3 **Late Charges & Interest Rate.** If Landlord does not receive Rent or any other payment due from Tenant by the Due Date, Tenant shall pay to Landlord a late charge equal to ten percent (10%) of such past due Rent or other payment. Tenant agrees that this late charge represents a fair and reasonable estimate of the cost Landlord will incur by reason of Tenant's late payment. Accepting any late charge shall not constitute a waiver by Landlord of Tenant's default with respect to any overdue amount nor prevent Landlord from exercising any other rights or remedies available to Landlord. If any installment of Monthly Base Rent or Additional Rent, or any other amount payable by Tenant hereunder is not received by Landlord by the Due Date, it shall bear interest at the Interest Rate set forth in the Summary from the Due Date until paid. All interest, and any late charges imposed pursuant to this Section 5.3, shall be considered Additional Rent due from Tenant to Landlord under the terms of this Lease.

## **ARTICLE 6 - INTENTIONALLY DELETED**

### **ARTICLE 7 - OPERATING EXPENSES/UTILITIES/SERVICES**

7.1 **Operating Expenses.** Tenant shall contribute to the costs of operation, maintenance, repair and replacement of the Premises, Building and Property as provided in the Summary.

7.2 **Utilities and Services.** Utilities and services to the Premises and the Property are described in the Summary.

7.3 **Taxes.** As used in this Lease, the term "**Taxes**" means: All real property taxes and assessments, possessory interest taxes, sales taxes, personal property taxes, business or license taxes or fees, gross receipts taxes, license or use fees, excises, transit charges, and other impositions of any kind (including fees "in-lieu" or in substitution of any such tax or assessment) which are now or hereafter assessed, levied, charged or imposed by any public authority upon the Building, Site, Property and/or Premises or any portion thereof, its operations or the Rent derived therefrom (or any portion or component thereof, or the ownership, operation, or transfer thereof), and any and all costs and expenses (including, without limitation, reasonable attorneys' fees) incurred in attempting to protest, reduce or minimize the same. Taxes shall not include inheritance or estate taxes imposed upon or assessed against the interest of Landlord, gift taxes, excess profit taxes, franchise taxes, or similar taxes on Landlord's business or any other taxes computed upon the basis of the net income of Landlord. If it shall not be lawful for Tenant to reimburse Landlord for any such Taxes, the Monthly Base Rent payable to Landlord under this Lease shall be revised to net Landlord the same net rent after imposition of any such Taxes by Landlord as would have been payable to Landlord prior to the payment of any such Taxes. Tenant shall pay for or contribute to Taxes as provided in the Summary. Notwithstanding anything herein to the contrary, Tenant shall be liable for all taxes levied or assessed against personal property, furniture, fixtures, above-standard Tenant Improvements and alterations, additions or improvements placed by or for Tenant in the Premises. Furthermore, Tenant shall pay prior to delinquency any (i) rent tax or sales tax, service tax, transfer tax, or value added tax, or any other applicable tax on the rent or services provided herein or otherwise respecting this Lease levied or assessed against Tenant, (ii) taxes assessed upon or with respect to the possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy by Tenant of the Premises or any portion of the Property; or (iii) taxes assessed upon this transaction or any document to which Tenant is a party creating or transferring an interest or an estate in the Premises.

7.4 **Insurance Costs.** As used in this Lease, “Insurance Costs” means the cost of insurance obtained by Landlord pursuant to Article 15 (including self-insured amounts and deductibles, if any). Tenant shall pay for or contribute to Insurance Costs as provided in the Summary.

7.5 **Interruption of Utilities.** Landlord shall have no liability to Tenant for any interruption in utilities or services to be provided to the Premises when such failure is caused by all or any of the following: (a) accident, breakage or repairs; (b) strikes, lockouts or other labor disturbances or labor disputes of any such character; (c) governmental regulation, moratorium or other governmental action; (d) inability, despite the exercise of reasonable diligence, to obtain electricity, water or fuel; (e) service interruptions or any other unavailability of utilities resulting from causes beyond Landlord’s control including without limitation, any electrical power “brown-out” or “black-out”; or (f) any other cause beyond Landlord’s reasonable control. In addition, in the event of any such interruption in utilities or services, Tenant shall not be entitled to any abatement or reduction of Rent (except as expressly provided in Articles 17 and 18 if such failure is a result of any casualty damage or taking described therein), no eviction of Tenant shall result, and Tenant shall not be relieved from the performance of any covenant or agreement in this Lease. In the event of any stoppage or interruption of services or utilities which are not obtained directly by Tenant, Landlord shall diligently attempt to resume such services or utilities as promptly as practicable. Tenant hereby waives the provisions of any applicable existing or future Law, ordinance or governmental regulation permitting the termination of this Lease due to an interruption, failure or inability to provide any services.

#### **ARTICLE 8 - MAINTENANCE AND REPAIR**

8.1 **Landlord’s Repair Obligations.** Except as otherwise expressly provided in this Lease, Landlord shall have no obligation to alter, remodel, improve, repair, renovate, redecorate or paint all or any part of the Premises. Except as otherwise stated in the Summary, Tenant waives the right to make repairs at Landlord’s expense under any applicable Laws. All other repair and maintenance of the Premises, Building and Property to be performed by Landlord, if any, shall be as provided in the Summary.

8.2 **Tenant’s Repair Obligations.** Except for Landlord’s obligations specifically set forth elsewhere in this Lease and in Section 8.1 above and in the Summary, Tenant shall at all times and at Tenant’s sole cost and expense keep, maintain, clean, repair, preserve and replace, as necessary, the interior of the Premises and all parts thereof including, without limitation, all Tenant Improvements, Alterations, and all furniture, fixtures and equipment, including, without limitation, all computer, telephone and data cabling and equipment, Tenant’s signs, if any, door locks, closing devices, security devices, interior of windows, window sashes, casements and frames, floors and floor coverings, shelving, kitchen, restroom facilities and/or appliances of any kind located within the Premises, if any, custom lighting, and any additions and other property located within the Premises, so as to keep all of the foregoing elements of the Premises in good condition and repair, reasonable wear and tear and casualty damage excepted. Tenant shall replace, at its expense, any and all plate and other glass in and about the Premises which is damaged or broken from any cause whatsoever except due to the negligence or willful misconduct of Landlord, its agents or employees. Such maintenance and repairs shall be performed with due diligence, lien-free and in a first-class and workmanlike manner, by licensed contractor(s) that are selected by Tenant and approved by Landlord, which approval Landlord shall not unreasonably withhold or delay. All other repair and maintenance of the Premises, Building and Property to be performed by Tenant, if any, shall be as provided in the Summary. If Tenant refuses or neglects to repair and maintain the Premises properly as required hereunder to the reasonable satisfaction of Landlord, then at any time following ten (10) days from the date on which Landlord makes a written demand on Tenant to effect such repair and maintenance, Landlord may enter upon the Premises and make such repairs and/or maintenance, and upon completion thereof, Tenant agrees to pay to Landlord as Additional Rent, Landlord’s costs for making such repairs plus an amount not to exceed five percent (5%) of such costs for overhead, within ten (10) days after receipt from Landlord of a written itemized bill therefor. Any amounts not reimbursed by Tenant within such ten (10) day period will bear interest at the Interest Rate until paid by Tenant.

#### **ARTICLE 9 - USE**

Tenant shall procure, at its sole cost and expense, any and all permits required by applicable Law for Tenant’s use and occupancy of the Premises. Tenant shall use the Premises solely for the Permitted Use specified in the Summary, and shall not use or permit the Premises to be used for any other use or purpose whatsoever without Landlord’s prior written approval. Tenant shall observe and comply with the Rules and Regulations attached hereto as Exhibit E, as the same may be modified by Landlord from time to time, and all reasonable non-discriminatory modifications thereof and additions thereto from time to time put into effect and furnished to Tenant by Landlord. Tenant shall not be required to abide by Rules and Regulations of Landlord that conflict with laws and regulations applicable to Tenant, including, but not limited to, the Board of Regents Handbook and the Procedures and Guidelines Manual (collectively the “NSHE Code”), copies of which are available at <http://system.nevada.edu/Nshe/>. Landlord shall endeavor to enforce the Rules and Regulations, but shall have no liability to Tenant for the violation or non-performance by any other tenant or occupant of any such Rules and Regulations. Tenant shall, at its sole cost and expense, observe and comply with all Laws and all requirements of any board of fire underwriters or similar body relating to the Premises now or hereafter in force relating to or affecting the condition, use, occupancy, alteration or improvement of the Premises (whether, except as otherwise provided herein, structural or nonstructural, including unforeseen and/or extraordinary alterations and/or improvements to the Premises and regardless of the period of time remaining in the Term). Tenant shall not use or allow the Premises to be used for any improper, unlawful or reasonably objectionable purpose. Tenant shall not do or permit to be done anything that will obstruct or interfere with the rights of other tenants or occupants of the Building or the Property, if any, or injure or annoy them. Tenant shall not cause, maintain or permit any nuisance in, on or about the Premises, the Building or the Property, nor commit or suffer to be committed any waste in, on or about the Premises. Without limiting the foregoing, Tenant is prohibited from engaging or permitting others to engage in any activity which would be a violation of any state and/or federal laws relating to the use, sale,

possession, cultivation and/or distribution of any controlled substances (whether for commercial or personal purposes) regulated under any applicable law or other applicable law relating to the medicinal use and/or distribution of marijuana (otherwise known as the Compassionate Use Act of 1996) ("Prohibited Drug Law Activities").

#### **ARTICLE 10 - HAZARDOUS MATERIALS**

As used in this Lease, the term "**Environmental Law(s)**" means any past, present or future federal, state or local Law relating to (a) the environment, human health or safety, including, without limitation, emissions, discharges, releases or threatened releases of Hazardous Materials (as defined below) into the environment (including, without limitation, air, surface water, groundwater or land), or (b) the manufacture, generation, refining, processing, distribution, use, sale, treatment, receipt, storage, disposal, transport, arranging for transport, or handling of Hazardous Materials. As used in this Lease, the term "**Hazardous Materials**" means and includes any hazardous or toxic materials, substances or wastes as now or hereafter designated or regulated under any Environmental Laws including, without limitation, asbestos, petroleum, petroleum hydrocarbons and petroleum based products, urea formaldehyde foam insulation, polychlorinated biphenyls ("**PCBs**"), and freon and other chlorofluorocarbons. Hazardous Materials shall not include (i) those substances and materials commonly associated with medical care and services rendered in a professional office setting that is consistent with the Permitted Use, (ii) those substances and materials common to a medical school and related medical research institution that is consistent with the Permitted Use, and (iii) those substances and materials found in cleaning and other products commonly associated with the Permitted Use, collectively "**Medical Materials.**" Except for ordinary and general office supplies, such as copier toner, liquid paper, glue, ink and common household cleaning materials, and motor vehicle fuel stored in fuel tanks of motor vehicles used on site in compliance with all Environmental Laws (some or all of which may constitute Hazardous Materials), Tenant agrees not to cause or permit any Hazardous Materials to be brought upon, stored, used, handled, generated, released or disposed of on, in, under or about the Premises, the Building, the Common Areas or any other portion of the Property by Tenant, its agents, officers, directors, shareholders, members, managers, partners, employees, subtenants, assignees, licensees, contractors or invitees (collectively, "**Tenant's Parties**"), without the prior written consent of Landlord, which consent Landlord may withhold in its sole and absolute discretion. Upon the expiration or earlier termination of this Lease, Tenant agrees to promptly remove from the Premises, the Building and the Property, at its sole cost and expense, any and all Medical Materials and Hazardous Materials, including any equipment or systems containing Hazardous Materials which are installed, brought upon, stored, used, generated or released upon, in, under or about the Premises, the Building and/or the Property or any portion thereof by Tenant or any of Tenant's Parties. To the fullest extent permitted by law and subject to the limitations of Chapter 41 of the Nevada Revised Statutes, Tenant agrees to promptly indemnify, protect, defend and hold harmless Landlord and Landlord's members, shareholders, partners, officers, directors, managers, employees, agents, contractors, successors and assigns (collectively, "**Landlord Parties**") from and against any and all claims, damages, judgments, suits, causes of action, losses, liabilities, penalties, fines, expenses and costs (including, without limitation, clean-up, removal, remediation and restoration costs, sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees and court costs) which arise or result from the presence of Hazardous Materials on, in, under or about the Premises, the Building or any other portion of the Property and which are caused or permitted by Tenant or any of Tenant's Parties. The provisions of this Article 10 will survive the expiration or earlier termination of this Lease. Tenant shall give Landlord written notice of any evidence of Mold, water leaks or water infiltration in the Premises promptly upon discovery of same. At its expense, Tenant shall investigate, clean up and remediate any Mold in the Premises caused by Tenant's use of the Premises and any improvements, furniture and fixtures therein. Investigation, clean up and remediation may be performed only after Tenant has Landlord's written approval of a plan for such remediation. All clean up and remediation shall be done in compliance with all applicable Laws and to the reasonable satisfaction of Landlord. As used in this Lease, "**Mold**" means mold, fungi, spores, microbial matter, mycotoxins and microbiological organic compounds.

Tenant agrees that it is solely responsible for the proper handling and disposal of all medical waste products generated from the use of the Premises. Tenant further agrees and acknowledges that it is fully familiar with the provisions of applicable laws relating Medical Waste and will act strictly in accordance with its applicable provisions. Tenant further agrees that it will, if required, engage the services of a licensed biohazardous waste hauler to pick up all such waste products at Tenant's premises and will not, under any circumstances, dispose of, or permit such waste to be deposited in any waste receptacle in or about the Premises. Tenant hereby indemnifies and holds Landlord free and harmless from and against any and all claims, liabilities, losses, damages, suits, costs and expenses of any kind or nature (including attorneys' fees) (collectively, "**Claims**"), which Landlord may incur by reason of Tenant's or its subtenant's breach of the agreements contained in this Section subject to the limitations of Chapter 41 of the Nevada Revised Statutes. Tenant will fully and faithfully (A) comply with all requirements of any applicable governmental or quasi-governmental authority, and (B) perform all of the obligations of Tenant under this Section. The term "**Medical Waste**" includes, but is not limited to, virulent infectious wastes and materials (liquid and solid), bandages and dressings, sharps, needles, syringes, lancets, human blood and blood products, body fluids, radioactive waste, human tissue, cultures of viable disease-causing agents and any other medical wastes or by-products which pose risk of injury or disease to human beings.

