

BOARD OF REGENTS
BRIEFING PAPER

1. AGENDA ITEM TITLE: University of Nevada, Reno - Lease of 604 Moana Lane, Reno, Nevada

MEETING DATE: June 8-9, 2017

2. BACKGROUND & POLICY CONTEXT OF ISSUE:

At the December 2016 meeting, the Board of Regents approved the sale of 401 W. 2nd Street located in Reno, Nevada (Nelson Building), which is currently in escrow and is contracted to close by May 15, 2017. Upon close of escrow, UNR will have 120 days to relocate the tenants within the building.

After reviewing and touring several locations, a site was selected and a Lease Agreement negotiated for approximately 13,304 square feet located at 604 Moana Lane, Reno, NV (Exhibit 1). The property is proposed to house four programs, which accounts for a majority of the office use currently housed in the Nelson Building to be relocated.

General terms of the Lease Agreement are as follows:

- **Lease Term:** 60 months. The rent for the first (1st) month is waived.
- **Rental Rate:** \$1.425 per square foot per month.
- **Lease Type:** Full service, with annual increases of 2.5%.
- **Tenant Improvements:** A Landlord's tenant improvement allowance of \$200,000 has been negotiated and is anticipated to cover the costs of any improvements, predominately to separate the space for the four programs. The property is already in good condition and most is useable as is. A substantial amount of furnishings (i.e. desks, chairs, cubicles, etc.), all in good condition, is included in the lease at no extra cost to NSHE.
- **Option to Renew:** 5 year option to renew, with first year annual rents not to exceed 5% of the previous year's rent and 2.5% annual increases in years 2 thru 5.

The University of Nevada, Reno General Counsel, and the NSHE Counsel/Director of Real Estate Planning have reviewed and approved the Lease Agreement (Exhibit 2).

3. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

University of Nevada, Reno President Marc Johnson is requesting Board of Regents approval of the Lease Agreement for approximately 13,304 square feet located at 604 Moana Lane in Reno, NV for a term of 60 months with an Option to renew such Lease Agreement for an additional 60 months.

4. IMPETUS (WHY NOW?):

- With close of escrow contracted to be on or before May 15, 2017, tenants of 401 W. 2nd Street must relocate prior to September 15, 2017.
- The recommendation to lease space in 604 Moana Lane followed an extensive review of potential locations throughout the Reno area.

- Space is available now and on reasonable terms.

5. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

- The space is available now at very reasonable terms.
- Lease is a full service lease.
- The property is in very good condition and Landlord will provide a \$200,000 improvement allowance for changes primarily related to the division of space among the four university programs relocating to this property.
- A substantial amount of furnishings (i.e. desks, chairs, cubicles), in good condition, are included in the lease at no extra cost to NSHE.
- A 5- year contract, with the ability to renew the lease for an additional 5 years, gives UNR great flexibility in mid-term and long-term future space planning efforts.
- Expenses of the Lease are anticipated to be funded from a part of the proceeds of the sale of 401 W. 2nd Street as well as savings of current O&M costs associated with the sale of 401 W. 2nd Street.

6. POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

N/A

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

Try to find short term space for occupants on or before the September 15, 2017 re-location due date. There is no alternative nearby space owned by NSHE available for the relocation of these Tenants. It should be noted that any options are substantially more expensive, not only in short-term rents per month but also any needed improvements which are likely to be at the Tenant's expense.

8. COMPLIANCE WITH BOARD POLICY:

Consistent With Current Board Policy: Title #4__ Chapter #10__ Section #1.9__

Amends Current Board Policy: Title #____ Chapter #____ Section #____

Amends Current Procedures & Guidelines Manual: Chapter #____ Section #____

Other: _____

Fiscal Impact: Yes__X__ No____

Explain: This request for lease will result in annual lease payments of \$227,498.40 plus 2.5% annual increases.

Exhibit 1

Location of 604 Moana Lane



Exhibit 2

LEASE AGREEMENT BY AND BETWEEN

(Landlord/Property Owner)

and

Board of Regents of the Nevada System of Higher Education on Behalf of the University of Nevada, Reno

For

604 Moana Lane, Reno, Nevada

Lease Agreement

This **LEASE AGREEMENT** (“**Lease**”) is made and entered into this 1st day of August, 2017 (the “**Effective Date**”), by and between The John E. & Janice W. Bostock Trust (“**Landlord**”) and the Board of Regents of the Nevada System of Higher Education on behalf of the University of Nevada, Reno (“**Tenant**”) (Landlord and Tenant each a “**Party**” and both collectively the “**Parties**”).

1. **Leased Premises.** Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, approximately 13,304 gross square feet of space, in the “**Building**” generally known as 604 Moana Lane located in Reno, Nevada, County of Washoe, as more particularly depicted on **Exhibit A** attached hereto and incorporated herein by reference (the “**Premises**”).

2. **Term.**

(a) The term of this Lease shall commence upon the Effective Date and, unless terminated sooner as provided for herein, shall terminate sixty (60) months thereafter (the “**Initial Term**”).

(b) **Option to Extend.** Tenant shall have the option to extend the Lease for one (1) additional period of sixty (60) months, upon the same terms and conditions stated herein (such additional period, if any, together with the Initial Term the “**Term**”). Tenant may exercise such option by providing Landlord written notice of Tenant’s intention to renew at least ninety (90) days prior to the expiration of the Initial Term.

3. **Delivery of the Premises.**

(a) So long as Landlord has received from Tenant the first month’s monthly Base Rent due pursuant to Section 4 of this Lease, certificates satisfactory to Landlord evidencing the insurance required to be carried by Tenant under this Lease, 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 Effective 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 Effective 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 (defined below). 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 or other means of access to the Premises and otherwise comply with such denial.

(b) Landlord shall, prior to delivering possession of the Premises to Tenant, perform the work stated in the **Work Letter, Exhibit B** (the “**Landlord’s Work**”).

(c) Notwithstanding anything contained herein to the contrary, 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 due under this Lease; and (iii) copies of Tenant’s insurance certificates as required hereunder.

4. **Tenant’s Use of the Premises.**

(a) **Use by Tenant and Certificate of Occupancy.** Tenant shall use and occupy the Premises as

an educational facility and any other lawful use Tenant deems appropriate.

(b) **Prohibited Use.** Tenant shall not occupy nor use all or any part of the Premises for any unlawful purpose.

5. **Rent and Other Sums to be Paid by Tenant.**

(a) **Base Rental Rate.** Tenant shall occupy the Premises at the base rental rate of \$1.425 per gross square foot per month (the “**Base Rent**”). The monthly Base Rent shall be paid by the 1st day of each month of the Term, without notice, offset, or demand.

(b) **Base Year.** “**Base Year**” means the calendar year ending December 31, 2018.

