

March 2, 2021

Ms. Lesley Jackson
Property Manager
M.C. Strauss Company
990 Highland Drive, Suite 200
Solana Beach, CA 92075

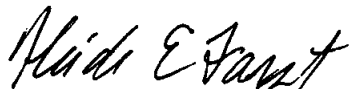
RE: MCS Sports Arena Business Park - Consent to Sublease
Matt Spencer
Orsy's Speed Shop LC

Dear Ms. Jackson:

Please find enclosed the fully executed originals of the Consents to Sublease for Matt Spencer and Orsy's Speed Shop LLC.

If you have any questions, please contact me at (619) 236-6727 or hfarst@saniego.gov.

Sincerely,



Heide E. Farst, CSM
Property Agent

/hef
Encls.

I:\Support Staff Group\WPO\2021\FARSTL-JACKSON.doc

CITY OF SAN DIEGO
CONSENT TO SUBLEASE

THIS CONSENT TO SUBLEASE (Consent) is made by THE CITY OF SAN DIEGO, a California municipal corporation (City), to be effective as of the later date that this Consent is executed by City and approved by the San Diego City Attorney (Effective Date).

RECITALS

- A. City and Kathryn Crake dba Triland Development Company were the original parties to that certain Flat Rate Lease filed in the Office of the San Diego City Clerk on October 25, 1978, as Document No. 764812 (Master Lease). Through a series of City-approved assignments, MCS Sports Arena Business Park LLC (MCS) became the successor in interest to the Master Lease and is the current lessee under the Master Lease (Lessee).
- B. Lessee now desires to sublease a portion of its leasehold, consisting of approximately 900 rentable square feet of the premises located at 3770 Hancock Street, Suite H, to Orsy's Speed Shop LLC, a California limited liability company (Sublessee).
- C. Section IV.A.2 of the Master Lease requires that the Lessee obtain City's consent prior to the sublease of any portion of Lessee's right, title or interest in the Master Lease.

NOW, THEREFORE, based on the foregoing recitals which are incorporated into this Consent by this reference, City provides its consent subject to the following conditions:

- 1. In reliance upon Sublessee's written agreement to assume the rights and obligations subleased and to keep and perform all covenants, conditions, and provisions of the Master Lease which are applicable to the rights acquired, City hereby consents to Lessee's request to sublease that certain portion, as set forth in Recital "B" above, of its right, title and interest in and to the Master Lease to Sublessee in accordance with the permitted use stated in the Master Lease. By providing its Consent, City is merely consenting to Lessee's request to sublease that certain portion of the Master Lease to the Sublessee, not approving the sublease between Lessee and Sublessee. All terms and conditions of the Master Lease shall control and supersede all provisions in any sublease executed between Lessee and Sublessee.
- 2. City does not release, discharge or modify Lessee's obligations to City under the Master Lease.
- 3. This Consent does not constitute consent to any subsequent subleases.
- 4. Prior to the Effective Date of this Consent, Lessee must pay City any applicable processing and or administrative fee(s) in the amount of Nine Hundred Ninety Dollars and No Cents (\$990.00) for processing this Consent. Payment was received by CITY on September 1, 2020.

5. City shall not be liable for any brokerage commission or finder's fee in connection with the consummation of the sublease. Further, Lessee agrees to protect, defend, indemnify, and hold City, its elected officials, officers, representatives, agents, and employees harmless from and against any claim for any brokerage commission or finder's fee related to the consummation of this Consent, and from and against any cost or expense (including without limitation attorney fees) incurred by City in resisting any claim for any such brokerage commission or finder's fee.

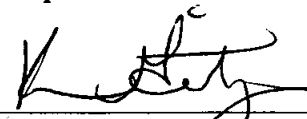
IN WITNESS WHEREOF, this Consent is executed by City acting by and through its Mayor, or his designee.

THE CITY OF SAN DIEGO, a California
municipal corporation

Date: _____

2/5/2021

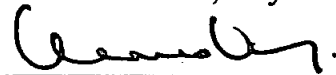
BY: _____


Kristin Geitz, Interim Director
Real Estate Assets Department

Approved as to form this 24th day
of February 2021.