#### **ARTICLE 11 - PARKING**

During the Term, Tenant shall be entitled to utilize, at no charge during the initial Term, the number and type of parking spaces specified in the Summary within the parking areas for the Property as designated by Landlord from time to time. Landlord shall at all times have the right to establish and modify the nature and extent of the parking areas for the Building and Property (including whether such areas shall be surface, underground and/or other structures). In addition, if Tenant is not the sole occupant of the Property, Landlord may, in its reasonable discretion, designate any unreserved parking spaces as reserved parking. The terms and conditions for parking at the

Property shall be as specified in the Summary and in the Rules and Regulations regarding parking as contained in Exhibit E attached hereto, as the same may be modified by Landlord from time to time. Tenant shall not use more parking spaces than its allotment and shall not use any parking spaces specifically assigned by Landlord to other tenants, if any, or for such other uses such as visitor, handicapped or other special purpose parking. Tenant's visitors shall be entitled to access to the parking areas on the Property designated for visitor use, subject to availability of spaces and the terms of the Summary.

#### **ARTICLE 12 - TENANT SIGNS**

Tenant shall have the right to have placed by Landlord, at Landlord's expense, Tenant's name on a Building standard suite/unit door sign and on the lobby directory of the Building. Subsequent changes to Tenant's sign and/or any additional signs, to the extent permitted by Landlord herein, shall be made or installed by Landlord at Tenant's sole cost and expense. All aspects of any such signs shall be subject to the prior written consent of Landlord (which shall not be unreasonably withheld), and shall be per Landlord's standard specifications and materials, as revised by Landlord from time to time. Tenant shall have no right to install or maintain any other signs, banners, advertising, notices, displays, stickers, decals or any other logo or identification of any person, product or service whatsoever, in any location on or in the Property except as (i) shall have been expressly approved by Landlord in writing prior to the installation thereof (which approval may be granted or withheld in Landlord's sole and absolute discretion), (ii) shall not violate any signage restrictions or exclusive sign rights contained in any then existing leases with other tenants of the Property, if any, and (iii) are consistent and compatible with all applicable Laws, and the design, signage and graphics program from time to time implemented by Landlord with respect to the Property, if any. Landlord shall have the right to remove any signs or signage material installed without Landlord's permission, without being liable to Tenant by reason of such removal, and to charge the cost of removal to Tenant as Additional Rent hereunder, payable within ten (10) days after written demand by Landlord. Any additional sign rights of Tenant, if any, shall be as provided in the Summary.

#### **ARTICLE 13 - ALTERATIONS**

13.1 **Alterations.** After installation of the initial Tenant Improvements for the Premises, Tenant may, at its sole cost and expense, make alterations, additions, improvements and decorations to the Premises ("Alteration(s)") subject to and upon the following terms and conditions:

a. Tenant shall not make any Alterations which: (i) affect any area outside the Premises including the outside appearance, character or use of any portions of the Building or other portions of the Property; (ii) affect the Building's roof, roof membrane, any structural component or any base Building equipment, services or systems (including fire and life/safety systems), or the proper functioning thereof, or Landlord's access thereto; (iii) in the reasonable opinion of Landlord, lessen the value of the Building or the Property; (iv) will violate or require a change in any occupancy certificate applicable to the Premises; or (v) would trigger a legal requirement which would require Landlord to make any alteration or improvement to the Premises, Building or other aspect of the Property.

b. Tenant shall not make any Alterations not prohibited by Section 13.1(a), unless Tenant first obtains Landlord's prior written consent, which consent Landlord shall not unreasonably withhold, provided Landlord's prior approval shall not be required for any Alterations that is not prohibited by Section 13.1(a) above and is of a cosmetic nature that satisfies all of the following conditions (hereinafter a "Pre-Approved Alteration"): (i) the costs of such Alterations do not exceed Three Dollars (\$3.00) per rentable square foot of the Premises; (ii) to the extent reasonably required by Landlord or by law due to the nature of the work being performed, Tenant delivers to Landlord final plans, specifications, working drawings, permits and approvals for such Alterations at least ten (10) days prior to commencement of the work thereof; (iii) Tenant and such Alterations otherwise satisfy all other conditions set forth in this Section 13.1; and (iv) the making of such Alterations will not otherwise cause a default by Tenant under any provision of this Lease. Tenant shall provide Landlord with ten (10) days' prior written notice before commencing any Alterations. In addition, before proceeding with any Alteration, Tenant's contractors shall obtain, on behalf of Tenant and at Tenant's sole cost and expense: (a) all necessary governmental permits and approvals for the commencement and completion of such Alterations, and (b) if the cost of such Alterations exceeds \$25,000.00, a completion and lien indemnity bond, or other surety satisfactory to Landlord for such Alterations. Landlord's approval of any plans, contractor(s) and subcontractor(s) of Tenant shall not release Tenant or any such contractor(s) and/or subcontractor(s) from any liability with respect to such Alterations and will create no liability or responsibility on Landlord's part concerning the completeness of such Alterations or their design sufficiency or compliance with Laws.

c. All Alterations shall be performed: (i) in accordance with the approved plans, specifications and working drawings, if any; (ii) lien-free and in a first-class workmanlike manner; (iii) in compliance with all building codes and Laws; (iv) in such a manner so as not to impose any additional expense upon nor delay Landlord in the maintenance and operation of the Building; (v) by licensed and bondable contractors, subcontractors and vendors selected by Tenant (provided Tenant shall give Landlord notice of the opportunity to bid on any Alterations so that Landlord may alert its preferred contractors), and (vi) at such times, in such manner and subject to such rules and regulations as Landlord may from time to time reasonably designate. Tenant shall pay to Landlord, within ten (10) days after written demand, the costs of any increased insurance premiums incurred by Landlord to include such Alterations in the causes of loss – special form property insurance obtained by Landlord pursuant to this Lease, if Landlord elects in writing to insure such Alterations; provided, however, Landlord shall not be required to include the Alterations under such insurance. If the Alterations are not included in Landlord's insurance, Tenant shall insure the Alterations under its causes of loss-special form property insurance pursuant to this Lease.

d. Tenant shall pay to Landlord, as Additional Rent, the reasonable costs of Landlord's 3rd party engineers and other consultants for reasonable review of all plans, specifications and working drawings for the Alterations, within ten (10) business days after Tenant's receipt of invoices either from Landlord or such consultants. In addition to such costs, Tenant shall pay to Landlord, within ten (10) business days after completion of any Alterations, a construction supervision fee equal to three percent (3%) of the total cost of the Alterations and the actual, reasonable costs incurred by Landlord for any services rendered by Landlord's management personnel and engineers to coordinate and/or supervise any of the Alterations to the extent such services are provided in excess of or after the normal on-site hours of such engineers and management personnel

e. Throughout the performance of the Alterations, Tenant shall obtain, or cause its contractors to obtain, workers compensation insurance and commercial general liability insurance in compliance with the insurance provisions of this Lease.

13.2 **Removal of Alterations.** All Alterations by Tenant, excluding personal property that can be removed without damage to the Premises that is not repaired by Tenant at Tenant's expense, in the Premises, shall become the property of Landlord and shall remain upon and be surrendered with the Premises at the end of the Term; provided, however, Landlord may, by written notice delivered to Tenant within thirty (30) days after Landlord's receipt of plans for any Alterations identify those Alterations which Landlord shall require Tenant to remove at the end of the Term. If Landlord requires Tenant to remove any such Alterations, Tenant shall, at its sole cost, remove the identified items on or before the expiration or sooner termination of this Lease and repair any damage to the Premises caused by such removal to its original condition (or, at Landlord's option, Tenant shall pay to Landlord all of Landlord's reasonable costs of such removal and repair).

13.3 **Liens.** Tenant shall not permit any mechanic's, materialmen's or other liens to be filed against all or any part of the Property or the Premises, nor against Tenant's leasehold interest in the Premises, by reason of or in connection with any repairs, alterations, improvements or other work contracted for or undertaken by Tenant or any of Tenant's Parties. If any such liens are filed, Tenant shall, at its sole cost, immediately cause such liens to be released of record or bonded so that such lien(s) no longer affect(s) title to the Property, the Building or the Premises. If Tenant fails to cause any such lien to be released or bonded within thirty (30) business days after filing thereof, Landlord may cause such lien to be released by any means it shall deem proper, including payment in satisfaction of the claim giving rise to such lien, and Tenant shall reimburse Landlord within thirty (30) business days after receipt of invoice from Landlord, any sum paid by Landlord to remove such liens, together with interest at the Interest Rate from the date of such payment by Landlord.

#### **ARTICLE 14 - TENANT'S INSURANCE**

14.1 **Tenant's Insurance.** On or before the earlier of any Early Access Period, the Commencement Date or the date Tenant commences or causes to be commenced any work of any type in the Premises, and continuing during the entire Term, Tenant shall obtain and keep in full force and effect, the following insurance with limits of coverage as set forth in Section 1.14 of the Summary:

a. Special Form (formerly known as "all risk") insurance, including fire and extended coverage, sprinkler leakage (including earthquake sprinkler leakage), vandalism, malicious mischief plus earthquake and flood coverage upon property of every description and kind owned by Tenant and located in the Premises or the Building, or for which Tenant is legally liable or installed by or on behalf of Tenant including, without limitation, furniture, equipment and any other personal property, and any Alterations (but excluding the initial Tenant Improvements previously existing or installed in the Premises), in an amount not less than the full replacement cost thereof. In the event that there shall be a dispute as to the amount which comprises full replacement cost, the decision of Landlord or the Mortgagees of Landlord shall be presumptive.

b. Commercial general liability insurance coverage on an occurrence basis, including personal injury, bodily injury (including wrongful death), broad form property damage, operations hazard, owner's protective coverage, contractual liability (including Tenant's indemnification obligations under this Lease), liquor liability (if Tenant serves alcohol on the Premises), products and completed operations liability. The limits of liability of such commercial general liability insurance may be increased during any extension of the Term to an amount reasonably required by Landlord and appropriate for tenants of buildings comparable to the Building.

c. Commercial Automobile Liability covering all owned, hired and non-owned automobiles.

d. Worker's compensation, in statutory amounts and employer's liability, covering all persons employed in connection with any work done in, on or about the Premises for which claims for death, bodily injury or illness could be asserted against Landlord, Tenant or the Premises.

e. Umbrella liability insurance on an occurrence basis, in excess of and following the form of the underlying insurance described in Section 14.1.b. and 14.1.c. and the employer's liability coverage in Section 14.1.d. which is at least as broad as each and every area of the underlying policies. Such umbrella liability insurance shall include pay on behalf of wording, concurrency of effective dates with primary policies, blanket contractual liability, application of primary policy aggregates, and shall provide that if the underlying aggregate is exhausted, the excess coverage will drop down as primary insurance, subject to customary commercially reasonable deductible amounts imposed on umbrella policies.

f. If Tenant's business includes professional services, Tenant shall, at Tenant's expense, maintain in full force and effect professional liability (also known as errors and omissions insurance), covering

Tenant and Tenant's employees from work related negligence and liability in trade. Such insurance may be purchased by Tenant on a claims made basis.

g. Any other form or forms of insurance as Tenant or Landlord or the Mortgagees of Landlord may reasonably require from time to time, in form, amounts and for insurance risks against which a prudent public sector tenant of a building similar to the Building would protect itself, but only to the extent such risks and amounts are available in the insurance market at commercially reasonable costs.

h. **Limitation on Tenant Insurance Requirements:** Tenant is self-insured, and its tort liability is subject to the limitations set forth in Chapter 41 of the Nevada Revised Statutes. Tenant shall be permitted to meet the insurance obligations under this section 1.14 through a program of self-insurance. None of the insurance requirements herein shall be construed as a waiver of the protections afforded to Tenant and its employees under NRS Chapter 41.

14.2 **Requirements.** Each policy required to be obtained by Tenant hereunder shall: (a) be issued by insurers which are approved by Landlord and/or Landlord's Mortgagees and are authorized to do business in the state in which the Building is located and rated not less than Financial Size X, and with a Financial Strength rating of A in the most recent version of Best's Key Rating Guide (provided that, in any event, the same insurance company shall provide the coverages described in Sections 14.1.a. and 14.1.g. above); (b) be in form reasonably satisfactory from time to time to Landlord; (c) name Tenant as named insured thereunder and shall name Landlord and, at Landlord's request, such other persons or entities of which Tenant has been informed in writing, as additional insureds thereunder, all as their respective interests may appear; (d) not have a deductible amount exceeding Five Thousand Dollars (\$5,000.00), which deductible amount shall be deemed self-insured with full waiver of subrogation; (e) specifically provide that the insurance afforded by such policy for the benefit of Landlord and any other additional insureds shall be primary, and any insurance carried by Landlord or any other additional insureds shall be excess and non-contributing; (f) contain an endorsement that the insurer waives its right to subrogation; (g) require the insurer to notify Landlord and any other additional insureds in writing not less than thirty (30) days prior to any material change, reduction in coverage, cancellation or other termination thereof; (h) contain a cross liability or severability of interest endorsement; and (i) be in amounts sufficient at all times to satisfy any coinsurance requirements thereof. Tenant agrees to deliver to Landlord, as soon as practicable after the placing of the required insurance, but in no event later than the date Tenant is required to obtain such insurance as set forth in Section 14.1 above, certificates from the insurance company evidencing the existence of such insurance and Tenant's compliance with the foregoing provisions of this Article 14. Tenant shall cause replacement certificates to be delivered to Landlord not less than ten (10) days prior to the expiration of any such policy or policies. If any such initial or replacement certificates are not furnished within the time(s) specified herein, Landlord shall have the right, but not the obligation, to procure such policies and certificates at Tenant's expense.

14.3 **Effect on Insurance.** Tenant shall not do or permit to be done anything which will (a) violate or invalidate any insurance policy or coverage maintained by Landlord or Tenant hereunder, or (b) increase the costs of any insurance policy maintained by Landlord. If Tenant's occupancy or conduct of its business in or on the Premises results in any increase in premiums for any insurance carried by Landlord with respect to the Building or the Property, Tenant shall either discontinue the activities affecting the insurance or pay such increase as Additional Rent within ten (10) days after being billed therefor by Landlord. If any insurance coverage carried by Landlord pursuant to this Lease or otherwise with respect to the Building or the Property shall be cancelled or reduced (or cancellation or reduction thereof shall be threatened) by reason of the use or occupancy of the Premises other than as allowed by the Permitted Use by Tenant or by anyone permitted by Tenant to be upon the Premises, and if Tenant fails to remedy such condition within five (5) business days after notice thereof, Tenant shall be deemed to be in default under this Lease and Landlord shall have all remedies provided in this Lease, at law or in equity, including, without limitation, the right (but not the obligation) to enter upon the Premises and attempt to remedy such condition at Tenant's cost.