(c) **Expenses.** “**Expenses**” means the aggregate of: (i) any and all costs (other than those expressly excluded below) incurred or accrued during each calendar year according to generally accepted accounting principles for operating, managing, administering, equipping, securing, protecting, heating, cooling, lighting, repairing, replacing, cleaning, maintaining, decorating, inspecting, and providing water, sewer and other energy and utilities to, the Building and Premises; (ii) Landlord’s costs of additional insurance coverage for the Building, Premises, or any activities occurring thereon; (iii) capital improvements, alterations or structural modifications that are incurred in order to conform to changes in any Laws, or that are intended to reduce Expenses or the rate of increase in Expenses; (iv) taxes, assessments, and all other impositions or charges taxed, levied, assessed, charged or imposed upon all or any portion of the Building, the Premises, or any portion thereof or interest therein, or against any of the personal property therein; and (v) and administrative fees in an amount equal to 4% of all Expenses, other than such administrative fees, provided that if Landlord elects to use the services of a managing agent, then Expenses will include, instead of administrative fees, the actual management fees that Landlord incurs. Notwithstanding the foregoing, Expenses will not include (1) mortgage principal or interest; (2) ground lease payments; (3) leasing commissions; (4) costs of advertising or promoting space for lease; (5) costs for which Landlord is reimbursed by insurance proceeds or from tenants of the Building (other than such tenants’ regular contributions to Expenses); (6) any depreciation or amortization; (7) capital expenditures (except as expressly provided above); (8) legal fees incurred for negotiating leases or collecting rents; (9) costs directly and solely related to the maintenance and operation of the entity that constitutes the Landlord, such as accounting fees incurred solely for the purpose of reporting Landlord’s financial condition, (10) costs, fines or penalties incurred due to the Landlord’s violation of any Laws, (11) costs resulting from any negligent act or omission of the Landlord or its agents, and (12) nonrecurring costs incurred to remedy structural defects in the original construction of the Building.

(d) **Rent Increase.** Beginning August 1, 2018, the Base Rent due shall be increased by 2.5% annually. Should the Lease be extended past the Initial Term, the Base Rent for the first year of the option period shall be adjusted to the lesser of (i) the then-going market rate, or (ii) a rate equal to no more than a 5% cumulative increase over the Base Rent in the final year of the Initial Term. Thereafter, the 2.5% annual increases shall continue for each ensuing year during the option period. In no instance will the Base Rent during the first year of the option period be lower than it is in the final year of the Initial Term.

(e) **Additional Rent Based Upon Additional Expenses.** Tenant agrees to pay Landlord, as additional rent, in the manner provided below for each calendar year subsequent to the Base Year that contains any part of the Term, the amount by which Expenses for such calendar year exceed Expenses for the Base Year (“**Additional Expenses**”), provided, however, that notwithstanding anything contained herein to the contrary, such Additional Expenses shall not increase annually by more than three-percent (3%) from the previous year’s Expenses.

(i) **Estimated Payments.** Prior to or as soon as practicable after the beginning of each

calendar year subsequent to the Base Year, Landlord will notify Tenant of Landlord's estimate of Additional Expenses for the ensuing calendar year. On or before the first day of each month during the ensuing calendar year, Tenant will pay to Landlord, in advance, 1/12 of such estimated amounts, provided that until such notice is given with respect to the ensuing calendar year, Tenant will continue to pay on the basis of the prior calendar year's estimate until the month after the month in which such notice is given. In the month Tenant first pays based on Landlord's new estimate, Tenant will pay to Landlord 1/12 of the difference between the new estimate and the prior year's estimate for each month which has elapsed since the beginning of the current calendar year. If at any time or times it appears to Landlord that Tenant's share of Additional Expenses for the then-current calendar year will vary from Landlord's estimate by more than five percent Landlord may, by notice to Tenant, revise its estimate for such year and subsequent payments by Tenant for such year will be based upon the revised estimate.

(ii) **Annual Settlement.** No later than ninety (90) days after the close of each calendar year after the Base Year, Landlord will deliver to Tenant its statement of the Additional Expenses for such calendar year. If on the basis of such statement Tenant owes an amount that is less than the estimated payments previously made by Tenant for such calendar year, Landlord, at its option, will either refund such excess amount to Tenant or credit such excess amount against the next payment(s), if any, due from Tenant to Landlord. If on the basis of such statement Tenant owes an amount that is more than the estimated payments previously made by Tenant for such calendar year, Tenant will pay the deficiency to Landlord within thirty (30) days after the receipt of such statement. If this Lease terminates on a day other than the last day of a calendar year, Tenant's share of Additional Expenses applicable to the calendar year in which such termination occurs will be prorated on the basis of the number of days within such calendar year that are within the Term.

(iii) **Final Payment.** Tenant's obligation to pay the Additional Expenses provided for in this section that are accrued but not paid for periods prior to the expiration or early termination of the Term will survive such expiration or early termination. Prior to or as soon as practicable after the expiration or early termination of the Term, Landlord may submit an invoice to Tenant stating Landlord's estimate of the amount by which Tenant's share of Additional Expenses through the date of such expiration or early termination will exceed Tenant's estimated payments of Additional Expenses for the calendar year in which such expiration or termination has occurred or will occur. Unless the early termination is the result of a Landlord Event of Default (as defined below), Tenant will pay the amount of any such excess to Landlord within thirty (30) days after receipt of Landlord's invoice.

(f) **Additional Rent Based Upon Late Payment.** If Tenant defaults, for more than fifteen (15) days in the payment of any monthly installment of Base Rent, or any other sum Tenant is required to pay to Landlord under the Lease, or if Tenant, within fifteen (15) days after demand in writing from Landlord, fails to reimburse Landlord for any expenses incurred by Landlord and payable by Tenant pursuant to the Lease, then Tenant shall pay Landlord, as additional rent, a late charge of five (5%) percent of the unpaid rent or expense.

(g) **Landlord's Failure to Collect Rent.** Landlord's failure at any time or times to calculate, collect or otherwise enforce its right to require Tenant to pay all or any portion of the Rent under this Lease shall not constitute a waiver of Landlord's right, upon not less than thirty (30) days' prior written notice, to calculate, collect or otherwise enforce its right to require Tenant to pay all or any portion of such Rent. In addition, in the event Landlord expressly waived in writing any of Tenant's obligations to pay Rent or any portion thereof during some fixed or indefinite term, such prior waiver shall not constitute a permanent waiver of Landlord's rights, or otherwise prevent Landlord upon not less than thirty (30) days' prior written notice, to calculate, collect or otherwise enforce its right to require Tenant to pay all or any portion of such Rent.

(h) **Place of Payment of Rent.** The Base Rent, additional rent and other sums Tenant is required to pay to Landlord under this Lease (collectively, "**Rent**") shall be paid by Tenant to Landlord at the address below or to such other place as Landlord may notify Tenant in writing.

Janice and John Bostock
5740 Cottage Ridge Rd.
Santa Rosa, CA 95403

6. **Alterations and Improvements.**

(a) 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 or the Building 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) unless Tenant has otherwise notified Landlord in writing, the acceptance of possession of the Premises by Tenant shall establish that the Premises and the Building 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. Tenant agrees that it shall not paint, erect partitions, install or change any doors or windows, without the prior written consent of the Landlord, which shall not be unreasonably withheld.

(b) Landlord reserves the right from time to time at its own expense to make such improvements, alterations, renovations, changes, and repairs in and about the Premises as Landlord shall deem desirable. Landlord shall provide advanced written notice to Tenant when Landlord expects to make these improvements. Except where such improvements, alterations, changes, and repairs unreasonably disrupt Tenant's use and peaceful enjoyment of the Premises, Tenant shall make no claim against Landlord for abatement of Rent for interference with Tenant's leasehold interest or for loss or damage to its business during such improvements, alterations, renovations, changes, and repairs.

(c) The Parties agree that all erections, additions, fixtures, and improvements, excepting only decorative personal items and movable office furniture, made in or upon the Premises shall be Landlord's property and shall remain upon the Premises at the termination of this Lease by lapse of time or otherwise, without compensation to Tenant, unless Landlord, at its sole discretion, requires such to be removed by Tenant upon termination of this Lease and Tenant shall remove such erections, additions, fixtures, and improvements at Tenant's sole expense. If not removed by Tenant within five (5) days' written notice by Landlord, Landlord can, at its sole discretion, remove and dispose of such improvements and charge Tenant for such removal and disposal, due immediately by Tenant to Landlord.