MARA W. ELLIOT, City Attorney

BY: _____



Deputy City Attorney

Marco A. Verdugo
Deputy City Attorney

H:\Shared\READ\First\MCS Sports Arena Business Park\ Consent to Sublease – Orsy's Speed Shop 1.4.21

EXHIBIT K
MEMORANDUM
CERTIFICATE

SAMPLE - DO NOT COMPLETE UNTIL DELIVERY OF POSSESSION OF THE PREMISES

This memorandum is made of August 10, 2020 with reference to that certain Sublease Agreement (hereinafter referred to as the "Sublease") dated August 7, 2020 by and between MCS Sports Arena Business Park LLC, a California limited liability company, as "Sublessor" therein, and Matt Spencer, a single man, as "Sublessee."

The undersigned, as Sublessee under said Sublease, hereby confirms the following:

1. The Sublessee accepted possession of the Premises (as described in said Sublease) on 8/10/20 and acknowledges that the Premises are as represented by Sublessor and in good order, condition and repair; and that the improvements, if any, required to be constructed for and/or furnished to Sublessee by Sublessor under said Sublease have been so constructed and/or furnished and are satisfactorily completed in all respects.
2. That all conditions of said Sublease to be performed by Sublessor prerequisite to the full effectiveness of said Sublease have been satisfied and that Sublessor has fulfilled all of its duties of an inducement nature.
3. That in accordance with the provisions of Paragraph 4 of said Sublease the Commencement Date (as the phrase "Commencement Date" is defined in said Sublease) of the term is 8/10/20 and that, unless sooner terminated, the original term thereof expires on 8/31/21.
4. That said Sublease (as amended, if amended) is in full force and effect and that the same represents the entire agreement between Sublessor and Sublessee concerning said Sublease.
5. That there are no existing defenses which Sublessee has against the enforcement of said Sublease by Sublessor, and no offsets or credits against rentals except as may be expressly provided in said Sublease.
6. That the minimum rental obligation of said Sublease is presently in effect and that all rentals, charges and other obligations on the part of Sublessee under said Sublease commenced to accrue on 8/10/20.
7. That the undersigned Sublessee has no notice of any prior assignment, hypothecation or pledge of said Sublease or of the rents thereunder.

SUBLESSOR:
MCS SPORTS ARENA BUSINESS PARK LLC
A CALIFORNIA LIMITED LIABILITY COMPANY
BY: MCS GUARDIAN PROPERTIES LLC
A DELAWARE LIMITED LIABILITY COMPANY

SUBLESSEE:
MATT SPENCER
A SINGLE MAN

ITS: MANAGER

BY:

Matt Spencer
MATTHEW C. STRAUSS

BY:

ITS:

ITS: CEO

This "Memorandum" is hereby approved in form and shall be completed (if necessary) pursuant with Paragraph 4.A of The Sublease and incorporated as part of The Sublease.

SUBLESSOR'S INITIALS:

SUBLESSEE'S INITIALS:

MS

DEPOSIT SUMMARY
 Location: Real Estate Assets
 PROCESSING FEE of \$990.00
 Deposited on August 19, 2020

[illegible]

Notes:
AGENT: HEIDE FARST - \$990.00 PROCESSING FEE FROM MCS SPORTS AREA BUSINESS PARK FOR CONSENT TO SUBLEASE. CHECK NO. 1643, CHECK DATED 8/12/2020, BANK DRAWN: TORREY PINES BANK
Deposited by: ASAL:ANR 65512
Prepared by: ASA:DANA 65512
Renewed by ASALDANR 65512
Approved by
Distribution:

[illegible]

94P REFERENCE	Document Passed:	
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Summary File Saved To:

Shortcut Keys

Summary File .PCF (Ctrl+p)	Summary File .xlsx (Ctrl+x)
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CC. Heide
Farst

102370377



M.C. STRAUSS
COMPANY

August 10, 2020

via USPS Priority Mail

The City of San Diego
Real Estate Assets Department
1200 Third Avenue, Suite 1700, MS 51A
San Diego, CA 92101-4199
Attn: Heide Farst

**RE: SPORTS ARENA BUSINESS PARK
CONSENT TO SUBLEASE**

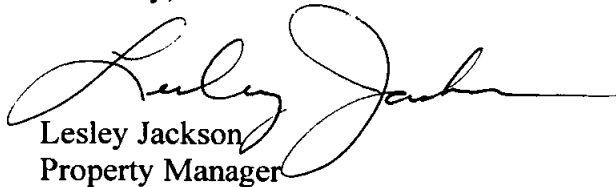
Dear Heide,

Enclosed please find Check #1643 made payable to City Treasure in the amount of \$990.00. This will serve as the processing fee for the Consent to Sublease for the following location:

3770 Hancock Street, Suite D

Also enclosed is a copy of the fully executed lease.