#### **ARTICLE 15 - LANDLORD'S INSURANCE**

During the Term, Landlord shall maintain property insurance written on a Special Form (formerly known as "all risk") basis covering the full insurable replacement costs Property and the Building as the same may exist from time to time, including the initial Tenant Improvements (excluding, however, Tenant's furniture, equipment and other personal property and Alterations, unless Landlord otherwise elects to insure the Alterations pursuant to Section 13.1 above) against damage by fire and standard extended coverage perils and with vandalism and malicious mischief endorsements, rental loss coverage, earthquake damage coverage, and such additional coverage as Landlord deems appropriate. Landlord shall also carry commercial general liability, commercial automobile liability, worker's compensation and umbrella liability insurance in such reasonable amounts as would be carried by a prudent owner of a similar building in the state in which the Building is located but in no case shall such amounts be less than the amounts for such insurance Tenant is required to carry pursuant to Section 1.14 of this Lease. At Landlord's option, all such insurance may be carried under any blanket or umbrella policies that Landlord has in force for other buildings and projects. Landlord may, but shall not be obligated to carry any other form or forms of insurance as Landlord or the Mortgagees or ground lessors of Landlord may reasonably determine is advisable. In addition, at Landlord's option, Landlord may elect to maintain insurance deductibles or self-insured retentions in reasonable amounts as may be carried by other prudent owners with insurance programs covering similar real estate portfolios and that would be acceptable to a lender on the Property. The cost of insurance obtained by Landlord pursuant to this Article 15 (including self-insured retentions and deductibles) shall be included in Insurance Costs, except that any increase in the premium for the property insurance attributable to the replacement cost of the Tenant Improvements in excess of Building standard shall not be included as Insurance Costs, but shall be paid by Tenant within thirty (30) days after invoice from Landlord.

## **ARTICLE 16 - INDEMNIFICATION AND EXCULPATION**

16.1 **Indemnity by Tenant.** In accordance with the limitations of NRS41.0305 to NRS 41.039, Tenant hereby agrees to indemnify and hold Landlord harmless from any loss, damage, liability, cost or expense to the person or property of another which is caused by (a) any occurrence in the Premises following the date Landlord delivers possession of all or any portion of the Premises to Tenant, except to the extent caused by the gross negligence or willful misconduct of Landlord or Landlord's agents, contractors or employees; or (b) any action or omission of the Tenant, its officers, employees and agents under this Lease. Tenant's indemnity obligation in tort is limited to \$100,000 per cause of action in accordance with NRS 41.035. Tenant will assert the defense of sovereign immunity in all legal actions. The foregoing shall not be construed to make Tenant responsible for liabilities, damages, claims, actions, costs and expenses (including reasonable attorney's fees) caused any intentional, willful, or negligent action or omission of Landlord or any person or entity for which Landlord is legally liable. Tenant shall not indemnify or hold harmless Landlord for any liability, damages, claims, actions, costs or expenses (including reasonable attorney's fees) to the extent that Landlord has been (or will or might be) paid or reimbursed by insurance or any other person or entity for such liability, damages, claims, actions, costs or expenses.

16.2 **Indemnity by Landlord.** Landlord hereby indemnifies and holds harmless Tenant from and against any and all liability, damages, claims, actions, costs and expenses (including reasonable attorney's fees) arising out of gross negligence or willful misconduct of Landlord or any person or entity for which Landlord is legally liable. The foregoing shall not be construed to make Landlord responsible for liabilities, damages, claims, actions, costs, and expenses (including reasonable attorney's fees) caused by any intentional, willful, or negligent act or omission of Tenant or any other person or entity for which Tenant is legally liable. Landlord shall not indemnify or hold harmless Tenant from any liability, damages, claims, actions, costs or expenses (including reasonable attorney's fees) to the extent Tenant has been (or will or might be) paid or reimbursed by insurance or any other person or entity for such liability, damages, claims, actions costs, or expenses.

## **ARTICLE 17 - CASUALTY DAMAGE/DESTRUCTION**

17.1 **Landlord's Rights and Obligations.** If the Premises or the Building is damaged by fire or other casualty not caused by the willful misconduct of Tenant ("Casualty") to an extent not exceeding twenty-five percent (25%) of the full replacement cost thereof, and Landlord's contractor estimates in writing delivered to the parties that the damage thereto is such that the Building and/or Premises may be repaired, reconstructed or restored to substantially its condition immediately prior to such damage within one hundred twenty (120) days from the date of such Casualty, and Landlord will receive insurance proceeds sufficient to cover the costs of such repairs, reconstruction and restoration (including proceeds from Tenant and/or Tenant's insurance which Tenant is required to deliver to Landlord pursuant to this Lease), then Landlord shall commence and proceed diligently with the work of repair, reconstruction and restoration and this Lease shall continue in full force and effect. If, however, the Premises or the Building is damaged to an extent exceeding twenty-five percent (25%) of the full replacement cost thereof, or Landlord's contractor estimates that such work of repair, reconstruction and restoration will require longer than one hundred twenty (120) days to complete from the date of Casualty, or Landlord will not receive insurance proceeds (and/or proceeds from Tenant, as applicable) sufficient to cover the costs of such repairs, reconstruction and restoration, then Landlord may elect to either: (a) repair, reconstruct and restore the portion of the Premises or Building damaged by such Casualty (including the Tenant Improvements, the Alterations that Landlord elects to insure pursuant to Section 13.1 and, to the extent of insurance proceeds received from Tenant, the Alterations that Tenant is required to insure pursuant to Section 13.1), in which case this Lease shall continue in full force and effect; or (b) terminate this Lease effective as of the date which is thirty (30) days after Tenant's receipt of Landlord's election to so terminate. Under any of the conditions of this Section 17.1, Landlord shall give written notice to Tenant of its intention to repair or terminate within the later of sixty (60) days after the occurrence of such Casualty, or fifteen (15) days after Landlord's receipt of the estimate from Landlord's contractor or, as applicable, thirty (30) days after Landlord receives approval from Landlord's Mortgagee to rebuild.

17.2 **Tenant's Costs and Insurance Proceeds.** In the event of any damage or destruction of all or any part of the Premises, Tenant shall immediately: (a) notify Landlord thereof; and (b), if Landlord elects to repair, reconstruct and restore the Premises pursuant to Section 17.1, deliver to Landlord all insurance proceeds received by Tenant with respect to the Tenant Improvements and Alterations (to the extent such items are not covered by Landlord's casualty insurance obtained by Landlord pursuant to this Lease) and with respect to Alterations in the Premises that Tenant is required to insure pursuant to Section 13.1, excluding proceeds for Tenant's furniture and other personal property. If, for any reason (including Tenant's failure to obtain insurance for the full replacement cost of any Alterations which Tenant is required to insure pursuant to Section 13.1 hereof), Tenant fails to receive insurance proceeds covering the full replacement cost of such Alterations which are damaged, Tenant shall be deemed to have self-insured the replacement cost of such Alterations, and upon any damage or destruction thereto, Tenant shall immediately pay to Landlord the full replacement cost of such items, less any insurance proceeds actually received by Landlord from Landlord's or Tenant's insurance with respect to such items.

17.3 **Abatement of Rent.** If as a result of any such damage, repair, reconstruction and/or restoration of the Premises or the Building, Tenant is prevented from using, and does not use, the Premises or any portion thereof, then Rent shall be abated or reduced, as the case may be, during the period that Tenant continues to be so prevented from using and does not use the Premises or portion thereof, in the proportion that the rentable square feet of the portion of the Premises that Tenant is prevented from using, and does not use, bears to the total rentable square feet of the Premises, but only to the extent of the proceeds that Landlord receives from the rental loss insurance maintained by Landlord, from the date of the damage until the Premises is restored. Notwithstanding the foregoing to the contrary, if the damage is due to the negligence or willful misconduct of Tenant or any of Tenant's Parties, there shall be no abatement of Rent. Except for abatement of Rent as provided hereinabove, Tenant shall not be

entitled to any compensation or damages for loss of, or interference with, Tenant's business or use or access of all or any part of the Premises resulting from any such damage, repair, reconstruction or restoration.

**17.4 Inability to Complete.** Notwithstanding anything to the contrary contained in this Article 17, if Landlord is obligated or elects to repair, reconstruct and/or restore the damaged portion of the Building or Premises pursuant to Section 17.1 above, but is delayed from completing such repair, reconstruction and/or restoration beyond the date which is six (6) months after the date estimated by Landlord's contractor for completion thereof pursuant to Section 17.1, by reason of any causes beyond the reasonable control of Landlord (including, without limitation, delays due to Force Majeure, and delays caused by Tenant or any of Tenant's Parties), then Landlord may elect to terminate this Lease upon thirty (30) days' prior written notice to Tenant.

**17.5 Damage to the Property.** If there is a total destruction of the improvements on the Property or partial destruction of such improvements, the cost of restoration of which would exceed one-third (1/3) of the then replacement value of all improvements on the Property, by any cause whatsoever, whether or not insured against and whether or not the Premises are partially or totally destroyed, Landlord may within a period of one hundred eighty (180) days after the occurrence of such destruction, notify Tenant in writing that it elects not to so reconstruct or restore such improvements, in which event this Lease shall cease and terminate as of the date of such destruction.

**17.6 Damage Near End of Term.** In addition to its termination rights in Sections 17.1, 17.4 and 17.5 above, Landlord shall have the right to terminate this Lease if any damage to the Building or Premises occurs during the last twelve (12) months of the Term and Landlord's contractor estimates in writing delivered to the parties that the repair, reconstruction or restoration of such damage cannot be completed within the earlier of (a) the scheduled expiration date of the Term, or (b) sixty (60) days after the date of such Casualty.

**17.7 Tenant's Termination Right.** In the event of any damage or destruction which affects Tenant's use and enjoyment of the Premises which is not caused by the willful misconduct of Tenant or any of Tenant's Parties, if Tenant's possession and use of the Premises cannot be restored by Landlord within two hundred seventy (270) days for reasons other than delays caused by Tenant or any of Tenant's Parties, Tenant shall have the right to terminate this Lease upon written notice to Landlord given within thirty (30) days after the expiration of said 270-day period, unless Landlord completes the restoration within said 30-day notice period, in which case this Lease shall continue in full force and effect.

**17.8 Waiver of Termination Right.** This Lease sets forth the terms and conditions upon which this Lease may terminate in the event of any damage or destruction. Accordingly, except as expressly provided herein, Tenant hereby waives any and all provisions of applicable Law that provide alternative rights for the parties in the event of damage or destruction.

#### **ARTICLE 18 - CONDEMNATION**

**18.1 Substantial or Partial Taking.** Subject to the provisions of Section 18.3 below, either party may terminate this Lease if any material part of the Premises is taken or condemned for any public or quasi-public use under law, by eminent domain or private purchase in lieu thereof (a "Taking"). Landlord shall also have the right to terminate this Lease if there is a Taking of any portion of the Building or the Property which would have a material adverse effect on Landlord's ability to profitably operate the remainder of the Building and/or the Property. The terminating party shall provide written notice of termination to the other party within thirty (30) days after it first receives notice of the Taking. The termination shall be effective as of the effective date of any order granting possession to, or vesting legal title in, the condemning authority. If this Lease is not terminated, Base Rent and all other elements of this Lease which are dependent upon the area of the Premises, the Building or the Property shall be appropriately adjusted to account for any reduction in the square footage of the Premises, Building or Property, as applicable.

**18.2 Condemnation Award.** Subject to the provisions of Section 18.3 below, in connection with any Taking of the Premises or the Building, Landlord shall be entitled to receive the entire amount of any award which may be made or given in such taking or condemnation, without deduction or apportionment for any estate or interest of Tenant, it being expressly understood and agreed by Tenant that no portion of any such award shall be allowed or paid to Tenant for any so-called bonus or excess value of this Lease, and such bonus or excess value shall be the sole property of Landlord. Tenant shall not assert any claim against Landlord or the taking authority for any compensation because of such taking (including any claim for bonus or excess value of this Lease); provided, however, if any portion of the Premises is taken, Tenant shall be granted the right to recover from the condemning authority (but not from Landlord) any compensation as may be separately awarded or recoverable by Tenant for the taking of Tenant's furniture, fixtures, equipment and other personal property within the Premises, for Tenant's relocation expenses, and for any loss of goodwill or other damage to Tenant's business by reason of such taking.

**18.3 Temporary Taking.** In the event of a Taking of the Premises or any part thereof for temporary use, (a) this Lease shall be and remain unaffected thereby and Rent shall not abate, and (b) Tenant shall be entitled to receive for itself such portion or portions of any award made for such use with respect to the period of the taking which is within the Term, provided that if such taking shall remain in force at the expiration or earlier termination of this Lease, Tenant shall perform its obligations with respect to surrender of the Premises and shall pay to Landlord the portion of any award which is attributable to any period of time beyond the Term expiration date. For purpose of this Section 18.3, a temporary taking shall be defined as a taking for a period of two hundred seventy (270) days or less.

**18.4 Waiver.** Tenant hereby waives any rights it may have pursuant to any applicable Laws and agrees that the provisions hereof shall govern the parties' rights in the event of any Taking.



## ARTICLE 19 - WAIVER OF CLAIMS; WAIVER OF SUBROGATION

19.1 **Tenant Waiver.** Tenant hereby waives its rights against Landlord for any claims or damages or losses, including any deductibles and self-insured amounts, which are caused by or result from (a) any occurrence insured under any property insurance policy carried by Tenant, or (b) any occurrence which would have been covered under any property insurance required to be obtained and maintained by Tenant under this Lease had such insurance been obtained and maintained as required. The foregoing waiver shall be in addition to, and not a limitation of, any other waivers or releases contained in this Lease.

19.2 **Landlord Waiver:** Landlord hereby waives its rights against Tenant for any claims or damages or losses, including any deductibles and self-insured amounts, which are caused by or result from (a) any occurrence insured under any property insurance policy carried by Landlord, or (b) any occurrence which would have been covered under any property insurance required to be obtained and maintained by Landlord under this Lease had such insurance been obtained and maintained as required. The foregoing waiver shall be in addition to, and not a limitation of, any other waivers or releases contained in this Lease.

19.3 **Waiver of Insurers - Tenant.** Tenant shall cause each property insurance policy carried by Tenant to provide that the insurer waives all rights of recovery by way of subrogation against Landlord, in connection with any claims, losses and damages covered by such policy. If Tenant fails to maintain insurance for an insurable loss, such loss shall be deemed to be self-insured with a deemed full waiver of subrogation as set forth in the immediately preceding sentence.

19.4 **Waiver of Insurers – Landlord.** Landlord shall cause each property insurance policy carried by Landlord to provide that the insurer waives all rights of recovery by way of subrogation against Tenant, in connection with any claims, losses and damages covered by such policy. If Landlord fails to maintain insurance for an insurable loss, such loss shall be deemed to be self-insured with a deemed full waiver of subrogation as set forth in the immediately preceding sentence.