(d) Tenant's erection, construction, installation, or making of any approved improvements shall be accomplished and completed in a workmanlike manner and in compliance with all applicable state, federal, and municipal laws, regulations, and codes.

(e) Tenant shall keep the Premises free from any liens arising out of any work performed, materials furnished, services received, or obligations incurred by Tenant. Tenant understands and agrees that any and all improvements, alterations, works of improvement, and other construction activities of Tenant must comply with Nevada's construction lien laws (including, but not limited to, NRS 108.2403).

7. **Utilities & Maintenance.**

(a) **Utilities.** Landlord shall reasonably supply and pay for heating, electricity, and water (if applicable) to the Premises for general office space use during regular business hours defined as Monday through Friday 7:00 am to 7:00 pm and Saturdays 7:00 am to 1:00 pm. Any excess use of utilities for equipment or operations outside of general office use or hours shall be paid by Tenant. Tenant shall be solely responsible for

the set up and payment of any and all utilities services that Tenant receives directly from any third-party supplier.

(b) **Voice Services.** Tenant shall be solely responsible for the installation and payment for any and all voice lines and services, including fax lines and services, provided to Tenant directly from any third-party supplier.

(c) **Internet and Information Technology.** Tenant shall be solely responsible for the installation and payment for any and all internet connectivity or related services provided to Tenant directly from any third-party supplier. Any proposed modifications or alterations to the Premises necessary to accommodate internet connectivity must be first submitted to Landlord, approval of said modifications or alterations shall not be unreasonably withheld by the Landlord.

(d) **Janitorial.**

Landlord shall provide general office janitorial services to the Premises, at least three (3) times each week, without additional cost to Tenant. If Landlord incurs any cleaning expense necessitated by the negligence of Tenant or its invitees, such expense shall be at the sole cost and expense of Tenant, and Tenant shall reimburse Landlord for the same within thirty (30) days of receipt of any invoice therefor.

(e) **Maintenance and Repairs.**

(i) Landlord shall be responsible for making routine repairs and for performing routine maintenance to the Premises, at Landlord's expense. Tenant agrees that all damage done or maintenance required due to specific tenancy requirements (e.g. Tenant's use of specialty equipment, whether owned by Tenant or Landlord, or Tenant's improvements) to the Premises by Tenant or its invitees or any person present because of Tenant's occupation of the Premises, shall be paid by Tenant.

(ii) Landlord shall maintain, at its sole cost and expense, the roof, exterior walls (excluding windows) of the Building in which the Premises are located.

(iii) Landlord shall maintain, at its sole cost and expense, the parking area with snow and ice removal provided during inclement weather.

8. **Tenant Insurance.** Tenant is self-insured for general and automobile liability exposures funded by the State of Nevada. The self-insurance program is administered by the Nevada Attorney General's Office. Claims are handled in accordance with Chapter 41 of the Nevada Revised Statutes. Under NRS Chapter 41, claims against the State and Tenant are limited to \$100,000 per cause of action. There is no per occurrence cap on claims. In addition, the State and Tenant have a Special General Liability Policy in excess of \$2,000,000 with a limit of \$15,000,000. During the term of this Lease, Tenant shall name Landlord as an additional insured under its excess policy.

9. **Compliance with Laws.**

(a) **General Compliance with Laws.** Tenant shall, at Tenant's own expense, comply with all applicable federal, State of Nevada, county and municipal statutes, ordinances, codes, rules, regulations and requirements (the "**Laws**"), which are applicable only by reason of Tenant's use of and operations at the Premises, provided that compliance with such Laws shall not obligate Tenant to undertake or make any structural changes or improvements to the Premises. In all other respects, Landlord shall, at Landlord's own expense, promptly comply with all Laws applicable to the Premises, regardless of whether compliance necessitates structural or other changes or improvements. Notwithstanding the foregoing, in the event that any Laws or Governmental Authority require the Landlord to make structural or other changes or improvements valued in excess of twenty-percent (20%) of the then fair-market value of the Premises, then Landlord shall have the right

to terminate the this Lease upon sixty (60) days' written notice. Tenant shall have the right to contest, by appropriate legal proceedings, in the name of Tenant or Landlord, the validity or applicability of any Law, and Landlord shall, at no cost to Tenant, cooperate with Tenant in connection with such contest, including, without limitation, signing such affidavits and certifications as may be requested by Tenant (provided that the information therein is accurate) and giving testimony at depositions, hearings or trials with respect to such contest. Prior to the commencement of this Lease, Landlord shall, at Landlord's own expense, obtain and deliver to Tenant a certificate of occupancy for the Premises or other such use permit as may be required for Tenant's use and occupancy of the Premises.

(b) **Environmental Law.**

(i) **Transaction Triggered Environmental Law.** Tenant shall, at Tenant's own expense, comply with any transaction-triggered environmental law (including, without limitation, a law whose applicability is triggered by a sale of the Premises, a cessation of Tenant's operations at the Premises, a corporate reorganization of Tenant, or other transaction or event involving Tenant), the regulations promulgated thereunder and any amending and successor legislation and regulations, now or hereafter existing in the State of Nevada (the "**Cleanup Law**"), to the extent, and only to the extent, that the applicability of the Cleanup Law shall be triggered by an action of Tenant. In all other respects, Landlord shall, at Landlord's own expense, comply with the Cleanup Law. The Party responsible for compliance shall, at such Party's expense, make all submissions to, provide all information to and comply with all requirements of, the applicable state environmental protection or conservation agency enforcing the Cleanup Law. Notwithstanding anything to the contrary, in no event shall Tenant have any obligation to undertake any environmental investigation or remediation of any Contaminants (defined below), unless such Contaminants were Discharged (defined below) by Tenant.

(ii) **Information to Tenant.** At no expense to Tenant, Landlord shall promptly provide all information requested by Tenant or any Governmental Authority (defined below) with respect to Tenant fulfilling Tenant's obligations under this paragraph, and shall promptly sign such affidavits, submissions, and other documents requested by Tenant or any Governmental Authority, including, without limitation, a declaration of environmental restrictions or other institutional control notice as may be necessary in connection with Tenant's compliance with Tenant's obligations under this paragraph 9 provided that the information therein is accurate.

(iii) **Burden of Proof.** In the event of a dispute between Landlord and Tenant with respect to liability for a Discharge of Contaminants, Landlord shall have the burden to prove that the Contaminants were not Discharged by Landlord, and, failing to carry such burden, Landlord shall be responsible, at Landlord's own expense, to assess, investigate, sample and remediate such Contaminants, pay all filing fees, post any security required for such environmental compliance and take all other action required with respect to such Contaminants and environmental compliance.

(iv) **Notice of Meetings.** Tenant shall be notified of all meetings by Landlord or Landlord's representatives, with any Governmental Authority regarding the Premises' environmental compliance, and shall have the right to attend and participate in all such meetings.

(v) **Environmental Documents.** Landlord shall deliver to Tenant all "**Environmental Documents**" that pertain to environmental compliance or the recovery or attempted recovery from an insurance carrier, or both, and to the extent applicable, shall submit such Environmental Documents to Tenant prior to submission to any Governmental Authority, for Tenant's review and comment.

(vi) **Indemnification by Landlord.** Landlord shall indemnify, defend and hold Tenant harmless from and against any and all claims, liabilities, losses, damages, penalties and costs, including, without limitation, counsel, engineering and other professional or expert fees that Tenant may incur, resulting directly or indirectly, wholly or partly, from: (A) a Discharge of Contaminants at the Premises as a result of the actions or

omissions of Landlord or any third party other than Tenant; or (B) a breach by Landlord of Landlord's obligations under this paragraph.