Sincerely,


Lesley Jackson
Property Manager

Enclosure

By and Between

**MCS Sports Arena Business Park LLC,
a California limited liability company**

As: Sublessor

and

Matt Spencer, a single man

As: Sublessee

**At Sports Arena Business Park
3770 Hancock Street, Suite D
San Diego, CA 92110**

Standard Commercial Sublease

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Signature page

Standard Commercial Sublease

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Exhibit A & A-1:	Legal Description & Site Plan
Exhibit B:	Building & Premises Plan
Exhibit C:	Addendum to Commercial/Industrial Sublease
Exhibit D:	Sublessee Improvements and Acceptance of Premises
Exhibit E:	Estimated Operating Expenses
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Exhibit G & G-1 G-2 G-3:	Sign Criteria
Exhibit H:	Use of Premises
Exhibit I:	Credit Information Form: INTENTIONALLY DELETED
Exhibit J:	Guaranty: INTENTIONALLY DELETED
Exhibit J-1:	Spousal Consent: INTENTIONALLY DELETED
Exhibit K:	Memorandum Certificate
Exhibit L:	Option(s) to Extend: INTENTIONALLY DELETED
Exhibit M:	Special Addendum
Exhibit N:	Rules and Regulations

**STANDARD INDUSTRIAL/ COMMERCIAL
SUBLEASE — GROSS
AMERICAN INDUSTRIAL REAL ESTATE ASSOCIATION**

1. Basic Provisions ("Basic Provisions").

1.1 **Parties:** This Sublease ("Sublease"), dated August 7, 2020, is made by and between MCS Sports Arena Business Park LLC, a California limited liability company, ("Sublessor") and Matt Spencer, a single man, ("Sublessee"), (collectively the "Parties", or individually a "Party").

1.2(a) **Premises:** That certain portion of the Project (as defined below), including all improvements therein or to be provided by Sublessor under the terms of this Sublease, commonly known by the street address of 3770 Hancock Street, Suite D, located in the City of San Diego, County of San Diego, State of California, with zip code 92110, as outlined on Exhibit A & A-1 attached hereto ("Premises") and generally described as: Sport Arena Business Park. The Premises consists of approx. 2,100 rentable square feet. The property is further described on Exhibit A & A.1.

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

1.2(b) **Parking:** Zero (0) unreserved vehicle parking spaces ("Unreserved Parking Spaces"); and two (2) reserved vehicle parking space(s), spaces #7 and #8 ("Reserved Parking Spaces"). Reserved Parking Spaces are reserved Monday through Friday, from 6 a.m. to 5 p.m. (See also Paragraph 2.6)

1.3 **Term:** One (1) year ("Original Term") commencing upon delivery of possession of the Premises ("Term Commencement Date") and expiring one (1) year thereafter ("Expiration Date"). (See also Paragraph 3) (see Exhibit K).

1.4 **Early Possession:** Upon mutual execution of this Sublease, and Sublessor's receipt of: (i) certificate of liability insurance naming Sublessor and the City (as defined in Exhibit A-1 to Sublease) as an Additional Insured and the corresponding Additional Insured endorsement, (ii) the first month's rent, water/sewer fees, and (iii) the Security Deposit. ("Early Possession Date").

(See also Paragraphs 3.2 and 3.3.)

1.5 **Base Rent:** \$2,600.00 per month ("Base Rent"), payable on the First day of each month commencing on the Term Commencement Date (See also Paragraph 4.)

0 If this box is checked, there are provisions in this Sublease for the Base Rent to be adjusted. See Exhibit F.

1.6 **Sublessee's Share of Common Area Operating Expenses:** (not applicable) percent (N/A%) ("Sublessee's Share").

1.7 **Base Rent and Other Monies paid Upon Execution:**

- (a) Base Rent: First month's Base Rent (\$2,600.00) + Water/Sewer Fees (\$85.00) = \$2,685.00
- (b) Common Area Operating Expenses: \$ N/A for the period N/A
- (c) Security Deposit: \$2,600.00 plus water/sewer fees (\$85.00) = \$2,685.00 ("Security Deposit"). (See also Paragraph 5.)
- (e) San Diego Approval Fee: \$990.00 for the city of San Diego Approval fee.
- (f) Other: \$35.00 for credit application.
- (g) Total Due Upon Execution of this Sublease: \$6,395.00

1.8 **Agreed Use:** General warehouse for storage of restaurant equipment and office and for no other purpose or use. See Exhibit H. (See also Paragraph 6.)