## ARTICLE 20 - ASSIGNMENT AND SUBLETTING

20.1 **Restriction on Transfer.** Except with respect to a Permitted Transfer pursuant to Section 20.6 below, Tenant shall not, without the prior written consent of Landlord, which consent Landlord will not unreasonably withhold, assign this Lease or any interest herein or sublet the Premises or any part thereof, or permit the use or occupancy of the Premises by any party other than Tenant (any such assignment, encumbrance, sublease, license or the like being sometimes referred to as a “Transfer”). In no event may Tenant encumber or hypothecate this Lease or the Premises. This prohibition against Transfers shall be construed to include a prohibition against any assignment or subletting by operation of law. Any Transfer without Landlord’s consent (except for a Permitted Transfer pursuant to Section 20.6 below) shall constitute a default by Tenant under this Lease, and in addition to all of Landlord’s other remedies at law, in equity or under this Lease, such Transfer shall be voidable at Landlord’s election. For purposes of this Article 20, other than with respect to a Permitted Transfer under Section 20.6 and transfers of stock of Tenant if Tenant is a publicly-held corporation and such stock is transferred publicly over a recognized security exchange or over-the-counter market, if Tenant is a corporation, partnership or other entity, any transfer, assignment, encumbrance or hypothecation of twenty-five percent (25%) or more (individually or in the aggregate) of any stock or other ownership interest in such entity, and/or any transfer, assignment, hypothecation or encumbrance of any controlling ownership or voting interest in such entity, shall be deemed an assignment of this Lease and shall be subject to all of the restrictions and provisions contained in this Article 20. Landlord agrees and acknowledges that the use of all or a portion of the Premises by another institution of the NSHE or an entity owned or controlled by NSHE is allowed as a matter of right, shall not constitute a Transfer and does not require Landlord’s approval or consent provided such use is consistent with the Permitted Use of the Premises.

20.2 **Landlord’s Options.** If Tenant desires to effect a Transfer, then at least thirty (30) days prior to the date when Tenant desires the Transfer to be effective (the “Transfer Date”), Tenant shall deliver to Landlord written notice (“Transfer Notice”) setting forth the terms and conditions of the proposed Transfer and the identity of the proposed assignee, sublessee or other transferee (sometimes referred to hereinafter as a “Transferee”). Tenant shall also deliver to Landlord with the Transfer Notice, a current financial statement and such evidence of financial responsibility and standing as Landlord may reasonably require of the Transferee which have been certified or audited by a reputable independent accounting firm acceptable to Landlord, and such other information concerning the business background and financial condition of the proposed Transferee as Landlord may reasonably request. Except with respect to a Permitted Transfer, within fifteen (15) business days after Landlord’s receipt of any Transfer Notice, and any additional information requested by Landlord pursuant to this Section 20.2, Landlord will notify Tenant of its election to do one of the following: (a) consent to the proposed Transfer subject to such reasonable conditions as Landlord may impose in providing such consent; (b) refuse such consent, which refusal shall be on reasonable grounds; or (c) terminate this Lease as to all or such portion of the Premises which is proposed to be sublet or assigned and recapture all or such portion of the Premises for reletting by Landlord, which termination shall be effective as of the proposed Transfer Date. If Landlord exercises its option to terminate this Lease with respect to only a portion of the Premises following Tenant’s request for Landlord’s approval of the proposed sublease of such space, Landlord shall be responsible for the construction of any demising wall which Landlord reasonably deems necessary to separate such space from the remainder of the Premises.

20.3 **Additional Conditions; Excess Rent.** A condition to Landlord’s consent to any Transfer will be the delivery to Landlord of a true copy of the fully executed instrument of assignment, sublease, transfer or hypothecation, in form and substance reasonably satisfactory to Landlord, an original of Landlord’s standard consent form executed by both Tenant and the proposed Transferee, and an affirmation of guaranty in form satisfactory to Landlord executed by each guarantor of this Lease, if any. In addition, Tenant shall pay to Landlord

as Additional Rent within thirty (30) days after receipt thereof, without affecting or reducing any other obligations of Tenant hereunder, fifty percent (50%) of any rent or other economic consideration received by Tenant as a result of any Transfer which exceeds, in the aggregate, (i) the total Rent which Tenant is obligated to pay Landlord under this Lease (prorated to reflect obligations allocable to any portion of the Premises subleased) for the applicable period, plus (ii) any Sub Tenant Improvements paid by Tenant and reasonable brokerage commissions and attorneys' fees actually paid by Tenant in connection with such Transfer, which commissions and fees shall, for purposes of the aforesaid calculation, be amortized on a straight-line basis over the term of such assignment or sublease. If Tenant effects a Transfer or requests the consent of Landlord to any Transfer (whether or not such Transfer is consummated), then, upon demand, and as a condition precedent to Landlord's consideration of the proposed assignment or sublease,

**20.4 Reasonable Disapproval.** Without limiting in any way Landlord's right to withhold its consent on any reasonable grounds, it is agreed that Landlord will not be acting unreasonably in refusing to consent to a Transfer if, in Landlord's reasonable opinion: (a) the proposed Transfer would result in more than two subleases of portions of the Premises being in effect at any one time during the Term; (b) the proposed assignee or subtenant does not have the financial capability to fulfill the obligations imposed by the Transfer; (c) the proposed Transferee is an existing tenant of the Building or Property or is negotiating with Landlord in writing (or has negotiated with Landlord in writing within the last three (3) months) for space in the Building or the Property; (d) the proposed transferee is a governmental entity; (e) the portion of the Premises to be sublet or assigned is irregular in shape with inadequate means of ingress and egress and does not meet the existing building code; (f) the proposed Transfer involves a change of use of the Premises or would violate any exclusive use covenant to which Landlord is bound; (g) the Transfer would result in significant increase in the use of the parking areas by the Transferee's employees or visitors, and/or significantly increase the demand upon utilities and services to be provided by Landlord to the Premises; or (h) the Transferee is not in Landlord's reasonable opinion of reputable or good character or consistent with Landlord's desired tenant mix for the Building.

**20.5 No Release.** Unless agreed to in writing between the parties, no Transfer, occupancy or collection of rent from any proposed Transferee shall be deemed a waiver on the part of Landlord, or the acceptance of the Transferee as Tenant and no Transfer shall release Tenant of Tenant's obligations under this Lease or alter the primary liability of Tenant to pay Rent and to perform all other obligations to be performed by Tenant hereunder. Landlord may require that any Transferee remit directly to Landlord on a monthly basis, all monies due Tenant by said Transferee, and each sublease shall provide that if Landlord gives said sublessee written notice that Tenant is in default under this Lease, said sublessee will thereafter make all payments due under the sublease directly to or as directed by Landlord, which payments will be credited against any payments due under this Lease. Tenant hereby irrevocably and unconditionally assigns to Landlord all rents and other sums payable under any sublease of the Premises; provided, however, that Landlord hereby grants Tenant a license to collect all such rents and other sums so long as Tenant is not in default under this Lease. Consent by Landlord to one Transfer shall not be deemed consent to any subsequent Transfer. In the event of default by any Transferee of Tenant or any successor of Tenant in the performance of any of the terms hereof, Landlord may proceed directly against Tenant without the necessity of exhausting remedies against such Transferee or successor. Landlord may consent to subsequent assignments of this Lease or sublettings or amendments or modifications to this Lease with assignees of Tenant, without notifying Tenant, or any successor of Tenant, and without obtaining its or their consent thereto and any such actions shall not relieve Tenant of liability under this Lease.

**20.6 Permitted Transfers.** Notwithstanding the provisions of Section 20.1 above to the contrary, provided that Tenant is not then in default, Tenant may assign this Lease or sublet the Premises or any portion thereof (herein, a "**Permitted Transfer**"), without Landlord's consent to any entity that controls, is controlled by or is under common control with Tenant, or to any entity resulting from a merger or consolidation with Tenant, or to any person or entity which acquires all the assets of Tenant's business as a going concern (each, a "**Permitted Transferee**"), provided that: (a) at least thirty (30) days prior to such assignment or sublease, Tenant delivers to Landlord a reasonably detailed description of the proposed Transfer and the financial statements and other financial and background information of the assignee or sublessee described in Section 20.2 above; (b) in the case of an assignment, the assignee assumes, in full, the obligations of Tenant under this Lease (or in the case of a sublease, the sublessee of a portion of the Premises or Term assumes, in full, the obligations of Tenant with respect to such portion) pursuant to an assignment and assumption agreement (or a sublease, as applicable) reasonably acceptable to Landlord, a fully executed copy of which is delivered to Landlord within thirty (30) days following the effective date of such assignment or subletting; (c) each guarantor of this Lease executes a reaffirmation of its guaranty in form satisfactory to Landlord; (d) the tangible net worth of the assignee or sublessee equals or exceeds that of Tenant as of (i) the date of execution of this Lease, or (ii) the date immediately preceding the proposed Transfer, whichever is greater; (e) Tenant remains fully liable under this Lease; (f) the use of the Premises is pursuant to Section 1.10 of this Lease; (g) such transaction is not entered into as a subterfuge to avoid the restrictions and provisions of this Article 20 and will not violate any exclusive use covenant to which Landlord is bound; and (h) with respect to a subletting only, Tenant and such Permitted Transferee execute Landlord's standard consent to sublease form; and (i) Tenant is not in default under this Lease.

## **ARTICLE 21 - SURRENDER AND HOLDING OVER**

**21.1 Surrender of Premises.** Upon the expiration or sooner termination of this Lease, Tenant shall surrender all keys for the Premises and exclusive possession of the Premises to Landlord broom clean and in good condition and repair, reasonable wear and tear excepted (and casualty damage excepted), with all of Tenant's personal property, electronic, fiber, phone and data cabling and related equipment that is installed by or for the exclusive benefit of Tenant (to be removed in accordance with the National Electric Code and other applicable Laws) and those items, if any, of Alterations identified by Landlord pursuant to Section 13.2, removed therefrom and all damage caused by such removal repaired. If Tenant fails to remove by the expiration or sooner termination

of this Lease all of its personal property and Alterations identified by Landlord for removal pursuant to Section 13.2, Landlord may, (without liability to Tenant for loss thereof), at Tenant's sole cost and in addition to Landlord's other rights and remedies under this Lease, at law or in equity: (a) remove and store such items in accordance with applicable Law; and/or (b) upon ten (10) days' prior notice to Tenant, sell all or any such items at private or public sale for such price as Landlord may obtain as permitted under applicable Law. Landlord shall apply the proceeds of any such sale to any amounts due to Landlord under this Lease from Tenant (including Landlord's attorneys' fees and other costs incurred in the removal, storage and/or sale of such items), with any remainder to be paid to Tenant.

21.2 **Holding Over.** Tenant will not be permitted to hold over possession of the Premises after the expiration or earlier termination of the Term without the express written consent of Landlord, which consent Landlord may withhold in its sole and absolute discretion. If Tenant holds over after the expiration or earlier termination of the Term with or without the express written consent of Landlord, then, in addition to all other remedies available to Landlord, Tenant shall become a tenant at sufferance only, upon the terms and conditions set forth in this Lease so far as applicable (including Tenant's obligation to pay all Additional Rent under this Lease), but at a Monthly Base Rent equal to one hundred twenty five percent (125%) of the Monthly Base Rent applicable to the Premises immediately prior to the date of such expiration or earlier termination. Any such holdover Rent shall be paid on a per month basis without reduction for partial months during the holdover. Acceptance by Landlord of Rent after such expiration or earlier termination shall not constitute consent to a hold over hereunder or result in an extension of this Lease. This Section 21.2 shall not be construed to create any express or implied right to holdover beyond the expiration of the Term or any extension thereof. Tenant shall be liable, and shall pay to Landlord within ten (10) days after demand, for all losses incurred by Landlord as a result of such holdover, and shall indemnify, defend and hold (subject to the limitations of Chapter 41 of the Nevada Revised Statutes) Landlord and the Landlord Parties harmless from and against all liabilities, damages, losses, claims, suits, costs and expenses (including reasonable attorneys' fees and costs) arising from or relating to any such holdover tenancy, including without limitation, any claim for damages made by a succeeding tenant. Tenant's indemnification obligation hereunder shall survive the expiration or earlier termination of this Lease. The foregoing provisions of this Section 21.2 are in addition to, and do not affect, Landlord's right of re-entry or any other rights of Landlord hereunder or otherwise at law or in equity.

#### **ARTICLE 22 - DEFAULTS**

22.1 **Tenant's Default.** The occurrence of any one or more of the following events shall constitute a "Default" under this Lease by Tenant:

a. the vacation or abandonment of the Premises by Tenant. "Abandonment" is herein defined to include, but is not limited to, any absence by Tenant from the Premises for five (5) business days or longer while in default of any other provision of this Lease;

b. the failure by Tenant to make any payment of Rent, Additional Rent or any other payment required to be made by Tenant hereunder, where such failure continues for five (5) days after written notice thereof from Landlord that such payment was not received when due;

c. except as otherwise provided in this Lease, the failure by Tenant to observe or perform any of the express or implied covenants or provisions of this Lease to be observed or performed by Tenant, other than as specified in Sections 22.1(a) or (b) above, where such failure shall continue for a period of ten (10) days after written notice thereof from Landlord to Tenant; provided, however, that if the nature of Tenant's default is such that it may be cured but more than ten (10) days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant shall commence such cure within said ten (10) day period and thereafter diligently prosecute such cure to completion, which completion shall occur not later than sixty (60) days from the date of such notice from Landlord; or

d. A general assignment by Tenant or any guarantor or surety of Tenant's obligations hereunder ("Guarantor") for the benefit of creditors;

e. The filing of a voluntary petition in bankruptcy by Tenant or any Guarantor, the filing by Tenant or any Guarantor of a voluntary petition for an arrangement, the filing by or against Tenant or any Guarantor of a petition, voluntary or involuntary, for reorganization, or the filing of an involuntary petition by the creditors of Tenant or any Guarantor, said involuntary petition remaining undischarged for a period of one hundred twenty (120) days;

f. Receivership, attachment, or other judicial seizure of substantially all of Tenant's assets on the Premises, such attachment or other seizure remaining undismissed or undischarged for a period of thirty (30) days after the levy thereof;

g. Death or disability of Tenant or any Guarantor, if Tenant or such Guarantor is a natural person, or the failure by Tenant or any Guarantor to maintain its legal existence, if Tenant or such Guarantor is a corporation, partnership, limited liability company, trust or other legal entity.

Any notice sent by Landlord to Tenant pursuant to this Section 22.1 shall be in lieu of, and not in addition to, any notice required under any applicable Law.

## ARTICLE 23 - REMEDIES OF LANDLORD

23.1 **Landlord's Remedies; Termination.** In the event of any such Default by Tenant, in addition to any other remedies available to Landlord under this Lease, at law or in equity, Landlord shall have the immediate option to terminate this Lease and all rights of Tenant hereunder and to re-enter the Premises and remove all persons and property from the Premises; such property may be removed, stored and/or disposed of as permitted by applicable Law. If Landlord shall elect to so terminate this Lease, then Landlord may recover from Tenant: (a) the worth at the time of award of any unpaid Rent which had been earned at the time of such termination; plus (b) the worth at the time of the 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 Tenant proves could have been reasonably avoided; plus (c) the worth at the time of award of the amount by which the unpaid Rent for the balance of the term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; plus (d) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant'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 total unamortized sum of any Abated Amount (amortized on a straight line basis over the initial Term of this Lease), tenant improvement costs; attorneys' fees; brokers' commissions; any costs required to return the Premises to the conditioned required at the end of the Term; the costs of refurbishment, alterations, renovation and repair of the Premises; and removal (including the repair of any damage caused by such removal) and storage (or disposal) of Tenant's personal property, equipment, fixtures, Alterations, Tenant Improvements and any other items which Tenant is required under this Lease to remove but does not remove; plus (e) all other monetary damages allowed under applicable Law.