(vii) **Indemnification by Tenant.** To the extent limited in accordance with NRS 41.0305 to NRS 41.039, inclusive, Tenant shall indemnify, defend and hold Landlord harmless from and against any and all claims, liabilities, losses, damages, penalties and costs, including, without limitation, counsel, engineering and other professional or expert fees that Landlord may incur, resulting directly or indirectly, wholly or partly, from: (A) a Discharge of Contaminants at the Premises as a result of the actions or omissions of Tenant; or (B) a breach by Tenant of Tenant's obligations under this paragraph. Tenant will assert the defense of sovereign immunity as appropriate in all cases, including indemnity actions. Tenant's indemnity obligation for actions sounding in tort is limited in accordance with the provisions of NRS 41.035.

(viii) **Interpretation and Definitions.**

(A) **Interpretation.** The obligations imposed upon Landlord and Tenant under this subparagraph (b) are in addition to, and are not intended to limit, but to expand upon, the obligations imposed upon Landlord and Tenant under subparagraph (a).

(B) **Contaminants.** The term "**Contaminants**" shall include, without limitation, any regulated substance, toxic substance, hazardous substance, hazardous waste, pollution, pollutant or contaminant, as defined or referred to in the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §6901 *et seq.*; the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. §9601 *et seq.*; the Water Pollution and Control Act, 33 U.S.C. §1251 *et seq.*; analogous state laws; together with any amendments thereto, regulations promulgated thereunder and all substitutions thereof, as well as words of similar purport or meaning referred to in any other federal, State of Nevada, county or municipal environmental statute, ordinance, code, rule, regulation, order, directive or requirement, including, without limitation, radon, asbestos, polychlorinated biphenyls, urea formaldehyde and petroleum products and petroleum based derivatives. Where a statute, ordinance, code, rule, regulation, order, directive or requirement defines any of these terms more broadly than another, the broader definition shall apply.

(C) **Discharge.** The term "**Discharge**" shall mean the releasing, spilling, leaking, leaching, disposing, pumping, pouring, emitting, emptying or dumping of Contaminants at, into, onto or migrating from or onto the Premises, regardless of whether the result of an intentional or unintentional action or omission.

(D) **Governmental Authority/Governmental Authorities.** The term "**Governmental Authority**" or "**Governmental Authorities**" shall mean the federal, State of Nevada, county or municipal government, or any department, agency, bureau or other similar type body obtaining authority therefrom, or created pursuant to any Laws.

10. **Fire and Other Casualty Affecting the Premises.**

(a) **Notice of Casualty by Tenant.** If the improvements situated upon the Premises shall be damaged or destroyed by any peril, including, but not limited to, fire, windstorm or any other casualty, (each such occurrence, a "**Casualty**"), at any time during the Term of this Lease, whether covered by any insurance policy applicable to the Premises, or not, Tenant shall give prompt notice thereof to Landlord.

(b) **Tenant's Election.** Tenant shall have the right, exercisable by giving written notice to Landlord within fifteen (15) business days after receiving notice of such Casualty, either (i) to terminate this Lease, in which case neither Party shall have further rights or obligations hereunder, or (ii) proceed with restoring the Premises as provided for in this paragraph.

(c) **Restoration by Tenant.** In the event Tenant elects to restore the Premises, Tenant shall proceed in good faith and with due diligence to restore, replace, rebuild and repair the improvements damaged or destroyed by such Casualty to substantially the same condition such improvements were in immediately prior to such damage or destruction. Except and to the extent such Casualty is caused or contributed to by a defect or deficiency warranted by Landlord under this Lease, Landlord shall not be required to rebuild any improvements on the Premises or make any repairs or replacements of any nature or description to the demised premises or any structure or improvement thereon, whether ordinary or extraordinary, or to make any expenditure whatsoever, except as provided herein. The Rent payable hereunder shall not be abated or reduced during any period of casualty damage, restoration, rebuilding, repairs or replacements of any kind. In the event the insurance proceeds are insufficient to repair, replace, restore or rebuild such improvements on the Premises, Tenant shall be permitted to modify or otherwise alter the scope of the restoration work to lower the costs of the same to an amount equal to such proceeds. In the event the insurance proceeds plus all interest are greater than needed, the excess shall be the property of Tenant and shall be retained and/or paid to Tenant. In the event Tenant proceeds with restoration of the Premises, Tenant shall have the sole right to adjust any losses or claims with any insurance carrier.

11. **Assignment and Subletting.** Tenant shall have the right to freely assign this Lease or further sublet and sublicense all or any part of the Premises (i) to any institution or entity affiliated with the Nevada System of Higher Education, and/or (ii) subject to Landlord's prior approval, which shall not be unreasonably withheld, conditioned or delayed, to any third-party(ies) not part of the Nevada System of Higher Education. Notwithstanding any assignment, subletting, or sublicensing, Tenant shall remain liable to Landlord under the terms of this Lease.

12. **Landlord's Right to Inspect and Repair.** Landlord or Landlord's agents, employees or representatives, shall have the right to enter into and upon all or any part of the Premises during the Term at reasonable hours, for the purpose of: (a) examination; (b) determination whether Tenant is in compliance with its obligations under this Lease; or (c) making repairs, alterations, additions or improvements to the Premises, as may be necessary under the terms of this Lease.

13. **Signs.** All signs of Tenant at the Premises shall conform with all municipal ordinances or other Laws applicable to such signs.

14. **Force Majeure.** Whenever a period of time is herein prescribed for the taking of any action by a Party, such Party shall not be liable or responsible for, and there shall be excluded from the computation of such period of time, any delays due to strikes, lockouts, riots, acts of God, shortages of labor or materials, war, civil commotion, fire or other casualty, catastrophic weather conditions, a court order that causes a delay, governmental laws, regulations, or restrictions, or any other cause whatsoever beyond the control of the Party (any of the foregoing being referred to as an "**Unavoidable Delay**"). Landlord and Tenant shall use reasonable efforts to notify the other Party not later than ten (10) business days after such Party knows of the occurrence of an Unavoidable Delay; provided, however, that such Party's failure to notify the other of the occurrence of an event constituting an Unavoidable Delay shall not alter, detract from, or negate its character as an Unavoidable Delay or otherwise result in the loss of any benefit or right granted to such Party under this Lease. In no event shall any Party's financial condition or inability to fund or obtain financing constitute an Unavoidable Delay with respect to such party.

15. **Indemnification and Waiver of Liability.**

(a) **Indemnification by Landlord.** In addition to any other indemnities herein, Landlord shall indemnify, defend and hold harmless Tenant and its successors and assigns and its and their respective affiliates, officers, directors, shareholders, agents, attorneys and employees from and against any and all losses, claims or

other damages (including reasonable attorneys' fees and expenses) (i) arising from or relating to any acts or omissions occurring on the Premises prior to the Lease Effective Date; (ii) arising from its performance of the Landlord's Work; and (iii) any breach by Landlord of any representation or warranty under this Lease.