1.9 **Insuring Party:** Sublessor is the "Insuring Party". (See also Paragraph 8.)

1.10 **Real Estate Brokers:** (See also Paragraph 5).

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

- 0 _____ represents Sublessor exclusively ("Sublessor's Broker");
- 0 _____ represents Sublessee exclusively ("Sublessee's Broker"); or
- 0 Roc Beas/CAA Cre represents both Sublessor and Sublessee ("Dual Agency").

(b) **Payment to Brokers:** Upon execution and delivery of this Sublease by both Parties, Sublessor shall pay to the Brokers the brokerage fee agreed to in a separate written agreement (or if there is no such agreement, the sum of not applicable or N/A% of the total Base Rent for the brokerage services rendered by the Brokers).

1.11 **Guarantor.** The obligations of the Sublessee under this Sublease are to be guaranteed by N/A. See Exhibits J and J.1 ("Guarantor"). (See also Paragraph 37.)

1.12 **Addenda and Exhibits:** Attached hereto is an Addendum or Addenda consisting of Paragraphs --- through ---- and Exhibits A through N, all of which constitute a part of this Sublease.

2. Premises.

2.1 **Letting.** Sublessor hereby Subleases to Sublessee, and Sublessee hereby Subleases from Sublessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Sublease. Unless otherwise provided herein, any statement of size set forth in this Sublease, or that may have been used in calculating Rent, is an approximation which the Parties agree is reasonable and any payments based thereon are not subject to revision whether or not the actual size is more or less.

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

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

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

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

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to non-voluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered

by Sublessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Sublessee shall be fully responsible for the cost thereof, and Sublessee shall not have any right to terminate this Sublease.

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

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

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

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

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

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

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

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

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

2.10 Common Areas—Changes. Sublessor shall have the right, in Sublessor's sole discretion, from time to time:

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

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

Premises remains available;

- (c) To designate other land outside the boundaries of the Project to be a part of the Common Areas;
- (d) To add additional buildings and improvements to the Common Areas;
- (e) To use the Common Areas while engaged in making additional improvements, repairs or alterations to the Project, or any portion thereof; and
- (f) To do and perform such other acts and make such other changes in, to or with respect to the Common Areas and Project as Sublessor may, in the exercise of sound business judgment, deem to be appropriate.

3. Term.

3.1 Term. The Commencement Date, Expiration Date and Original Term of this Sublease are as specified in Paragraph 1.3. (see Exhibit C #2)

3.2 Early Possession. If Sublessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such early possession. All other terms of this Sublease (including but not limited to the obligations to pay Sublessee's Share of Common Area Operating Expenses, Real Property taxes and insurance premiums and to maintain the Premises) shall, however, be in effect during such period. Any such early possession shall not affect the Expiration Date. (See Exhibit C # 1)

3.3 Delay In Possession. Sublessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Sublessee by the Commencement Date. If, despite said efforts, Sublessor is unable to deliver possession as agreed, Sublessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Sublease. Sublessee shall not, however, be obligated to pay Rent or perform its other obligations until it receives possession of the Premises. If possession is not delivered within 60 days after the Commencement Date, Sublessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Sublease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Sublessor within said 10 day period, Sublessee's right to cancel shall terminate. Except as otherwise provided, if possession is not tendered to Sublessee by the Start Date and Sublessee does not terminate this Sublease, as aforesaid, any period of rent abatement that Sublessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Sublessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Sublessee. If possession of the Premises is not delivered within 4 months after the Commencement Date, this Sublease shall terminate, unless other agreements are reached between Sublessor and Sublessee, in writing. (See Exhibit C #12)

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

4. Rent.

4.1 Rent Defined. All monetary obligations of Sublessee to Sublessor under the terms of this Sublease (except for the Security Deposit) are deemed to be rent ("Rent").

4.2 Common Area Operating Expenses. INTENTIONALLY DELETED

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

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

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

(b) Exterior signs and any Sublessee directories.

(c) Any fire sprinkler systems.

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

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

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

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

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

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

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

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

(b) Any Common Area Operating Expenses and Real Property Taxes that are specifically attributable to the Unit, the Building or to any other building in the Project or to the operation, repair and maintenance thereof, shall be allocated entirely to such Unit, Building, or other building. However, any Common Area Operating Expenses and Real Property Taxes, that are not specifically attributable to the Building or to any other building or to the operation, repair and maintenance thereof, shall be equitably allocated by Sublessor to all buildings in the Project. (See Exhibit C, Items 3 & 4.)