As used in Sections 23.1(a) and 23.1(b) above, the "worth at the time of award" is computed by allowing interest at the Interest Rate set forth in the Summary. As used in Section 23.1(c) above, the "worth at the time of award" is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

23.2 **Landlord's Remedies; Continuation of Lease; Re-Entry Rights.** In the event of any such Default by Tenant, in addition to any other remedies available to Landlord under this Lease, at law or in equity, Landlord shall also have the right to (a) continue this Lease in effect after Tenant's breach and abandonment and recover Rent as it becomes due, and (b) with or without terminating this Lease, to re-enter the Premises and remove all persons and property from the Premises; such property may be removed, stored and/or disposed of as permitted by applicable Law. No re-entry or taking possession of the Premises by Landlord pursuant to this Section 23.2, and no acceptance of surrender of the Premises or other action on Landlord's part, shall be construed as an election to terminate this Lease unless a written notice of such intention be given to Tenant or unless the termination thereof be decreed by a court of competent jurisdiction. No notice from Landlord or notice given under a forcible entry and detainer statute or similar Laws will constitute an election by Landlord to terminate this Lease unless such notice specifically so states. Notwithstanding any reletting without termination by Landlord because of any Default, Landlord may at any time after such reletting elect to terminate this Lease for any such Default.

23.3 **Landlord's Right to Perform.** Except as specifically provided otherwise in this Lease, all covenants and agreements by Tenant under this Lease shall be performed by Tenant at Tenant's sole cost and expense and without any abatement or offset of Rent. In the event of any Default by Tenant, Landlord may, without waiving or releasing Tenant from any of Tenant's obligations, make such payment or perform such other act as required to cure such Default on behalf of Tenant. All sums so paid by Landlord and all necessary incidental costs incurred by Landlord in performing such other acts shall be payable by Tenant to Landlord within five (5) days after demand therefor as Additional Rent.

23.4 **Rights and Remedies Cumulative.** All rights, options and remedies of Landlord contained in this Article 23 and elsewhere in this Lease shall be construed and held to be cumulative, and no one of them shall be exclusive of the other, and Landlord shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law or in equity, whether or not stated in this Lease. Nothing in this Article 23 shall be deemed to limit or otherwise affect Tenant's indemnification of Landlord pursuant to any provision of this Lease.

23.5 **Costs Upon Default and Litigation.** Tenant shall pay to Landlord and its Mortgagees as Additional Rent all the expenses incurred by Landlord or its Mortgagees in connection with any default by Tenant hereunder or the exercise of any remedy by reason of any default by Tenant hereunder, including reasonable attorneys' fees and expenses.

## ARTICLE 24 - ENTRY BY LANDLORD

Landlord and its employees and agents shall at all reasonable times have the right to enter the Premises to inspect the same, to supply any service required to be provided by Landlord to Tenant under this Lease, to exhibit the Premises to prospective lenders or purchasers (or during the last year of the Term or during any default by Tenant, to prospective tenants), to post notices of non-responsibility, and/or to alter, improve or repair the Premises or any other portion of the Building or Property, all without being deemed guilty of or liable for any breach of Landlord's covenant of quiet enjoyment or any eviction of Tenant, and without abatement of Rent. In exercising such entry rights, Landlord shall endeavor to minimize, to the extent reasonably practicable, the interference with Tenant's business, and shall provide Tenant with reasonable advance notice (oral or written) of such entry (except in emergency situations and for scheduled services). For each of the foregoing purposes, Landlord shall at all times have and retain a key with which to unlock all of the doors in, upon and about the Premises, excluding Tenant's vaults and safes, and Landlord shall have the means which Landlord may deem proper to open said doors in an emergency in order to obtain entry to the Premises. Any entry to the Premises obtained by Landlord by any of said

means or otherwise shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an eviction of Tenant from the Premises or any portion thereof, or grounds for any abatement or reduction of Rent and Landlord shall not have any liability to Tenant for any damages or losses on account of any such entry by Landlord. All entry by the Landlord shall be limited by the privacy and security provisions of the Health Insurance Portability and Accountability Act (“HIPAA”) and associated regulations. Landlord agrees that it is not permitted to inspect or review any patient medical records or have access to any identifiable information relating to Tenant’s patients.

#### **ARTICLE 25 - LIMITATION ON LANDLORD’S LIABILITY**

Notwithstanding anything contained in this Lease to the contrary, the obligations of Landlord under this Lease (including as to any actual or alleged breach or default by Landlord) do not constitute personal obligations of the individual members, managers, investors, partners, directors, officers, or shareholders of Landlord or Landlord’s members or partners, and Tenant shall not seek recourse against the individual members, managers, investors, partners, directors, officers, or shareholders of Landlord or Landlord’s members or partners or any other persons or entities having any interest in Landlord, or any of their personal assets for satisfaction of any liability with respect to this Lease. In addition, in consideration of the benefits accruing hereunder to Tenant and notwithstanding anything contained in this Lease to the contrary, Tenant hereby covenants and agrees for itself and all of its successors and assigns that the liability of Landlord for its obligations under this Lease (including any liability as a result of any actual or alleged failure, breach or default hereunder by Landlord), shall be limited solely to, and Tenant’s and its successors’ and assigns’ sole and exclusive remedy shall be against, Landlord’s interest in the Building, and no other assets of Landlord. The term “Landlord” as used in this Lease, so far as covenants or obligations on the part of the Landlord are concerned, shall be limited to mean and include only the owner or owners, at the time in question, of the fee title to, or a lessee’s interest in a ground lease of, the Property. In the event of any transfer or conveyance of any such title or interest (other than a transfer for security purposes only), the transferor shall be automatically relieved of all covenants and obligations on the part of Landlord contained in this Lease. Landlord and Landlord’s transferees and assignees shall have the absolute right to transfer all or any portion of their respective title and interest in the Premises, the Building, the Property and/or this Lease without the consent of Tenant, and such transfer or subsequent transfer shall not be deemed a violation on Landlord’s part of any of the terms and conditions of this Lease.

#### **ARTICLE 26 - SUBORDINATION**

Tenant accepts this Lease subject and subordinate to any mortgage(s), deed(s) of trust, ground lease(s) or other lien(s) now or subsequently arising upon the Premises, the Building or the Property, and to renewals, modifications, refinancings and extensions thereof (collectively referred to as a “Mortgage”). This clause shall be self-operative, but no later than ten (10) business days after written request from Landlord or any holder of a Mortgage (each, a “Mortgagee” and collectively, “Mortgagees”), Tenant shall execute a commercially reasonable subordination agreement. As an alternative, a Mortgagee shall have the right at any time to subordinate its Mortgage to this Lease. No later than ten (10) business days after written request by Landlord or any Mortgagee, Tenant shall, without charge, attorn to any successor to Landlord’s interest in this Lease. Tenant hereby waives its rights under any current or future Law which gives or purports to give Tenant any right to terminate or otherwise adversely affect this Lease and the obligations of Tenant hereunder in the event of any such foreclosure proceeding or sale. Should Tenant fail to sign and return any such documents within said ten (10) business day period, Tenant shall be in default hereunder.

#### **ARTICLE 27 – INTENTIONALLY DELETED**

#### **ARTICLE 28 – ESTOPPEL CERTIFICATE**

Within ten (10) business days following Landlord’s written request, Tenant shall execute and deliver to Landlord an estoppel certificate, in a form substantially similar to the form of Exhibit F attached hereto. Any such estoppel certificate delivered pursuant to this Article 27 may be relied upon by any mortgagee, beneficiary, purchaser or prospective purchaser of any portion of the Property, as well as their assignees. Tenant’s failure to deliver such estoppel certificate following an additional two (2) business day cure period after notice shall constitute a default hereunder. Tenant’s failure to deliver such certificate within such time shall be conclusive upon Tenant that this Lease is in full force and effect, without modification except as may be represented by Landlord, that there are no uncured defaults in Landlord’s performance, and that not more than one (1) month’s Rent has been paid in advance.

#### **ARTICLE 29 - MORTGAGEE PROTECTION**

If, in connection with Landlord’s obtaining or entering into any financing or ground lease for any portion of the Building or Property, the lender or ground lessor shall request modifications to this Lease, Tenant shall, within thirty (30) days after request therefor, execute an amendment to this Lease including such modifications, provided such modifications are reasonable, do not increase the obligations of Tenant hereunder, or adversely affect the leasehold estate created hereby or Tenant’s rights hereunder (each, a “Ministerial Amendment”). For purposes of this section, the Chancellor of the NSHE or his or her designee is authorized to execute any such Ministerial Amendment. If the requested amendment to this Lease is not a Ministerial Amendment, then Tenant’s response period for such amendment shall be ninety (90) days after request and is contingent upon the approval of the Board of Regents of the NSHE in its reasonable discretion. In the event of any default on the part of Landlord, Tenant will give notice by registered or certified mail to any beneficiary of a deed of trust or mortgagee covering the Premises or ground lessor of Landlord whose address shall have been furnished to Tenant, and shall offer such beneficiary, mortgagee or ground lessor a reasonable opportunity to cure the default (including with respect to any such

beneficiary or mortgagee, time to obtain possession of the Premises, subject to this Lease and Tenant's rights hereunder, by power of sale or judicial foreclosure, if such should prove necessary to effect a cure).

### **ARTICLE 30 - QUIET ENJOYMENT**

Landlord covenants and agrees with Tenant that, upon Tenant performing all of the covenants and provisions on Tenant's part to be observed and performed under this Lease (including payment of Rent hereunder), Tenant shall have the right to use and occupy the Premises in accordance with and subject to the terms and conditions of this Lease as against all persons claiming by, through or under Landlord. This covenant shall be binding upon Landlord and its successors only during its or their respective periods of ownership of the Building.

### **ARTICLE 31 - MISCELLANEOUS PROVISIONS**

31.1 **Broker.** Tenant represents that it has not had any dealings with any real estate broker, finder or intermediary with respect to this Lease, other than the Brokers specified in the Summary. Tenant shall indemnify, protect, defend (by counsel reasonably approved in writing by Landlord) and hold Landlord harmless from and against any and all claims, judgments, suits, causes of action, damages, losses, liabilities and expenses (including attorneys' fees and court costs) resulting from any breach by Tenant of the foregoing representation, including, without limitation, any claims that may be asserted against Landlord by any broker, agent or finder undisclosed by Tenant herein. Landlord shall indemnify, protect, and hold Tenant harmless from and against any and all claims, judgments, suits, causes of action, damages, losses, liabilities and expenses (including attorneys' fees and court costs) resulting from any other brokers claiming to have represented Landlord in connection with this Lease. The foregoing indemnities shall survive the expiration or earlier termination of this Lease. Landlord shall pay to the Brokers the brokerage fee, if any, pursuant to a separate written agreement between Landlord and Brokers.

31.2 **Governing Law.** This Lease shall be governed by, and construed pursuant to, the laws of the state of Nevada. Subject to the arbitration provision, venue for any litigation between the parties hereto concerning this Lease or the occupancy of the Premises shall be initiated in the county in which the Premises are located. Tenant shall comply with all governmental and quasi-governmental laws, ordinances and regulations applicable to the Building, Property and/or the Premises, and all rules and regulations adopted pursuant thereto and all covenants, conditions and restrictions applicable to and/or of record against the Building, Property and/or the Site (individually, a "Law" and collectively, the "Laws"). Landlord and Tenant desire and intend that any disputes arising between them with respect to or in connection with this Lease be subject to expeditious resolution in a court trial without a jury, or pursuant to the arbitration clause in this Lease, as may be applicable. Consequently, Landlord and Tenant each hereby waives the right to trial by jury of any cause of action, claim, counterclaim or cross complaint in any action, proceeding or other hearing brought either by Landlord against Tenant, or by Tenant against Landlord, on any matter whatever arising out of, or in any way connected with, this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises, any claim of injury or damage, and the enforcement of any remedy under any law, statute and regulation, emergency or otherwise, now or hereafter in effect.. This waiver is knowingly, intentionally, and voluntarily made by each of parties hereto and each party acknowledges to the other that neither the other party nor any person acting on its respective behalf has made any representations to induce this waiver of trial by jury or in any way to modify or nullify its effect. The parties acknowledge that they have read and understand the meaning and ramifications of this waiver provision and have elected same of their own free will.

31.3 **Successors and Assigns.** Subject to the provisions of Article 25 above, and except as otherwise provided in this Lease, all of the covenants, conditions and provisions of this Lease shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective heirs, personal representatives and permitted successors and assigns; provided, however, no rights shall inure to the benefit of any Transferee of Tenant unless the Transfer to such Transferee is made in compliance with the provisions of Article 20, and no options or other rights which are expressly made personal to the original Tenant hereunder or in any rider attached hereto shall be assignable to or exercisable by anyone other than the original Tenant under this Lease.

31.4 **No Merger.** The voluntary or other surrender of this Lease by Tenant or a mutual termination thereof shall not work as a merger and shall, at the option of Landlord, either (a) terminate all or any existing subleases, or (b) operate as an assignment to Landlord of Tenant's interest under any or all such subleases.

31.5 **Professional Fees.** If either Landlord or Tenant should bring suit (or alternate dispute resolution proceedings) against the other with respect to this Lease, including for unlawful detainer, forcible entry and detainer, or any other relief against the other hereunder, then all costs and expenses incurred by the prevailing party therein (including, without limitation, its actual appraisers', accountants', attorneys' and other professional fees, expenses and court costs), shall be paid by the other party, including any and all costs incurred in enforcing, perfecting and executing such judgment and all reasonable costs and attorneys' fees associated with any appeal. For purposes of this Section 31.5 "attorneys' fees" shall include the value of Tenants' in-house counsel on an actual cost basis.

31.6 **Waiver.** The waiver by either party of any breach by the other party of any term, covenant or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant and condition herein contained, nor shall any custom or practice which may become established between the parties in the administration of the terms hereof be deemed a waiver of, or in any way affect, the right of any party to insist upon the performance by the other in strict accordance with said terms. No waiver of any default of either party hereunder shall be implied from any acceptance by Landlord or delivery by Tenant (as the case may be) of any Rent or other payments due hereunder or any omission by the non-defaulting party to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect defaults other than as specified in said waiver.