(b) **Indemnification by Tenant.** In addition to any other indemnities herein, to the extent limited in accordance with NRS 41.0305 to NRS 41.039, inclusive, Tenant shall indemnify, defend and hold harmless Landlord and its successors and assigns and its and their respective affiliates, officers, directors, shareholders, agents, attorneys and employees from and against any and all losses, claims or other damages (including reasonable attorneys' fees and expenses) (i) arising from or relating to any negligent acts or omissions of Tenant's employees or agents occurring on the Premises after the Lease Effective Date; (ii) arising from its performance of the Tenant's Work; and (iii) any breach by Tenant of any representation or warranty under this Lease. Tenant will assert the defense of sovereign immunity as appropriate in all cases, including indemnity actions. Tenant's indemnity obligation for actions sounding in tort is limited in accordance with the provisions of NRS 41.035.

16. **Subordination; Attornment.**

(a) **Subordination.** Subject to Tenant receiving an SNDA (defined below), this Lease shall be subject and subordinate to any mortgage, deed of trust, trust indenture, assignment of leases or rents or both, or other instrument evidencing a security interest, which may now or hereafter affect any portion of the Premises, or be created as security for the repayment of any loan or any advance made pursuant to such an instrument or in connection with any sale-leaseback or other form of financing transaction and all renewals, extensions, supplements, consolidations, and other amendments, modifications, and replacements of any of the foregoing instruments ("**Mortgage**"). Tenant shall, at the request of any successor-in-interest to Landlord claiming by, through, or under any Mortgage, attorn to such person or entity as described below. The foregoing provisions of this subparagraph (a) shall be self-operative and no further instrument of subordination shall be required to make the interest of any mortgagee, trustee or other holder of or beneficiary under a Mortgage (a "**Mortgagee**") superior to the interest of Tenant hereunder; provided, however, Tenant shall execute and deliver promptly any certificate or instrument, in recordable form, that Landlord or Mortgagee may reasonably request in confirmation of such subordination.

(b) **Rights of Mortgagee.** Any Mortgagee may elect that this Lease shall have priority over the Mortgage that it holds and, upon notification to Tenant by such Mortgagee, this Lease shall be deemed to have priority over such Mortgage, whether this Lease is dated prior to or subsequent to the date of such Mortgage. If, in connection with the financing of the Premises, any Mortgagee shall request reasonable modifications of this Lease that do not increase the monetary obligations of Tenant under this Lease, materially increase Tenant's other obligations, materially reduce Landlord's obligations, or materially and adversely affect the rights of Tenant under this Lease, then Tenant shall make such modifications.

(c) **Attornment.** If at any time prior to the expiration of the Term of this Lease, any Mortgagee comes into possession of the Premises by receiver or otherwise, Tenant shall, at the election and upon the demand of any owner of the Premises, or of any Mortgagee-in-possession of the Premises, attorn, from time to time, to any such owner or Mortgagee, or any person or entity acquiring the interest of Landlord as a result of a foreclosure of the Mortgage or the granting of a deed in lieu of foreclosure, upon the then-executory terms and conditions of this Lease, for the remainder of the Term. In addition, in no event shall any such owner or Mortgagee, or any person or entity acquiring the interest of Landlord be bound by (i) any payment of Rent for more than one (1) month in advance, (ii) any security deposit or the like not actually received by such successor, (iii) any amendment or modification in this Lease made without the consent of the applicable Mortgagee, (iv) any construction obligation, free rent, or other concession or monetary allowance not contained in this Lease, (v) any set-off, counterclaim, or the like otherwise available against any prior landlord (including Landlord), or (vi) any act or omission of any prior landlord (including Landlord).

(d) **Rights Accruing Automatically.** The provisions of this paragraph 16 shall inure to the benefit of any such successor-in-interest to Landlord, and shall be self-operative upon any such demand, and no further instrument shall be required to give effect to such provisions. Tenant, however, upon demand of any such successor-in-interest to Landlord, shall execute, from time to time, instruments in confirmation of the foregoing provisions of this paragraph, reasonably satisfactory to any such successor-in-interest to Landlord, acknowledging such attornment and setting forth the terms and conditions of its tenancy.

(e) **SNDA.** Notwithstanding anything to the contrary contained in this paragraph, as a condition to the effectiveness of this Lease, Landlord shall obtain, for the benefit of Tenant, a Subordination, Non-Disturbance and Attornment Agreement (“**SNDA**”) from each and every Mortgagee existing as of the Effective Date, such SNDA to be in form and content reasonably acceptable to Tenant and the applicable Mortgagee. Landlord represents and warrants to Tenant that, as of the Effective Date, it is the fee simple owner of the Premises, and that, as of the date hereof, there are no Mortgages with respect to the Premises other than in connection with Mortgagees providing such SNDAs to Tenant. In addition, the items set forth in subparagraph (c)(i) through (vi) of this paragraph shall be subject to reasonable negotiation by Tenant and the applicable Mortgagee as part of the applicable SNDA.

(f) **Right of Termination.** If Tenant does not receive the required the SNDAs from Landlord’s existing Mortgagees as of the Effective Date within ten (10) business days after the Effective Date, then Tenant shall have the right to terminate this Lease by written notice to Landlord delivered within ten (10) business days after the expiration of such ten (10) business day period, whereupon Landlord shall return any prepaid Rent, if any, to Tenant, and both Parties shall be relieved of all further obligations hereunder.

17. **Condemnation.**

(a) **Total Taking.** If a portion of the Premises is taken so that ingress to and egress from the Premises is materially reduced, or the whole or any substantial portion of the Premises is taken for any public or quasi-public use under governmental law, ordinance or regulation, or by right of eminent domain, or by private purchase in lieu thereof, this Lease shall terminate and the Rent shall be abated during the unexpired portion of this Lease, effective when the physical taking of the Premises shall occur.

(b) **Partial Taking.** If less than a substantial part of the Premises is taken, or a portion of the Premises is taken so that ingress to and egress from the Premises is materially reduced, for any public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain, or by private purchase in lieu thereof, Tenant may elect to either: (i) terminate this Lease, in which case neither Party shall have further rights or obligations hereunder, or (ii) if Tenant determines in its reasonable opinion the Premises are still suitable for Tenant’s business purposes, the Lease shall not terminate, but the Rent payable hereunder during the unexpired portion of the Term shall be reduced to such extent as may be fair and reasonable under all of the circumstances.

(c) **Right to Proceeds.** In the event of any such taking or private purchase in lieu thereof, Landlord and Tenant shall each be entitled to receive and retain such separate awards and/or portion of lump sum awards as may be allocated to their respective interests in any condemnation proceeding, and, in addition, Landlord shall be entitled to the unamortized value of any fixtures and leasehold improvements not capable of removal.

18. **Default and Remedies.**

(a) **Tenant Event of Default.** If any one or more of the following events shall occur and be continuing beyond the period set forth in any default notice provided to be given, a “**Tenant Event of Default**” shall have occurred under this Lease:

(i) **Non-Payment.** If Tenant shall fail to pay any installment of Rent due from Tenant to Landlord under this Lease within thirty (30) days after delivery of written notice from Landlord to Tenant that the same is past due and payable; or

(ii) **Non-Performance.** If Tenant shall fail to comply with any of the other terms, covenants, conditions or obligations of this Lease and such failure in compliance shall continue for thirty (30) days after the giving of written notice by Landlord to Tenant specifying the failure, or, if such failure cannot with due diligence be remedied within thirty (30) days, Tenant shall not, in good faith have commenced within said thirty (30) day period to remedy such failure and continued diligently and continuously thereafter to prosecute the same to completion.