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

(d) INTENTIONALLY DELETED

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

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

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

6. **Use.**

6.1 **Use.** Sublessee shall use and occupy the Premises only for the Agreed Use and for no other purpose. Sublessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. (See Exhibit C, Item 5.)

6.2 **Hazardous Substances,**

(a) **Reportable Uses Require Consent.** The term "Hazardous Substance" as used in this Sublease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or reSublease, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Sublessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, by-products or fractions thereof. Sublessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Sublessor and timely compliance (at Sublessee's expense) with all Applicable Requirements. "Reportable Use" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises

of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Sublessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Sublessor to any liability therefore. In addition, Sublessor may condition its consent to any Reportable Use upon receiving such additional assurances as Sublessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability; including, but not limited to, the installation (and removal on or before Sublease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

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

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

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

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

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

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

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

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

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

7.1 Sublessee's Obligations.

(a) **In General.** Subject to the provisions of Paragraph 2.2 (Condition), 2.3 (Compliance), 6.3 (Sublessee's Compliance with Applicable Requirements), 7.2 (Sublessor's Obligations), 9 (Damage or Destruction), and 14 (Condemnation), Sublessee shall, at Sublessee's sole expense, keep the Premises, Utility Installations (intended for Sublessee's exclusive use, no matter where located), and Alterations in good order, condition and repair (whether or not the portion of the Premises requiring repairs, or the means or repairing the same, are reasonably or readily accessible to Sublessee, and whether or not the need for such repairs occurs as a result of Sublessee's use, any prior use, the elements or the age of such portion of the Premises), including, but not limited to, all equipment or facilities, such as plumbing, HVAC equipment, electrical, lighting facilities, boilers, pressure vessels, fixtures, interior walls, interior surfaces of exterior walls, ceilings, floors, windows, doors, plate glass, and skylights but excluding any items which are the responsibility of Sublessor pursuant to Paragraph 7.2. Sublessee, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices, specifically including the procurement and maintenance of the service contracts required by Paragraph 7.1(b) below. Sublessee's obligations shall include restorations, replacements or renewals when necessary to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair. (See Exhibit C, Item 6.)

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

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

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

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

7.3 Utility Installations; Trade Fixtures; Alterations.

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

(b) **Consent.** Sublessee shall not make any Alterations or Utility Installations to the Premises without Sublessor's prior written consent. Sublessee may, however, make non-structural Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Sublessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof or any existing walls, and the cumulative cost thereof during this Sublease as extended does not exceed a sum equal to 3 month's Base Rent in the aggregate or a sum equal to one month's Base Rent in any one year. Notwithstanding the foregoing, Sublessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Sublessor. Sublessor may, as a precondition to granting such approval, require Sublessee to utilize a contractor chosen and/or approved by Sublessor. Any Alterations or Utility Installations that Sublessee shall desire to make and which require the consent of the Sublessor shall be presented to Sublessor in written form with detailed plans. Consent shall be deemed conditioned upon Sublessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Sublessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Sublessee shall promptly upon completion furnish Sublessor with as-built plans and specifications. For work which costs an amount in excess of one month's Base Rent, Sublessor may condition its consent upon Sublessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Sublessee's posting an additional Security Deposit with Sublessor.

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

7.4 Ownership; Removal; Surrender; and Restoration.

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

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

(c) **Surrender; Restoration.** Sublessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof broom clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing, if this Sublease is for 12 months or less, then Sublessee shall surrender the Premises in the same condition as delivered to Sublessee on the Start Date with NO allowance for ordinary wear and tear. Sublessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures. Sublessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Sublessee. Sublessee shall also completely remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Sublessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Project) even if such removal would require Sublessee to perform or pay for work that exceeds statutory requirements. Trade Fixtures shall remain the property of Sublessee and shall be removed by Sublessee. The failure by Sublessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Sublessor shall constitute a holdover under the provisions of Paragraph 26 below. (See Exhibit C, Item 7.)