31.7 **Terms and Headings.** The words "Landlord" and "Tenant" as used herein shall include the plural as well as the singular. Words used in any gender include other genders. The Article and Section headings of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part hereof. Any deletion of language from this Lease prior to its execution by Landlord and Tenant shall not be construed to raise any presumption, canon of construction or implication, including, without limitation, any implication that the parties intended thereby to state the converse of the deleted language. The parties hereto acknowledge and agree that each has participated in the negotiation and drafting of this Lease; therefore, in the event of an ambiguity in, or dispute regarding the interpretation of, this Lease, the interpretation of this Lease shall not be resolved by any rule of interpretation providing for interpretation against the party who caused the uncertainty to exist or against the draftsman.

31.8 **Time.** Time is of the essence with respect to performance of every provision of this Lease in which time or performance is a factor.

31.9 **Business Day.** A "business day" is Monday through Friday, excluding holidays observed by the United States Postal Service and reference to 5:00 p.m. is to the time zone of the recipient. Whenever action must be taken (including the giving of notice or the delivery of documents) under this Lease during a certain period of time (or by a particular date) that ends (or occurs) on a non-business day, then such period (or date) shall be extended until the immediately following business day.

31.10 **Payments and Notices.** All Rent and other sums payable by Tenant to Landlord hereunder shall be paid to Landlord at the address designated in the Summary, or to such other persons and/or at such other places as Landlord may hereafter designate in writing. Any notice required or permitted to be given hereunder must be in writing and may be given by personal delivery (including delivery by nationally recognized overnight courier or express mailing service), or by registered or certified mail, postage prepaid, return receipt requested, addressed to Tenant at the address(es) designated in the Summary, or to Landlord at the address(es) designated in the Summary. Either party may, by written notice to the other, specify a different address for notice purposes. Notice given in the foregoing manner shall be deemed given (i) upon confirmed transmission if sent by facsimile transmission, provided such transmission is prior to 5:00 p.m. on a business day (if such transmission is after 5:00 p.m. on a business day or is on a non-business day, such notice will be deemed given on the following business day), (ii) when actually received or refused by the party to whom sent if delivered by a carrier or personally served or (iii) if mailed, on the day of actual delivery or refusal as shown by the certified mail return receipt or the expiration of three (3) business days after the day of mailing, whichever first occurs.

31.11 **Prior Agreements; Amendments.** This Lease, including the Summary and all Exhibits attached hereto, contains all of the covenants, provisions, agreements, conditions and understandings between Landlord and Tenant concerning the Premises and any other matter covered or mentioned in this Lease, and no prior agreement or understanding, oral or written, express or implied, pertaining to the Premises or any such other matter shall be effective for any purpose. No provision of this Lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest. The parties acknowledge that all prior agreements, representations and negotiations are deemed superseded by the execution of this Lease to the extent they are not expressly incorporated herein.

31.12 **Severability.** The invalidity or unenforceability of any provision of this Lease shall in no way affect, impair or invalidate any other provision hereof, and such other provisions shall remain valid and in full force and effect to the fullest extent permitted by law.

31.13 **Recording.** Neither Landlord nor Tenant shall record this Lease or a short form memorandum of this Lease.

31.14 **Accord and Satisfaction.** No payment by Tenant or receipt by Landlord of a lesser amount than the Rent payment herein stipulated shall be deemed to be other than on account of the Rent, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as Rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or pursue any other remedy provided in this Lease. Tenant agrees that each of the foregoing covenants and agreements shall be applicable to any covenant or agreement either expressly contained in this Lease or imposed by any statute or at common law.

31.15 **No Partnership.** Landlord does not, in any way or for any purpose, become a partner of Tenant in the conduct of its business, or otherwise, or joint venturer or a member of a joint enterprise with Tenant by reason of this Lease.

31.16 **Force Majeure.** If either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, governmental moratorium or other governmental action or inaction (including, without limitation, failure, refusal or delay in issuing permits, approvals and/or authorizations), injunction or court order, riots, insurrection, war, terrorism, bioterrorism, fire, earthquake, inclement weather including rain, flood or other natural disaster or other reason of a like nature not the fault of the party delaying in performing work or doing acts required under the terms of this Lease (but excluding delays due to financial inability) (herein collectively, "**Force Majeure Delay(s)**"), then performance of such act shall be excused for the period of such Force Majeure Delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. The provisions of this Section 31.16 shall not apply to nor operate to excuse Tenant from the payment of Monthly Base Rent, or any Additional Rent or any other payments strictly in accordance with the terms of this Lease.

31.17 **Counterparts.** This Lease may be executed in one or more counterparts, each of which shall constitute an original and all of which shall be one and the same agreement.

31.18 **Tenant's Authority.** If Tenant executes this Lease as a partnership, corporation or limited liability company, then Tenant and the persons and/or entities executing this Lease on behalf of Tenant represent and warrant that: (a) Tenant is a duly organized and existing partnership, corporation or limited liability company, as the case may be, and is qualified to do business in the state in which the Building is located; (b) such persons and/or entities executing this Lease are duly authorized to execute and deliver this Lease on Tenant's behalf; and (c) this Lease is binding upon Tenant in accordance with its terms. Tenant shall provide to Landlord a copy of any documents reasonably requested by Landlord evidencing such qualification, organization, existence and authorization within ten (10) days after Landlord's request. Tenant represents and warrants to Landlord that Tenant is not, and the entities or individuals constituting Tenant or which may own or control Tenant or which may be owned or controlled by Tenant are not, (i) in violation of any Laws relating to terrorism or money laundering, or (ii) among the individuals or entities identified on any list compiled pursuant to Executive Order 13224 for the purpose of identifying suspected terrorists or on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website, <http://www.treas.gov/ofac/tllsdn.pdf> or any replacement website or other replacement official publication of such list. For purposes of this section, the Chancellor of the NSHE or his or her designee is authorized to execute any ancillary documents, issue any notices or approvals, and perform ministerial acts necessary for the faithful execution of NSHE's obligations herein.

31.19 **No Option.** The submission of this Lease for examination or execution by Tenant does not constitute a reservation of or option for the Premises and this Lease shall not become effective as a Lease until it has been executed by both Landlord and Tenant.

31.20 **Options and Rights in General.** Any option (each an "Option" and collectively, the "Options"), including without limitation, any option to extend, option to terminate, option to expand, right to lease, right of first offer, and/or right of first refusal, granted to Tenant is personal to the original Tenant executing this Lease or a Permitted Transferee and may be exercised only by the original Tenant executing this Lease while occupying the entire Premises and without the intent of thereafter assigning this Lease or subletting the Premises or a Permitted Transferee and may not be exercised or be assigned, voluntarily or involuntarily, by any person or entity other than the original Tenant executing this Lease or a Permitted Transferee. The Options, if any, granted to Tenant under this Lease are not assignable separate and apart from this Lease, nor may any Option be separated from this Lease in any manner, either by reservation or otherwise. Tenant will have no right to exercise any Option, notwithstanding any provision of the grant of option to the contrary, and Tenant's exercise of any Option may be nullified by Landlord and deemed of no further force or effect, if (i) Tenant is in default under the terms of this Lease (or if Tenant would be in such default under this Lease but for the passage of time or the giving of notice, or both) as of Tenant's exercise of the Option in question or at any time after the exercise of any such Option and prior to the commencement of the Option event, (ii) Tenant has sublet all or more than fifty percent (50%) of the Premises except pursuant to a Permitted Transfer, or (iii) Landlord has given Tenant two (2) or more notices of default, whether or not such defaults are subsequently cured, during any twelve (12) consecutive month period of this Lease. Each Option granted to Tenant, if any, is hereby deemed an economic term which Landlord, in its sole and absolute discretion, may or may not offer in conjunction with any future extensions of the Term.

31.21 **Fiscal Fund Termination Without Penalty or Default.** Notwithstanding the provisions, terms and conditions of this Lease, pursuant Article 9, Sec. 3 of the Nevada Constitution and NRS 353.260 or other applicable law, in the event any recognized funding authority fails to appropriate funds to the Nevada System of Higher Education, the University of Nevada Reno or the University of Nevada School of Medicine, or their divisions, departments or colleges, to enable the obligations to be fulfilled under this Lease for the ensuing fiscal year or any part thereof, all rights and obligations of Landlord and Tenant under this Lease shall terminate upon thirty (30) days written notice to Landlord of Tenant's intent to exercise this Fiscal Funding Out right. Tenant shall not be considered in default of any provision of this Lease by terminating the Lease under this fiscal fund out clause.

[NO FURTHER TEXT ON THIS PAGE; SIGNATURES ON FOLLOWING PAGE]



IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed the date first above written.

Landlord:

LBA REALTY FUND II-WBP II, LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: **Brad Neglia**  
Title: **Authorized Signatory**

Tenant:

BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION on behalf of the UNIVERSITY OF NEVADA SCHOOL OF MEDICINE

By: \_\_\_\_\_  
Daniel Klaich, Chancellor

Recommended by:

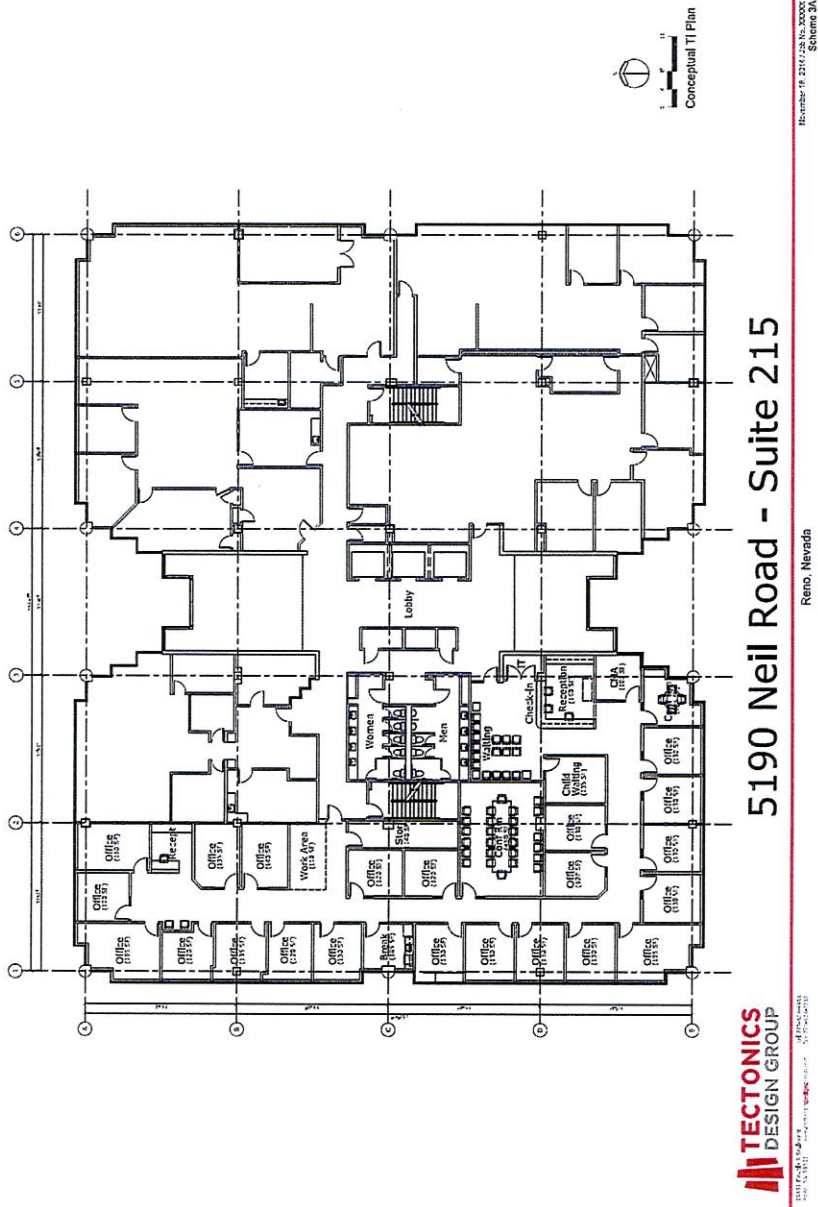
By: \_\_\_\_\_  
Marc A. Johnson, President UNR

By: \_\_\_\_\_  
Thomas L. Schwenk, MD, Dean, School of Medicine and  
President, Integrated Clinical Services, Inc.

For LBA Office Use Only: Prepared & Reviewed by: \_\_\_\_\_

**EXHIBIT A**

**PREMISES FLOOR PLAN**

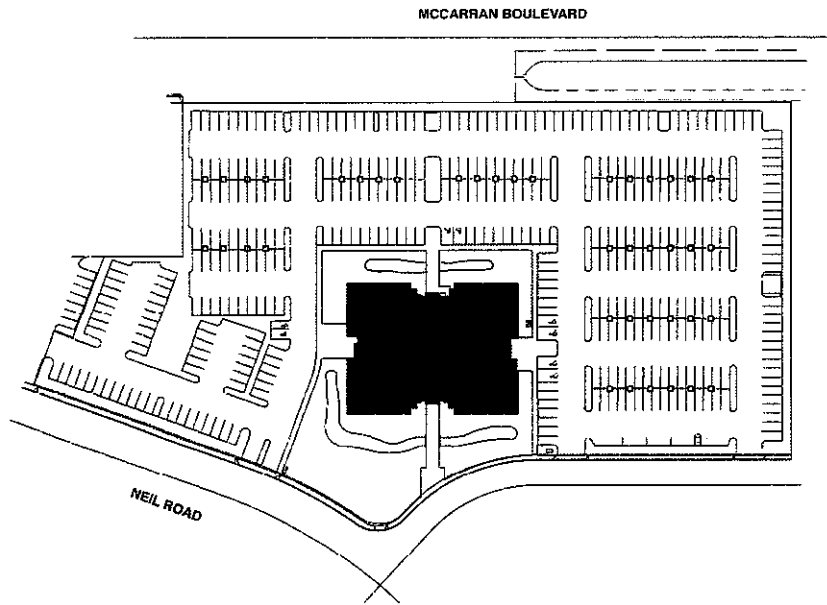


**EXHIBIT B**

**SITE PLAN**

5190 Neil Road  
Reno, NV  
U.S. Bank Centre

Site Plan



**EXHIBIT C**

**WORK LETTER**  
**[TURNKEY]**

1. **TENANT IMPROVEMENTS.** Landlord shall construct and, except as provided below to the contrary, pay for the entire cost of constructing the tenant improvements (“**Tenant Improvements**”) described by the plans and specifications identified in Schedule “1” attached hereto (the “**Plans**”). Tenant may request changes to the Plans provided that (a) the changes shall not be of a lesser quality than Landlord’s standard specifications for tenant improvements for the Building, as the same may be changed from time to time by Landlord (the “**Standards**”); (b) the changes conform to applicable governmental regulations and necessary governmental permits and approvals can be secured; (c) the changes do not require building service beyond the levels normally provided to other tenants in the Building; (d) the changes do not have any adverse effect on the structural integrity or systems of the Building; (e) the changes will not, in Landlord’s opinion, unreasonably delay construction of the Tenant Improvements; and (f) Landlord has determined in its sole discretion that the changes are of a nature and quality consistent with the overall objectives of Landlord for the Building. If Landlord approves a change requested by Tenant, then, as a condition to the effectiveness of Landlord’s approval, Tenant shall pay to Landlord upon demand by Landlord the increased cost attributable to such change, as reasonably determined by Landlord. To the extent any such change results in a delay of completion of construction of the Tenant Improvements, then such delay shall constitute a delay caused by Tenant as described below.