(b) **Landlord Event of Default.** If any one or more of the following events shall occur and be continuing beyond the period set forth in any default notice provided to be given, a “**Landlord Event of Default**” shall have occurred under this Lease:

(i) **Non-Performance.** If Landlord shall fail to comply with any of the terms, covenants, conditions or obligations of this Lease and such failure in compliance shall continue for thirty (30) days after the giving of written notice by Tenant to specifying the failure, or, if such failure cannot with due diligence be remedied within thirty (30) days, Landlord shall not, in good faith have commenced within said thirty (30) day period to remedy such failure and continued diligently and continuously thereafter to prosecute the same to completion; or

(ii) The filing of a petition proposing the adjudication of Landlord as bankrupt or insolvent, or the reorganization of Landlord, or an arrangement by Landlord with its creditors, whether pursuant to the Federal Bankruptcy Act or any similar federal or state proceeding, unless such petition is filed by a party other than Landlord and is withdrawn or dismissed within sixty (60) days after the date of its filing.

(c) **Right to Terminate Lease and Re-Enter.** If there shall occur a Tenant Event of Default, then Landlord may, in addition to any other remedy available to Landlord under this Lease or available under applicable law, at Landlord’s option, on ten (10) business days’ notice to Tenant, declare this Lease terminated at the expiration of such ten (10) business day period and Tenant shall quit and surrender possession of the Premises, but Tenant shall remain liable to Landlord as hereinafter provided, and upon Tenant’s failure to surrender of possession, Landlord may re-enter the Premises by summary proceeding or otherwise free from any estate or interest of Tenant therein.

(d) **Right to Injunction.** In the event of a breach or threatened breach by Tenant of any of the covenants or provisions hereof, Landlord shall have the right of injunction and the right to invoke any of the remedies expressly allowed under the terms of this Lease or Nevada law.

(e) **Tenant’s Remedies.** If there shall occur a Landlord Event of Default, then Tenant may, in addition to any other remedy available to Tenant under this Lease or available under applicable law, at Tenant’s option, (i) on ten (10) business days’ notice to Landlord, declare this Lease terminated at the expiration of such ten (10) business day period, or (ii) pursue one or more of the following remedies: (A) specific performance; and/or (B) injunctive relief.

19. **Tenant’s Trade Fixtures and Removal.** Any trade equipment, trade fixtures, goods or other property of Tenant shall be removed by Tenant on or before any early termination of the Lease prior to expiration of the Term hereof. Any trade equipment, trade fixtures, goods or other property of Tenant not removed by Tenant within ten (10) business days after any early termination of the Lease prior to expiration of the Term hereof, or upon Tenant’s eviction, shall, at Landlord’s discretion, be considered as abandoned and Landlord shall

have the right (without any obligation to do so), with prior notice to Tenant, to sell or otherwise dispose of Tenant's property, at the expense of Tenant, and Landlord shall not be accountable to Tenant for any proceeds of the sale, or for any damage or loss to Tenant's property.

20. **Estoppel Certificate.** Within ten (10) business days of request from Landlord, Tenant shall execute, acknowledge and deliver to Landlord, a written instrument certifying (i) that this Lease has not been modified and is in full force and effect, or if there has been a modification, that the Lease is in full force and effect as modified, stating the modification; (ii) specifying the dates to which Rent and other sums due from Tenant under this Lease have been paid and; (iii) stating whether or not to the knowledge of Tenant, Landlord is in default, and if so, the reasons for the default.

21. **Security.** Intentionally deleted.

22. **Notices.** All notices, consents, demands, communications or approvals required or permitted by this Lease shall be in writing and shall be delivered personally or delivered by certified or registered mail, return receipt requested, addressed as follows:

If to Tenant:

Director of Real Estate
895 N. Center Street
Reno, NV 89501
775.784.4180

With a copy to:

General Counsel
1664 N. Virginia St. Mail Stop 0550
Reno, NV 89557
775.784.3493

If to Landlord:

Janice and John Bostock
5740 Cottage Ridge Rd.
Santa Rosa, CA 95403

With a copy to:

Richard D. Williamson, Esq.
Robertson, Johnson, Miller & Williamson
50 West Liberty Street, Suite 600
Reno, Nevada 89501

Landlord and Tenant may, by notice given in the same manner set forth above, designate a different address to which subsequent notices shall be sent. Notice shall be deemed given when delivered, if delivered personally or the next business day if sent by reputable overnight delivery service that provides proof of delivery, or three (3) days after mailing if sent by certified or registered mail, return receipt requested.

23. **Broker.** NAI Alliance (Dan Oster) represents Landlord; and Argent Commercial (Sue Smith) and Industrial Properties of Nevada (Mark Glenn) represents Tenant. Landlord's broker shall be compensated by the

Landlord. Tenant's broker shall be compensated by the broker representing the Landlord. Each Party represents and warrants to the other no real estate broker was instrumental in effecting this Lease.

24. **Tenant's Right to Quiet Enjoyment.** Upon paying the Rents and other sums required of Tenant under the Lease and faithfully and fully performing the terms, conditions and covenants of the Lease on Tenant's part to be performed, Tenant shall peaceably and quietly have, hold and enjoy the Premises for the Lease Term.

25. **Funding Out Clause.** In the event no funds or insufficient funds are appropriated and budgeted or are otherwise available to the Tenant in any fiscal period for obligations due from the Tenant under this Lease, then this Lease shall terminate on the last day of the fiscal period for which appropriations were received, without penalty, charge, or expense to the Tenant of any kind whatsoever. Tenant agrees to provide written notice to Landlord of this eventuality, should it occur.

26. **Miscellaneous.**

(a) **Validity of Lease.** The provisions of this Lease are severable. If any provision of the Lease is adjudged to be invalid or unenforceable by a court of competent jurisdiction, it shall not affect the validity of any other provision of this Lease.

(b) **Non-Waiver.** The failure of either Party to enforce performance by the other Party of any provision of this Lease applicable to such other Party, or to exercise any right, remedy, option or election, or the acceptance by Landlord of the Rent from Tenant after any Tenant Event of Default, in any one or more instances, shall not act as a waiver or a relinquishment at the time or in the future, of such provisions of this Lease, and they shall continue in full force and effect.

(c) **Entire Agreement.** This Lease contains the entire agreement between the Parties. No representative, agent or employee of Landlord has been authorized to make any representations, warranties or promises with respect to the letting, or to vary, alter or modify the provisions of the Lease. No additions, changes, modifications, renewals or extensions of this Lease, shall be binding unless reduced to writing and signed by both Parties.

(d) **Effective Law.** This Lease shall be governed by, construed and enforced in accordance with the laws of the State of Nevada without giving effect to its principles of conflicts of law.

(e) **Captions.** The captions of the paragraphs in this Lease are for reference purposes only and shall not in any way affect the meaning or interpretation of this Lease.

(f) **Counterparts.** This Lease may be executed in one or more counterparts, each of which shall be an original, and all of which constitutes one and the same Lease.

(g) **Landlord's Performance of Tenant's Obligations.** The performance by Landlord of any obligation required of Tenant under this Lease shall not be construed to modify this Lease, nor shall it create any obligation on the part of Landlord with respect to any performance required of Tenant under this Lease, whether Landlord's performance was undertaken with the knowledge that Tenant was obligated to perform, or whether Landlord's performance was undertaken as a result of mistake or inadvertence.

(h) **No Offer.** The submission of the Lease to Tenant shall not be deemed an offer by Landlord to rent the Premises to Tenant, such an offer only being made by the delivery to Tenant of a Lease signed by Landlord.

(i) **Surrender.** Neither the acceptance of keys to the Premises nor any other act or thing done by

IN WITNESS WHEREOF, the Parties hereto have executed this Lease as of the date first above written.