8. Insurance Indemnity.

8.1 Payment of Premium Increases.

(a) As used herein, the term "**Insurance Cost Increase**" is defined as any increase in the actual cost of the insurance applicable to the Building and/or the Project and required to be carried by Sublessor, pursuant to Paragraphs 8.2(b), 8.3(a) and 8.3(b) ("**Required Insurance**"), over and above the Base Premium, as hereinafter defined, calculated on an annual basis. Insurance Cost Increase shall include, but not be limited to, requirements of the holder of a mortgage or deed of trust covering the Premises, Building and/or Project, increased valuation of the Premises, Building and/or Project, and/or a general premium rate increase. The term Insurance Cost Increase shall not, however, include any premium increases resulting from the nature of the occupancy of any other Sublessee of the Building. If the parties insert a dollar amount in Paragraph 1.9, such amount shall be considered the "**Base Premium.**" The Base Premium shall be the annual premium applicable to the 12 month period immediately preceding the Start Date. If, however, the Project was not insured for the entirety of such 12 month period, then the Base Premium shall be the lowest annual premium reasonably obtainable for the Required Insurance as of the Start Date, assuming the most nominal use possible of the Building. In no event, however, shall Sublessee be responsible for any portion of the premium cost attributable to liability insurance coverage in excess of \$2,000,000 procured under Paragraph 8.2(b).

(b) INTENTIONALLY DELETED

8.2 Liability Insurance.

(a) **Carried by Sublessee.** Sublessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Sublessee and Sublessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$1,000,000 per occurrence with an annual aggregate of not less than \$2,000,000, an "Additional Insured-Managers or Sublessor's of Premises Endorsement" and contain the "Amendment of the Pollution Exclusion Endorsement" for damage caused by heat, smoke or fumes from a hostile fire. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Sublease as an "Insured Contract" for the performance of Sublessee's indemnity obligations under this Sublease. The limits of said insurance shall not, however, limit the liability of Sublessee nor relieve Sublessee of any obligation hereunder. All insurance carried by Sublessee shall be primary to and not contributory with any similar insurance carried by Sublessor, whose insurance shall be considered excess insurance only. (See Exhibit C, Item 8.)

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

8.3 Property Insurance – Building, Improvements and Rental Value.

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

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

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

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

8.4 Sublessee's Property; Business Interruption Insurance.

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

such insurance shall be used by Sublessee for the replacement of Personal Property, Trade Fixtures and Sublessee Owned Alterations and Utility Installations. Sublessee shall provide Sublessor with written evidence that such insurance is in force.

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

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

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

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

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

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

9. **Damage or Destruction.**

9.1 **Definitions.**

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

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

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

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

(e) **"Hazardous Substance Condition"** shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance as defined in Paragraph 6.2(a), in, on, or under the Premises.

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

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

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

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

9.6 Abatement of Rent; Sublessee's Remedies.

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

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

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

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

10. **Real Property Taxes.**

10.1 **Definitions.**

(a) **"Real Property Taxes."** As used herein, the term **"Real Property Taxes"** shall include a form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Sublessor in the Project, Sublessor's right to other income there from, and/or Sublessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Project address and where the proceeds so generated are to be applied by the city, county or other local taxing authority of a jurisdiction within which the Project is located. The term **"Real Property Taxes"** shall also include any tax, fee, levy, assessment or charge, or any increase therein, imposed by reason of events occurring during the term of this Sublease, including but not limited to, a change in the ownership of the Project or any portion thereof or a change in the improvements thereon.

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

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

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

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

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

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

12. **Assignment and Subletting.** (see Exhibit C #9)

12.1 **Sublessor's Consent Required.**

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

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

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

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

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

12.2 Terms and Conditions Applicable to Assignment and Subletting.

(a) Regardless of Sublessor's consent, any assignment or subletting shall not: (i) be effective without the express written assumption by such assignee or Sublessee of the obligations of Sublessee under this Sublease, (ii) reSublease Sublessee of any obligations hereunder, or (iii) after the primary liability of Sublessee for the payment of Rent or for the performance of any other obligations to be performed by Sublessee.

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

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

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

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

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

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

(a) Sublessee hereby assigns and transfers to Sublessor all of Sublessee's interest in all Rent payable on any Sublease, and Sublessor may collect such Rent and apply same toward Sublessee's obligations under this Sublease; provided, however, that until a Breach shall occur in the performance of Sublessee's obligations, Sublessee may collect said Rent. Sublessor shall not, by reason of the foregoing or any assignment of such Sublease, nor by reason of the collection of Rent, be deemed liable to the Sublessee for any failure of Sublessee to perform and comply with any of Sublessee's obligations to such Sublessee. Sublessee hereby irrevocably authorizes and directs any such Sublessee, upon receipt of a written notice from Sublessor stating that a Breach exists in the performance of Sublessee's obligations under this Sublease, to pay to Sublessor all Rent due and to become due under the Sublease.