2. **CONSTRUCTION OF TENANT IMPROVEMENTS.** Upon Tenant’s payment to Landlord of the total amount of the cost of any changes to the Plans, if any, Landlord’s contractor shall commence and diligently proceed with the construction of the Tenant Improvements, subject to Tenant Delays (as described in Section 4 below) and Force Majeure Delays (as described in Section 5 below). Promptly upon the commencement of the Tenant Improvements, Landlord shall furnish Tenant with a construction schedule letter setting forth the projected completion dates therefor and showing the deadlines for any actions required to be taken by Tenant during such construction, and Landlord may from time to time during construction of the Tenant Improvements modify such schedule.

3. **COMMENCEMENT DATE AND SUBSTANTIAL COMPLETION.**

(a) **Commencement Date.** The Term of the Lease shall commence on the date (the “**Commencement Date**”) which is the earlier of:

(i) the date Tenant moves into the Premises to commence operation of its business in all or any portion of the Premises; or

(ii) the date the Tenant Improvements have been “substantially completed” (as defined below); provided, however, that if substantial completion of the Tenant Improvements is delayed as a result of any Tenant Delays described in Section 4 below, then the Commencement Date as would otherwise have been established pursuant to this Section 3(a)(ii) shall be accelerated by the number of days of such Tenant Delays.

(b) **Substantial Completion; Punch-List.** For purposes of Section 3(a)(ii) above, the Tenant Improvements shall be deemed to be “substantially completed” when Landlord: (a) is able to provide Tenant reasonable access to the Premises; (b) has substantially completed the Tenant Improvements in accordance with the Plans, other than decoration and minor “punch-list” type items and adjustments which do not materially interfere with Tenant’s access to or use of the Premises; and (c) has obtained a temporary certificate of occupancy or other required equivalent approval from the local governmental authority permitting occupancy of the Premises. Within ten (10) days after such substantial completion, Landlord will schedule and Tenant shall conduct a walk-through inspection of the Premises with Landlord and provide to Landlord a written punch-list specifying those decoration and other punch-list items which require completion, which items Landlord shall thereafter diligently complete; provided, however, that Tenant shall be responsible, at Tenant’s sole cost and expense, for the remediation of any items on the punch-list caused by Tenant’s acts or omissions.

(c) **Delivery of Possession.** Landlord agrees to deliver possession of the Premises to Tenant when the Tenant Improvements have been substantially completed in accordance with Section (b) above. The parties estimate that Landlord will deliver possession of the Premises to Tenant and the Term of this Lease will commence on or before the Estimated Commencement Date set forth in Section 1.6 of the Summary. Landlord shall use its commercially reasonable efforts to cause the Premises to be substantially completed on or before the Estimated Commencement Date. Tenant agrees that if Landlord is unable to deliver possession of the Premises to Tenant on or prior to the Estimated Commencement Date specified in Section 1.6 of the Summary, the Lease shall not be void or voidable, nor shall Landlord be liable to Tenant for any loss or damage resulting therefrom, nor shall the expiration date of the Term be in any way extended.

4. **TENANT DELAYS.** For purposes of this Work Letter, “**Tenant Delays**” shall mean any delay in the completion of the Tenant Improvements resulting from any or all of the following: (a) Tenant’s failure to timely perform any of its obligations pursuant to this Work Letter, including any failure to complete, on or before the due date therefor, any action item which is Tenant’s responsibility pursuant to the Work Schedule or any schedule delivered by Landlord to Tenant pursuant to this Work Letter; (b) Tenant’s changes to the Plans which reasonably change the delivery schedule; (c) Tenant’s request for materials, finishes, or installations which are not readily

available ; (d) any delay of Tenant in making payment to Landlord for Tenant's share of any costs in excess of the cost of the Tenant Improvements as described in the Plans which has been sent to Tenant by Landlord in writing and Tenant has had 10 days from receipt of such notice in which to pay such; or (e) any other act or failure to act by Tenant, Tenant's employees, agents, .

5. **FORCE MAJEURE DELAYS**. For purposes of this Work Letter, "Force Majeure Delays" shall mean any actual delay beyond the reasonable control of Landlord in the construction of the Tenant Improvements, which is not a Tenant Delay and which is caused by any of the causes described in Section 31.16 of the Standard Provisions.

**SCHEDULE "1"**

**PLANS AND SPECIFICATIONS**

JOB LOCATION: 5190 Neil Road, Suite 215  
Reno, NV

This scope of work is intended to work in conjunction with the conceptual T.I. plan from Tectonics Design Group dated November 18, 2014.

Scope of Work:

1. Demolition: Demo all existing interior walls, ceilings, floor cover, electrical as required.
2. Framing and Gypsum Board: Install new 3 5/8" light gage framing with 5/8" gypsum board with finish to match existing.
3. Ceilings: Install new ceiling at waiting, check-in, conference room, offices, and storage room to match existing.
4. Doors: Frames and Hardware: Install new timely door frames and (1) 12'-0 X 8'-0 window frame at child waiting and doors and hardware to match existing at new offices.
5. Windows and Glazing: Provide and install new windows at each new office to match existing borrowed light at offices and provide new glazing for new full height frame at child waiting area. New office doors to receive mini windows to match existing. All mini windows to receive 3M film for privacy,
6. Painting: Paint all existing and new walls with color to be selected.
7. Insulation: Provide and install R-11 unfaced sound insulation to all new interior walls and ceilings and above ceilings at existing offices.
8. Cabinets: Provide and install approximately 26 LF of new reception desk with granite top, and provide 20 LF of plastic laminate uppers and lowers with plastic laminate cabinets with granite tops at other reception areas. Remove and relocate existing break room to new location.
9. Floor Cover: Pallet No. 1 Brown Tones Shaw 26 Ounce direct glue down carpet for all common areas and Shaw Design Series 30 Ounce V305A032 direct glue down carpet at all offices. Furnish and install Armstrong Stonetex VCT in break room (excluding floor cover in existing IT room).
10. Fire Sprinkler: Modify fire sprinkler as required based upon new layout.
11. Fire Alarm: Modify existing fire alarm as required.
12. HVAC: Install new duct work and modify existing duct work for new floor plans. Relocate existing diffusers and grills and provide new diffusers and grills as required.
13. Plumbing: Relocate existing plumbing fixture to new break room.
14. Electrical: Provide demo, safe off and cap as required to accommodate new electrical work. Provide and install new fluorescent light fixtures in waiting and conference room to match existing light fixtures. Provide new Motion Sensor switches with hallways switches to remain. Relocate existing light fixtures as required to comply with new layout. Provide new exit light fixture to comply with new City of Reno codes. Provide (2) outlets and (1) data stub up at all new offices.
15. Bannisters: Replace 2<sup>nd</sup> floor bannisters with new building standard replacements [Note: this item of work is part of Landlord's turnkey buildout, but is not part of the floor plan prepared by Tectonics Design Group].

**EXHIBIT D**

**NOTICE OF LEASE TERM DATES**

Date: \_\_\_\_\_, \_\_\_\_

To: \_\_\_\_\_

Re: [Lease (describe lease title)\_\_\_\_\_] dated \_\_\_\_\_, \_\_\_\_ (“Lease”) by and between \_\_\_\_\_, a \_\_\_\_\_ (“Landlord”), and \_\_\_\_\_, a \_\_\_\_\_ (“Tenant”), for the premises commonly known as \_\_\_\_\_ (“Premises”).

Dear \_\_\_\_\_:

In accordance with the above-referenced Lease, we wish to advise and/or confirm as follows:

- That Tenant has accepted and is in possession of the Premises and acknowledges the following:
  - Term of the Lease:
  - Commencement Date:
  - Expiration Date:
  - Rentable Square Feet:
  - Tenant’s Percentage of the Building:
- That in accordance with the Lease, rental payments have commenced on \_\_\_\_\_ and rent is payable in accordance with the following schedule:

\_\_\_\_\_ Months \_\_\_\_\_ Monthly Base Rent

- Rent is due and payable in advance on the first day of each and every month during the Term of the Lease.

Your rent checks should be made payable to:

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

**ACCEPTED AND AGREED**

TENANT:

LANDLORD:

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

## EXHIBIT E

### RULES AND REGULATIONS

1. Tenant shall not place anything or allow anything to be placed near the glass of any window, door, partition or wall which may appear unsightly from outside the Premises. No awnings or other projection shall be attached to the outside walls of the Building without the prior written consent of Landlord. No curtains, blinds, shades or screens shall be attached to or hung in, or used in connection with, any window or door of the Premises, other than Building standard materials, without the prior written consent of Landlord.
2. Tenant shall not obstruct any sidewalks, halls, passages, exits, entrances, elevators, escalators or stairways of the Building. The halls, passages, exits, entrances, elevators, escalators and stairways are not for the general public, and Landlord shall in all cases retain the right to control and prevent access thereto of all persons whose presence in the reasonable judgment of Landlord would be prejudicial to the safety, character, reputation and interests of the Building; provided, that nothing herein contained shall be construed to prevent such access to persons with whom any tenant normally deals in the ordinary course of its business, unless such persons are engaged in illegal activities. Tenant and no employee, invitee, agent, licensee or contractor of Tenant shall go upon or be entitled to use any portion of the roof of the Building without the prior written consent of Landlord.
3. Tenant shall not cause any unnecessary janitorial labor by carelessness or indifference to the good order and cleanliness of the Premises. Landlord shall not in any way be responsible to Tenant for loss of property on the Premises, however occurring, or for any damage to Tenant's property by any janitors or any other employee or any other person.
4. Landlord will furnish Tenant, free of charge, with two keys to each door lock in the Premises. Landlord may impose a reasonable charge for any additional keys. Tenant may not make or have made additional keys, and Tenant shall not alter any lock or install a new additional lock or bolt on any door or window of its Premises. Tenant, upon termination of its tenancy, shall deliver to Landlord the keys of all doors which have been furnished to, or otherwise procured by Tenant, and, in the event of loss of any keys, shall pay Landlord the cost of replacing the same or of changing the lock or locks opened by such lost key if Landlord shall deem it necessary to make such change.
5. No machines other than standard office machines, such as typewriters and calculators, photo copiers, personal computers and word processors, and vending machines permitted by the Lease, shall be used in the Premises without the approval of Landlord.
6. Tenant shall not place a load upon any floor of the Premises which exceeds the load per square foot which such floor was designed to carry and which is allowed by Law. Landlord shall have the right to reasonably prescribe the weight, size and position of all equipment, materials, furniture or other property brought into the Building based upon this paragraph 6. Heavy objects if exceeding load or code: if such objects are considered necessary by Tenant, as determined by Landlord, shall stand on such platforms as determined by Landlord to be necessary to properly distribute the weight. Business machines and mechanical equipment which cause noise or vibration that may be transmitted to the structure of the Building or to any space therein to such a degree as to be objectionable to Landlord, shall be placed and maintained by Tenant, at Tenant's expense, on vibration eliminators or other devices sufficient to eliminate noise or vibration. Landlord will not be responsible for loss of, or damage to, any such equipment or other property from any cause, and all damage done to the Building by maintaining or moving such equipment or other property shall be repaired at the expense of Tenant.
7. Tenant shall not use or keep in the Premises any kerosene, gasoline or inflammable or combustible fluid or material other than those limited quantities necessary for the operation or maintenance of office equipment. Tenant shall not use or permit to be used in the Premises any foul or noxious gas or substance, or permit or allow the Premises to be occupied or used in a manner offensive or objectionable to Landlord by reason of noise, odors or vibrations, nor shall Tenant bring into or keep in or about the Premises any birds or animals.
8. Tenant shall not use any method of heating or air-conditioning other than that supplied to the Premises by Landlord.
9. Landlord reserves the right from time to time, in Landlord's sole and absolute discretion, exercisable without prior notice and without liability to Tenant, to: (a) name or change the name of the Building or Property; (b) change the address of the Building, and/or (c) install, replace or change any signs in, on or about the Property (except for Tenant's signs, if any, which are expressly permitted by the Lease).
10. Landlord reserves the right to exclude from the Building between the hours of 6:00 p.m. and 7:00 a.m., or such other hours as may be reasonably established from time to time by Landlord, and on legal holidays, any person unless that person is known to the person or employee in charge of the Building and has a pass or is properly identified. Landlord shall not be liable for damages for any error with regard to the admission to or exclusion from the Building of any person. Tenant shall be responsible for all persons for whom it requests passes and shall be liable to Landlord for all acts of such persons. Landlord reserves the right to prevent access to the Building in case of invasion, mob, riot, public excitement or other commotion by closing the doors or by other appropriate action.
11. The toilet rooms, toilets, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed, and no foreign substances of any kind whatsoever shall be thrown therein.



12. Tenant shall not install any radio or television antenna, loudspeaker or other device on the roof or exterior walls of the Building without the prior written consent of Landlord. Tenant shall not interfere with radio or television broadcasting or reception from or in the Building or elsewhere.

13. Except as expressly permitted in the Lease, Tenant shall not mark, drive nails, screw or drill into the partitions, window mullions, woodwork or drywall, or in any way deface the Premises or any part thereof, except to install normal wall hangings. Tenant shall repair any damage resulting from noncompliance under this rule.

14. Tenant shall store all its trash and garbage within the trash receptacles for the Building or Property. Tenant shall not place in any trash box or receptacle any material which cannot be disposed of in the ordinary and customary manner of trash and garbage disposal. All garbage and refuse disposal shall be made in accordance with directions reasonably issued from time to time by Landlord.

15. Other than as permitted elsewhere in the Lease, the Premises shall not be used for the storage of merchandise held for sale to the general public, or for lodging of any kind. No cooking shall be done or permitted by Tenant on the Premises, except that use by Tenant of Underwriters' Laboratory-approved equipment for brewing coffee, tea, hot chocolate and similar beverages shall be permitted and the use of a microwave shall be permitted, provided that such equipment and use is in accordance with all applicable federal, state, county and city laws, codes, ordinances, rules and regulations.

16. Tenant shall not use in any space, elevators or stairwells of the Building, any hand trucks except those equipped with rubber tires and side guards, or such other material-handling equipment as Landlord may approve. Tenant shall not bring any other vehicles of any kind into the Building.

17. Tenant shall not use the name of the Building in connection with, or in promoting or advertising, the business of Tenant, except for Tenant's address.

18. Tenant agrees that it shall comply with all fire and security regulations that may be issued from time to time by Landlord, and Tenant also shall provide Landlord with the name of a designated responsible employee to represent Tenant in all matters pertaining to such fire or security regulations. Tenant shall cooperate fully with Landlord in all matters concerning fire and other emergency procedures.