Tenant:

BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION, ON BEHALF OF THE UNIVERSITY OF NEVADA, RENO

Recommended by
Marc Johnson

Marc Johnson
President, University of Nevada, Reno

5-1-17

Date

Approved by,

John V. White
Chancellor, Nevada System of Higher Education

Date

Landlord:

THE JOHN E. & JANICE W. BOSTOCK TRUST

By: *John E. Bostock*

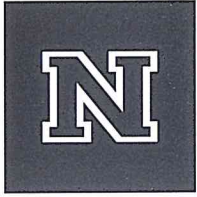
Name: *John E. Bostock*

Title: *Trustee*

Date: *4/25/17*

Date

Janice W. Bostock
Janice W. Bostock
Trustee
4/25/17



University of Nevada, Reno

Marc A. Johnson
President

MEMORANDUM

TO: Chancellor White

FROM: President Marc A. Johnson

DATE: April 27, 2017

SUBJECT: Signature Authority

I will be away from the office May 1, 2017 through May 3, 2017.

During my absence, I have designated signature authority to Vice President Administration and Finance Ron Zurek. He has been given authority to sign on University of Nevada, Reno business and financial transactions during these specified dates.

MAJ/js

Office of the President
Clark Administration, Room 201
University of Nevada, Reno/001
Reno, Nevada 89557-0001
(775) 784-4805
marc@unr.edu
www.unr.edu/president

Exhibit A

DESCRIPTION OF PREMISES

Legal Description : Knoll Crest Acres Frac Lot 8
County : Washoe, Nv
Subdivision : Knoll Crest Acres
Census Tract / Block : 10.05 / 1
Map Reference : 024-12
Township-Range- Sect : 19-19
School District : Washoe County
Legal Lot : 8
Munic/Township : City Of Reno
APN : 024-122-10
Neighbor Code : ADAQ
Alternate APN : 45303

Exhibit B

WORK LETTER

1. **TENANT IMPROVEMENTS.** As used in the Lease and this Work Letter, the term “**Tenant Improvements**” or “**Tenant Improvement Work**” means those items of general tenant improvement construction shown on the Final Plans (described in Section 4 below).

2. **WORK SCHEDULE.** Within ten (10) days after the execution of this Lease, Landlord will deliver to Tenant, for Tenant’s review and approval, a schedule (“**Work Schedule**”) which will set forth the timetable for the planning and completion of the installation of the Tenant Improvements. The Work Schedule will set forth each of the various items of work to be done or approval to be given by Landlord and Tenant in connection with the completion of the Tenant Improvements. The Work Schedule will be submitted to Tenant for its approval, which approval Tenant agrees not to unreasonably withhold, and, once approved by both Landlord and Tenant, the Work Schedule will become the basis for completing the Tenant Improvements. All plans and drawings required by this Work Letter and all work performed pursuant thereto are to be prepared and performed in accordance with the Work Schedule. Landlord may, from time to time during construction of the Tenant Improvements, modify the Work Schedule as Landlord reasonably deems appropriate. If Tenant fails to approve the Work Schedule, as it may be modified after discussions between Landlord and Tenant within ten (10) business days after the date the Work Schedule is first received by Tenant, the Work Schedule shall be deemed to be approved by Tenant as submitted or Landlord may, at its option, terminate the Lease upon written notice to Tenant.

3. **CONSTRUCTION REPRESENTATIVES.** Landlord hereby appoints the following person(s) as Landlord’s representative (“**Landlord’s Representative**”) to act for Landlord in all matters covered by this Work Letter: _____.

Tenant hereby appoints the following person(s) as Tenant’s representative (“**Tenant’s Representative**”) to act for Tenant in all matters covered by this Work Letter: _____.

All communications with respect to the matters covered by this Work Letter are to be made to Landlord’s Representative or Tenant’s Representative, as the case may be, in writing in compliance with the notice provisions of the Lease. Either Party may change its representative under this Work Letter at any time by written notice to the other Party in compliance with the notice provisions of the Lease.

4. **TENANT IMPROVEMENT PLANS.**

(a) **Preparation of Space Plans.** In accordance with the Work Schedule, Tenant agrees to meet with Landlord’s architect and/or space planner for the purpose of promptly preparing preliminary space plans for the layout of the Premises (“**Space Plans**”). The Space Plans are to be sufficient to convey the architectural design of the Premises and layout of the Tenant Improvements therein and are to be submitted to Landlord in accordance with the Work Schedule for Landlord’s approval. If Landlord reasonably disapproves any aspect of the Space Plans, Landlord will advise Tenant in writing of such disapproval and the reasons therefor in accordance with the Work Schedule. Tenant will then submit to Landlord for Landlord’s approval, in accordance with the Work Schedule, a redesign of the Space Plans incorporating the revisions reasonably required by Landlord.

(b) **Preparation of Final Plans.** Based on the approved Space Plans, and in accordance with the Work Schedule, Landlord’s architect will prepare complete architectural plans, drawings and specifications and complete engineered mechanical, structural and electrical working drawings for all of the Tenant Improvements for the Premises (collectively, the “**Final Plans**”). The Final Plans will be submitted to Tenant for signature to

confirm that they are consistent with the Space Plans. If Tenant reasonably disapproves any aspect of the Final Plans based on any inconsistency with the Space Plans, Tenant agrees to advise Landlord in writing of such disapproval and the reasons therefor within the time frame set forth in the Work Schedule. In accordance with the Work Schedule, Landlord will, subject to Section 4(c) below, then cause Landlord's architect to redesign the Final Plans incorporating the revisions reasonably requested by Tenant so as to make the Final Plans consistent with the Space Plans.

(c) **Requirements of Tenant's Final Plans.** Landlord will not unreasonably withhold its consent to changes in the Final Plans proposed by Tenant provided the Final Plans, as revised, will: (i) be compatible with the Building shell and with the design, construction and equipment of the Building; (ii) comply with all applicable Laws, ordinances, rules and regulations of all governmental authorities having jurisdiction, and all applicable insurance regulations; (iii) not require Building service beyond the level normally provided to other tenants and will not overload the Building floors; and (iv) be of a nature and quality consistent with the overall objectives of Landlord for the Building, as determined by Landlord in its reasonable discretion.

(d) **Submittal of Final Plans.** Once approved by Landlord and Tenant, Landlord's architect will submit the Final Plans to the appropriate governmental agencies for plan checking and the issuance of a building permit. Landlord's architect, with Tenant's cooperation, will make any changes to the Final Plans which are requested by the applicable governmental authorities to obtain the building permit. After approval of the Final Plans no further changes may be made without the prior written approval of both Landlord and Tenant, and then only after agreement by Tenant to pay any costs resulting from the design and/or construction of such changes in excess of the Allowance (defined below). Landlord's approval of the Final Plans shall create no liability or responsibility on the part of Landlord for the completeness of such plans or their design sufficiency or compliance with Laws.

(e) **Changes to Shell of Building.** If the Final Plans or any amendment thereof or supplement thereto shall require changes in the Building shell, the increased cost of the Building shell work caused by such changes will be paid for by Tenant or charged against the "**Allowance**" described in Section 5 below.