Sublessee shall rely upon any such notice from Sublessor and shall pay all Rents to Sublessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Sublessee to the contrary

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

(c) Any matter requiring the consent of the Sublessor under a Sublease shall also require the consent of Sublessor.

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

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

13. **Default; Breach; Remedies.**

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

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

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

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

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

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

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

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

13.2 **Remedies.** If Sublessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Sublessor may, at its option, perform such duty or obligation on Sublessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. The costs and expenses of any such performance by Sublessor shall be due and payable by Sublessee upon receipt of invoice therefor. If any check given to Sublessor by

Sublessee shall not be honored by the bank upon which it is drawn, Sublessor, at its option, may require all future payments to be made by Sublessee to be by cashier's check. In the event of a Breach, Sublessor may, with or without further notice or demand, and without limiting Sublessor in the exercise of any right or remedy which Sublessor may have by reason of such Breach:

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

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

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

13.3 Inducement Recapture. Any agreement for free or abated rent or other charges, or for the giving or paying by Sublessor to or for Sublessee of any cash or other bonus, inducement or consideration for Sublessee's entering into this Sublease, all of which concessions are hereinafter referred to as "**Inducement Provisions**," shall be deemed conditioned upon Sublessee's full and faithful performance of all of the terms, covenants and condition, of this Sublease. Upon Breach of this Sublease by Sublessee, any such Inducement Provision shall automatically be deemed deleted from this Sublease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Sublessor under such an Inducement Provision shall be immediately due and payable by Sublessee to Sublessor, notwithstanding any subsequent cure of said Breach by Sublessee. The acceptance by Sublessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Sublessor of the provisions of this paragraph unless specifically so stated in writing by Sublessor at the time of such acceptance. (See Exhibit C #16)

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

13.5 Interest. Any monetary payment due Sublessor hereunder, other than late charges, not received by Sublessor, when due as to scheduled payments (such as Base Rent) or within 30 days following the date on which it

was due for non-scheduled payment, shall bear interest from the date when due, as to scheduled payments, or the 31st day after it was due as to non-scheduled payments. The interest ("Interest") charged shall be equal to the prime rate reported in the Wall Street Journal as published closest prior to the date when due plus 4%, but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 Breach by Sublessor.

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

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

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

15. Brokerage Fees. (see Exhibit C #10)

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

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

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

16. Estoppel Certificates.

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

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

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

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

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

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

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

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

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

23. **Notices.**

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

23.2 **Date of Notice.** Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon.

If sent by regular mail the notice shall be deemed given 48 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantee next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices transmitted by facsimile transmission or similar means shall be deemed delivered upon telephone confirmation of receipt (confirmation report from fax machine is sufficient), provided a copy is also delivered via delivery or mail. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31. **Attorneys' Fees.** If any Party or Broker brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "**Prevailing Party**" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgement, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Sublessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach (\$200 is a reasonable minimum per occurrence for such services and consultation). (see Exhibit C #15)

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

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

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

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

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

37. **Guarantor.**

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

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

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

39. **Options.** If Sublessee is granted an option, as defined below, then the following provisions shall apply. (see Exhibit L, if any)

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

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

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

39.4 **Effect of Default on Options.**

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

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

(c) An Option shall terminate and be of no further force or effect, notwithstanding Sublessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term, (i) Sublessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Sublessor

to give notice thereof), (ii) Sublessor gives to Sublessee 3 or more notices of separate Default during any 12 month period, whether or not the Defaults are cured, or (iii) if Sublessee commits a Breach of this Sublease.

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

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

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

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

44. **Conflict.** Any conflict between the printed provisions of this Sublease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions. (see Exhibit C #13)

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

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

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

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

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

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

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

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

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

[Signature page follows]

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

Executed at: 2:45 PM in San Diego, CA
on: August 7, 2020

By SUBLESSOR:
MCS Sports Arena Business Park, LLC
a California limited liability company

By: MCS Guardian Properties LLC
A Delaware limited liability company
Title: Manager

By: [Signature]
Name Printed: Matthew C. Strauss — Daniel Weiss
Title: GEO — Vice President - Real Estate
Address: 990 Highland Drive #200
Solana Beach, CA 92075

Telephone: (858) 792-7500
Facsimile: (858) 792-7834
Federal ID No. _____

Executed at: San Diego, CA
on: 08/07/2020

By SUBLESSEE:
Matt Spencer, a single man

By: _____
Name Printed: _____
Title: _____

By: Matt Spencer
Name Printed: Matt Spencer
Title: An individual
Address: 722 Grand Ave.
San Diego, CA 92109

Telephone: (619) 857-2100
Facsimile: () _____
Federal ID No. _____

These forms are often modified to meet changing requirements of law and needs of the industry. Always write or call to make sure you are utilizing the most current form: American Industrial Real Estate Association, 700 South Flower Street, Suite 600, Los Angeles, CA 90017. (213) 687-8777.