19. Tenant assumes any and all responsibility for protecting its Premises from theft, robbery and pilferage. Such responsibility shall include keeping doors locked and other means of entry to the Premises closed.

20. Landlord reserves the right to make such other and reasonable non-discriminatory Rules and Regulations as, in its reasonable judgment, may from time to time be needed for safety, security, care and cleanliness of the Building or Property and for the preservation of good order therein. Tenant agrees to abide by all such Rules and Regulations hereinabove stated and any additional rules and regulations which are adopted.

21. Tenant shall be responsible for the observance of all of the foregoing rules by Tenant's Parties.

22. Tenant shall not lay linoleum, tile, carpet or other similar floor covering so that the same shall be affixed to the floor of the Premises in any manner except by a paste, or other material which may easily be removed with water, the use of cement or other similar adhesive materials being expressly prohibited. The method of affixing any such linoleum, tile, carpet or other similar floor covering shall be subject to the approval of Landlord. The expense of repairing any damage resulting from a violation of this rule shall be borne by Tenant.

23. Except for NSHE sworn police officers and security personnel or as otherwise required by law, Tenant shall not without Landlord's consent, which may be given or withheld in Landlord's sole and absolute discretion, receive, store, discharge, or transport firearms, ammunition, or weapons or explosives of any kind or nature at, on or from the Premises.

#### **PARKING RULES AND REGULATIONS**

In addition to any parking provisions contained in the Lease, the following rules and regulations shall apply with respect to the use of the Property's parking facilities.

1. Every parker is required to park and lock his/her own vehicle. All responsibility for damage to or loss of vehicles is assumed by the parker and Landlord shall not be responsible for any such damage or loss by water, fire, defective brakes, the act or omissions of others, theft, or for any other cause.

2. Tenant shall not park or permit its employees to park in any parking areas designated by Landlord as areas for parking by visitors to the Property. Tenant shall not leave vehicles in the parking areas overnight nor park any vehicles in the parking areas other than automobiles, motorcycles, motor driven or non-motor driven bicycles or four wheeled trucks.

3. If applicable, Parking stickers or any other device or form of identification supplied by Landlord as a condition of use of the parking facilities shall remain the property of Landlord. Such parking identification device must be displayed as requested and may not be mutilated in any manner. The serial number of the parking identification device may not be obliterated. Devices are not transferable and any device in the possession of an unauthorized holder will be void.

4. No extended term storage of vehicles shall be permitted.

5. Vehicles must be parked entirely within painted stall lines of a single parking stall.
6. All directional signs and arrows must be observed.
7. The speed limit within all parking areas shall be five (5) miles per hour.
8. Parking is prohibited: (a) in areas not striped for parking; (b) in aisles; (c) where "no parking" signs are posted; (d) on ramps; (e) in cross-hatched areas; and (f) in reserved spaces and in such other areas as may be designated by Landlord or Landlord's parking operator.
9. If applicable, loss or theft of parking identification devices, if any, must be reported to Landlord's property manager immediately, and a lost or stolen report must be filed by the Tenant or user of such parking identification device at the time. Landlord has the right to exclude any vehicle from the parking facilities that does not have an identification device.
10. Any parking identification devices reported lost or stolen found on any unauthorized car will be confiscated and the illegal holder will be subject to prosecution.
11. Washing, waxing, cleaning or servicing of any vehicle in any area not specifically reserved for such purpose is prohibited.
12. The parking operators, managers or attendants, if any, are not authorized to make or allow any exceptions to these rules and regulations.
13. If the Lease terminates for any reason whatsoever or if Tenant's right of possession of the Premises is terminated after a Default, Tenant's right to park in the parking facilities shall terminate concurrently therewith.
14. Landlord reserves the right to modify and/or adopt such other reasonable and non-discriminatory rules and regulations for the parking facilities as it deems necessary for the operation of the parking facilities. Landlord may refuse to permit any person who violates these rules to park in the parking facilities, and any violation of the rules shall subject the vehicle to removal, at such vehicle owner's expense.
15. Tenant's parking spaces shall be used only for parking by vehicles no larger than normally sized passenger automobiles, vans and sport utility vehicles. Tenant shall not permit or allow any vehicles that belong to or are controlled by Tenant or Tenant's employees, suppliers, shippers, customers or invitees to be loaded, unloaded, or parked in areas other than those designated by Landlord for such activities. If Tenant permits or allows any of the prohibited activities described herein, then Landlord shall have the right, in addition to such other rights and remedies that it may have, to remove or tow away the vehicle involved and charge the cost thereof to Tenant, which cost shall be payable by Tenant upon demand by Landlord.

EXHIBIT F

ESTOPPEL CERTIFICATE

The undersigned (“**Tenant**”) hereby certifies to \_\_\_\_\_ (“**Landlord**”),  
and \_\_\_\_\_, as follows:

1. Attached hereto is a true, correct and complete copy of that certain Lease dated \_\_\_\_\_, between Landlord and Tenant (the “**Lease**”), for the premises commonly known as \_\_\_\_\_ (the “**Premises**”). The Lease is now in full force and effect and has not been amended, modified or supplemented, except as set forth in Section 6 below.
2. The term of the Lease commenced on \_\_\_\_\_, \_\_\_.
3. The term of the Lease is currently scheduled to expire on \_\_\_\_\_, \_\_\_.
4. Tenant has no option to renew or extend the Term of the Lease except: \_\_\_\_\_.
5. Tenant has no preferential right to purchase the Premises or any portion of the Building/Premises except: \_\_\_\_\_.
6. The Lease has: (Initial One)  
( ) not been amended, modified, supplemented, extended, renewed or assigned.  
( ) been amended, modified, supplemented, extended, renewed or assigned by the following described agreements, copies of which are attached hereto: \_\_\_\_\_.
7. Tenant has accepted and is now in possession of the Premises and has not sublet, assigned or encumbered the Lease, the Premises or any portion thereof except as follows: \_\_\_\_\_.
8. The current Base Rent is \$ \_\_\_\_\_; and current monthly parking charges are \$ \_\_\_\_\_.
9. The amount of security deposit (if any) is \$ \_\_\_\_\_. No other security deposits have been made.
10. All rental payments payable by Tenant have been paid in full as of the date hereof. No rent under the Lease has been paid for more than thirty (30) days in advance of its due date.
11. All work required to be performed by Landlord under the Lease has been completed and has been accepted by Tenant, and all tenant improvement allowances have been paid in full except \_\_\_\_\_.
12. As of the date hereof, Tenant is not aware of any defaults on the part of Landlord under the Lease except \_\_\_\_\_.
13. As of the date hereof, there are no defaults on the part of Tenant under the Lease.
14. Tenant has no defense as to its obligations under the Lease and claims no set-off or counterclaim against Landlord.
15. Tenant has no right to any concession (rental or otherwise) or similar compensation in connection with renting the space it occupies, except as expressly provided in the Lease.
16. All insurance required of Tenant under the Lease has been provided by Tenant and all premiums have been paid.
17. There has not been filed by or against Tenant a petition in bankruptcy, voluntary or otherwise, any assignment for the benefit of creditors, any petition seeking reorganization or arrangement under the bankruptcy laws of the United States or any state thereof, or any other action brought pursuant to such bankruptcy laws with respect to Tenant.
18. Tenant pays rent due Landlord under the Lease to Landlord and does not have any knowledge of any other person who has any right to such rents by collateral assignment or otherwise.

The foregoing certification is made with the knowledge that \_\_\_\_\_ is about to [fund a loan to Landlord or purchase the Building from Landlord], and that \_\_\_\_\_ is relying upon the representations herein made in [funding such loan or purchasing the Building].

Dated: \_\_\_\_\_, \_\_\_.

“TENANT”

\_\_\_\_\_  
By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**EXHIBIT G**

**ENVIRONMENTAL QUESTIONNAIRE AND DISCLOSURE STATEMENT**

The purpose of this form is to obtain information regarding the use or proposed use of hazardous materials at the premises. Prospective tenants should answer the questions in light of their proposed operations at the premises. Existing tenants should answer the questions as they relate to ongoing operations at the premises and should update any information previously submitted. If additional space is needed to answer the questions, you may attach separate sheets of paper to this form.

Your cooperation in this matter is appreciated.

1. GENERAL INFORMATION

Name of Responding Company: \_\_\_\_\_

Check the Applicable Status:      Prospective Tenant \_\_\_\_\_ Existing Tenant \_\_\_\_\_

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

Contact Person and Title: \_\_\_\_\_

Telephone Number: (\_\_\_\_) \_\_\_\_\_

Address of Leased Premises: \_\_\_\_\_

Length of Term: \_\_\_\_\_

Describe the proposed operations to take place on the premises, including principal products manufactured or services to be conducted. Existing tenants should describe any proposed changes to ongoing operations.

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

2. STORAGE OF HAZARDOUS MATERIALS

2.1 Will any hazardous materials be used or stored on-site?

Wastes                      Yes \_\_\_\_\_      No \_\_\_\_\_

Chemical Products      Yes \_\_\_\_\_      No \_\_\_\_\_

2.2 Attach a list of any hazardous materials to be used or stored, the quantities that will be on-site at any given time, and the location and method of storage (e.g., 55-gallon drums on concrete pad).

3. STORAGE TANKS AND SUMPS

3.1 Is any above or below ground storage of gasoline, diesel or other hazardous substances in tanks or sumps proposed or currently conducted at the premises?

Yes \_\_\_\_\_      No \_\_\_\_\_

If yes, describe the materials to be stored, and the type, size and construction of the sump or tank. Attach copies of any permits obtained for the storage of such substances.

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

3.2 Have any of the tanks or sumps been inspected or tested for leakage?

Yes \_\_\_\_\_      No \_\_\_\_\_

If so, attach the results.

3.3 Have any spills or leaks occurred from such tanks or sumps?

Yes \_\_\_\_\_      No \_\_\_\_\_

If so, describe.

---

---

3.4 Were any regulatory agencies notified of the spill or leak?

Yes \_\_\_\_\_ No \_\_\_\_\_

If so, attach copies of any spill reports filed, any clearance letters or other correspondence from regulatory agencies relating to the spill or leak.

3.5 Have any underground storage tanks or sumps been taken out of service or removed?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, attach copies of any closure permits and clearance obtained from regulatory agencies relating to closure and removal of such tanks.

4. SPILLS

4.1 During the past year, have any spills occurred at the premises?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please describe the location of the spill.

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4.2 Were any agencies notified in connection with such spills?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, attach copies of any spill reports or other correspondence with regulatory agencies.

4.3 Were any clean-up actions undertaken in connection with the spills?

Yes \_\_\_\_\_ No \_\_\_\_\_

Attach copies of any clearance letters obtained from any regulatory agencies involved and the results of any final soil or groundwater sampling done upon completion of the clean-up work.

5. WASTE MANAGEMENT

5.1 Has your company been issued an EPA Hazardous Waste Generator I.D. Number?

Yes \_\_\_\_\_ No \_\_\_\_\_

5.2 Has your company filed a biennial report as a hazardous waste generator?

Yes \_\_\_\_\_ No \_\_\_\_\_

If so, attach a copy of the most recent report filed.

5.3 Attach a list of the hazardous wastes, if any, generated or to be generated at the premises, its hazard class and the quantity generated on a monthly basis.

5.4 Describe the method(s) of disposal for each waste. Indicate where and how often disposal will take place.

_____	On-site treatment or recovery	_____
_____	Discharged to sewer	_____
_____	Transported and disposed of off-site	_____
_____	Incinerator	_____

5.5 Indicate the name of the person(s) responsible for maintaining copies of hazardous waste manifests completed for off-site shipments of hazardous waste.

---

5.6 Is any treatment of processing of hazardous wastes currently conducted or proposed to be conducted at the premises:

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please describe any existing or proposed treatment methods. \_\_\_\_\_  
\_\_\_\_\_

5.7 Attach copies of any hazardous waste permits or licenses issued to your company with respect to its operations at the premises.

6. WASTEWATER TREATMENT/DISCHARGE

6.1 Do you discharge wastewater to:

\_\_\_\_\_ storm drain? \_\_\_\_\_ sewer?

\_\_\_\_\_ surface water? \_\_\_\_\_ no industrial discharge

6.2 Is your wastewater treated before discharge?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, describe the type of treatment conducted.  
\_\_\_\_\_  
\_\_\_\_\_

6.3 Attach copies of any wastewater discharge permits issued to your company with respect to its operations at the premises.

7. AIR DISCHARGES

7.1 Do you have any filtration systems or stacks that discharge into the air?

Yes \_\_\_\_\_ No \_\_\_\_\_

7.2 Do you operate any of the following types of equipment or any other equipment requiring an air emissions permit?

\_\_\_\_\_ Spray booth

\_\_\_\_\_ Dip tank

\_\_\_\_\_ Drying oven

\_\_\_\_\_ Incinerator

\_\_\_\_\_ Other (please describe) \_\_\_\_\_

\_\_\_\_\_ No equipment requiring air permits

7.3 Are air emissions from your operations monitored?

Yes \_\_\_\_\_ No \_\_\_\_\_

If so, indicate the frequency of monitoring and a description of the monitoring results.  
\_\_\_\_\_  
\_\_\_\_\_

7.4 Attach copies of any air emissions permits pertaining to your operations at the premises.

8. HAZARDOUS MATERIALS DISCLOSURES

8.1 Does your company handle hazardous materials in a quantity equal to or exceeding an aggregate of 500 pounds, 55 gallons, or 200 cubic feet per month?

Yes \_\_\_\_\_ No \_\_\_\_\_

8.2 Has your company prepared a hazardous materials management plan pursuant to any applicable requirements of a local fire department or governmental agency?

Yes \_\_\_\_\_ No \_\_\_\_\_

If so, attach a copy of the business plan.

8.3 Has your company adopted any voluntary environmental, health or safety program?

Yes \_\_\_\_\_ No \_\_\_\_\_

If so, attach a copy of the program.

9. ENFORCEMENT ACTIONS, COMPLAINTS

9.1 Has your company ever been subject to any agency enforcement actions, administrative orders, or consent decrees?

Yes \_\_\_\_\_ No \_\_\_\_\_

If so, describe the actions and any continuing compliance obligations imposed as a result of these actions.

---

9.2 Has your company ever received requests for information, notice or demand letters, or any other inquiries regarding its operations?

Yes \_\_\_\_\_ No \_\_\_\_\_

9.3 Have there ever been, or are there now pending, any lawsuits against the company regarding any environmental or health and safety concerns?

Yes \_\_\_\_\_ No \_\_\_\_\_

9.4 Has an environmental audit ever been conducted at your company's current facility?

Yes \_\_\_\_\_ No \_\_\_\_\_

If so, identify who conducted the audit and when it was conducted.

Tenant: \_\_\_\_\_

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

Its: \_\_\_\_\_