(f) **Work Cost Estimate and Statement.** Prior to the commencement of construction of any of the Tenant Improvements shown on the Final Plans, Landlord will submit to Tenant a written estimate of the cost (the "**Work Cost**") to complete the Tenant Improvement Work, which written estimate will be based on the Final Plans taking into account any modifications which may be required to reflect changes in the Final Plans required by the City or County in which the Premises are located (the "**Work Cost Estimate**"). Tenant will either approve the Work Cost Estimate or disapprove specific items and submit to Landlord revisions to the Final Plans to reflect deletions of and/or substitutions for such disapproved items. Submission and approval of the Work Cost Estimate will proceed in accordance with the Work Schedule. Upon Tenant's approval of the Work Cost Estimate (such approved Work Cost Estimate to be hereinafter known as the "**Work Cost Statement**"), Landlord will have the right to purchase materials and to commence the construction of the items included in the Work Cost Statement pursuant to Section 6 hereof. If the total costs reflected in the Work Cost Statement exceed the Allowance described in Section 5 below, Tenant agrees to pay such excess, as Additional Rent, within thirty (30) days after Tenant's approval of the Work Cost Estimate. Throughout the course of construction, any differences between the estimated Work Cost in the Work Cost Statement and the actual Work Cost will be determined by Landlord and appropriate adjustments and payments by Landlord or Tenant, as the case may be, will be made within ten (10) business days thereafter.

5. PAYMENT FOR THE TENANT IMPROVEMENTS.

(a) **Allowance.** Landlord hereby grants to Tenant an Allowance a sum of \$200,000.00 (two hundred thousand dollars). The Allowance is to be used only for:

(i) Payment of the cost of preparing the Space Plans and the Final Plans, including mechanical, electrical, plumbing and structural drawings and of all other aspects necessary to complete the Final Plans. . The Allowance will not be used for payments to any other consultants, designers or architects other than Landlord's architect, engineers and consultants.

(ii) The payment of plan check, permit and license fees relating to construction of the Tenant Improvements.

(iii) Construction of the Tenant Improvements, including, without limitation, the following:

(aa) Installation within the Premises of all partitioning, doors, floor coverings, ceilings, wall coverings and painting, millwork and similar items;

(bb) All electrical wiring, lighting fixtures, outlets and switches, and other electrical work necessary for the Premises;

(cc) The furnishing and installation of all duct work, terminal boxes, diffusers and accessories necessary for the heating, ventilation and air conditioning systems within the Premises, including the cost of meter and key control for after-hours air conditioning;

(dd) Any additional improvements to the Premises required for Tenant's use of the Premises including, but not limited to, odor control, special heating, ventilation and air conditioning, noise or vibration control or other special systems or improvements;

(ee) All fire and life safety control systems such as fire walls, sprinklers, halon, fire alarms, including piping, wiring and accessories, necessary for the Premises;

(ff) All plumbing, fixtures, pipes and accessories necessary for the Premises;

(gg) Testing and inspection costs; and

(hh) Fees for the general contractor including, but not limited to, fees and costs attributable to general conditions associated with the construction of the Tenant Improvements.

(iv) All other costs to be expended by Landlord in the construction of the Tenant Improvements, including those costs incurred by Landlord for construction of elements of the Tenant Improvements in the Premises, which construction was performed by Landlord prior to the execution of this Lease by Landlord and Tenant and which construction is for the benefit of tenants and is customarily performed by Landlord prior the execution of leases for space in the Building for reasons of economics (examples of such construction would include, but not be limited to, the extension of mechanical [including heating, ventilating and air conditioning systems] and electrical distribution systems outside of the core of the Building, wall construction, column enclosures and painting outside of the core of the Building, ceiling hanger wires and window treatment).

(b) **Excess Costs.** The cost of each item referenced in Section 5(a) above shall be charged against the Allowance. If the actual Work Cost exceeds the Allowance, Tenant agrees to pay to Landlord such excess including the fee for Landlord's contractor associated with such excess work within ten (10) business days after invoice therefor (less any sums previously paid by Tenant for such excess pursuant to the Work Cost Estimate). In no event will the Allowance be used to pay for Tenant's furniture, artifacts, equipment, telephone systems or any other item of personal property which is not affixed to the Premises.

(c) **Changes.** If, after the Final Plans have been prepared and the Work Cost Statement has been established, Tenant requires any changes or substitutions to the Final Plans, any additional costs related thereto including the fee for Landlord's contractor associated with such changes or substitutions are to be paid by Tenant to Landlord within ten (10) business days after invoice therefor. Any changes to the Final Plans will be approved by Landlord and Tenant in the manner set forth in Section 4 above and will, if necessary, require the Work Cost Statement to be revised and agreed upon between Landlord and Tenant in the manner set forth in Section 4(f) above. Landlord will have the right to decline Tenant's request for a change to the Final Plans if such changes are inconsistent with the provisions of Section 4 above, or if the change would unreasonably delay construction of the Tenant Improvements.

(d) **Governmental Cost Increases.** If increases in the cost of the Tenant Improvements, over the amount of the Allowance provided for under Section 5(a), as set forth in the Work Cost Statement are due to requirements of any governmental agency, Tenant agrees to pay Landlord the amount of such increase including the fee for Landlord's contractor associated with such additional work within ten (10) business days after Landlord's written notice; provided, however, that Landlord will first apply toward any such increase any remaining balance of the Allowance.

(e) **Unused Allowance Amounts.** Any unused portion of the Allowance upon completion of the Tenant Improvements will not be refunded to Tenant or be available to Tenant as a credit against any obligations of Tenant under the Lease unless Tenant has paid for excess costs as described above, in which case the unused Allowance may be applied toward such excess cost amounts and paid to Tenant.

6. CONSTRUCTION OF TENANT IMPROVEMENTS. Until Tenant approves the Final Plans and Work Cost Statement, Landlord will be under no obligation to cause the construction of any of the Tenant Improvements. Following Tenant's approval of the Work Cost Statement described in Section 4(f) above and upon Tenant's payment of the total amount by which such Work Cost Statement exceeds the Allowance, if any, Landlord's contractor will commence and diligently proceed with the construction of the Tenant Improvements, subject to Tenant Delays (defined below) and Force Majeure Delays (defined below).

7. COMMENCEMENT DATE AND SUBSTANTIAL COMPLETION.

(a) **Commencement Date.** The Term of the Lease will commence on the date Effective Date.

(b) **Substantial Completion; Punch-List.** For purposes of Section 7(a)(ii) above, the Tenant Improvements will be deemed to be "**substantially completed**" when Landlord: (a) is able to provide Tenant with reasonable access to the Premises and (b) has substantially performed all of the Tenant Improvement Work required to be performed by Landlord under this Work Letter, other than minor "punch-list" type items and adjustments which do not materially interfere with Tenant's access to or use of the Premises. Within ten (10) days after delivery of the Premises to Tenant, Tenant and Landlord will conduct a walk-through inspection of the Premises and prepare a written punch-list specifying those punch-list items which require completion, which items Landlord will thereafter diligently complete.

(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 will commence on or before the Effective Date. Landlord agrees to use its commercially reasonable efforts to cause the Premises to be substantially completed on or before the Estimated Effective Date. Tenant agrees that if Landlord is unable to deliver possession of the Premises to Tenant on or prior to the Estimated Effective Date, the Lease will not be void or voidable, nor will Landlord be liable to Tenant for any loss or damage resulting therefrom.

8. TENANT DELAYS. For purposes of this Work Letter, "**Tenant Delays**" means 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 delivered by Landlord to Tenant pursuant to this Work Letter; (b) Tenant's changes to Space Plans or Final Plans after Landlord's approval thereof; (c) Tenant's request for materials, finishes, or installations which are not readily available; or (d) any delay of Tenant in making payment to Landlord for Tenant's share of the Work Cost.

9. **FORCE MAJEURE DELAYS.** For purposes of this Work Letter, "**Force Majeure Delays**" means any actual delay in the construction of the Tenant Improvements, which is beyond the reasonable control of Landlord or Tenant.