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SUBLESSEES SHALL FURNISH:

1. Its personal and corporate (if applicable) financial statements.
2. Completed Sublessor furnished credit information forms.
3. Letter of reference from Sublessee's bank.
4. If a corporation, its duly Authorized Corporate Resolution notifying the Sublease.
(SEE Exhibit C Item #11)

[illegible]

EXHIBIT A

EXHIBIT A-1 TO SUBLEASE
MINIMUM STANDARD SUBLEASE CONDITIONS

WHEREAS, There exists a Master Lease by and between The City of San Diego ("Master Lessor") and MCS Sports Arena Business Park LLC, a California limited liability company (successor in interest to: Kathryn Crake dba: Triland Development Company), dated June 23, 1997 ("Master Lease").

(1) PROVISIONS CONSTITUTING SUBLEASE.

(a) This Sublease is subject to all of the terms and conditions of the Master Lease. And Sublessee shall not commit or permit to be committed on the subleased Premises any act or omission, which shall violate any terms or conditions of the Sublease or of the Master Lease.

(b) All of the terms and conditions contained in the Master Lease are incorporated as terms and conditions of the Sublease and shall be the complete terms and conditions of this Sublease.

(2) HOLD HARMLESS: Sublessee shall assume the defense of, indemnify and save harmless Sublessor and City, its agents, officers and employees from all claims, expenses and liability of every nature, directly or indirectly arising from, or alleged to have arisen from the operations conducted on the Subleased Premises or from any act or omission of Sublessee, its agents and invitees.

(3) INSURANCE: Sublessee shall be insured by an insurance carrier acceptable to the Sublessor and City against loss from public liability arising from the use or condition of or operation conducted on the Subleased Premises. Minimum coverage shall be as set forth in Section 8.2 of the body of the Sublease and Section 8 of Exhibit C to the Sublease hereof. A copy of the policy of insurance shall be filed with the City and shall name "THE CITY OF SAN DIEGO" as an additional insured. Said policy shall specify that the policy may not be terminated, altered or canceled without 30 days prior written notice to the City by the insurance company,

(4) LEGAL PROCEEDINGS: Should it become necessary to Sublessor or City to commence legal Proceedings to collect rent, to recover possessions or enforce any other provision of this Sublease, Sublessee agrees that the prevailing party shall be entitled to all legal costs in connection therewith, including a reasonable sum as attorney's fees

(5) SUBORDINATION: This agreement is in effect a Sublease of a portion of the premises covered by that Flat Rate Sublease filed in the Office of the San Diego City Clerk on October 25, 1978, as Document No. 764812, as amended between the Sublessor herein and the City of San Diego. This Sublease is subject and subordinated to the covenants and conditions of said Sublease Agreement notwithstanding any provision hereto contrary to or in conflict with said agreement.

(6) The property is subject to a City of San Diego ground Sublease mentioned hereinabove and lies with in the recently formed North Bay Redevelopment Area. The property will be redeveloped sometime in the future. Accordingly, Sublessor and or City at its sole option may terminate this Sublease at anytime after Dec 1, 2003 with 6 months notice in writing, and without invalidating or superseding any of the rights contained here in this Addendum of the Sublease or the city land Sublease agreements there under.

- (7) APPROVAL OF MASTER LESSOR. Sublessee acknowledge that the Premises is on a Master Lease between MCS Sports Arena Business Park LLC, a California limited liability company and The City of San Diego.
- (a) This Sublease is subject to the approval of the Master Lessor and the parties hereto agree to modify this Sublease so as to conform to any reasonable requests of the Master Lessor as a condition of its approval.
- (b) In the event that Master Lessor does not approve of this Sublease, this Sublease shall become null and void effective immediately following notification of rejection of this Sublease by the Master Lessor.
- (c) All terms and conditions of the Master Lease shall remain the same except as provided in this Sublease and as may be additionally required by Master Lessor pursuant to Paragraph 7a herein above.

SUBLESSOR'S INITIALS

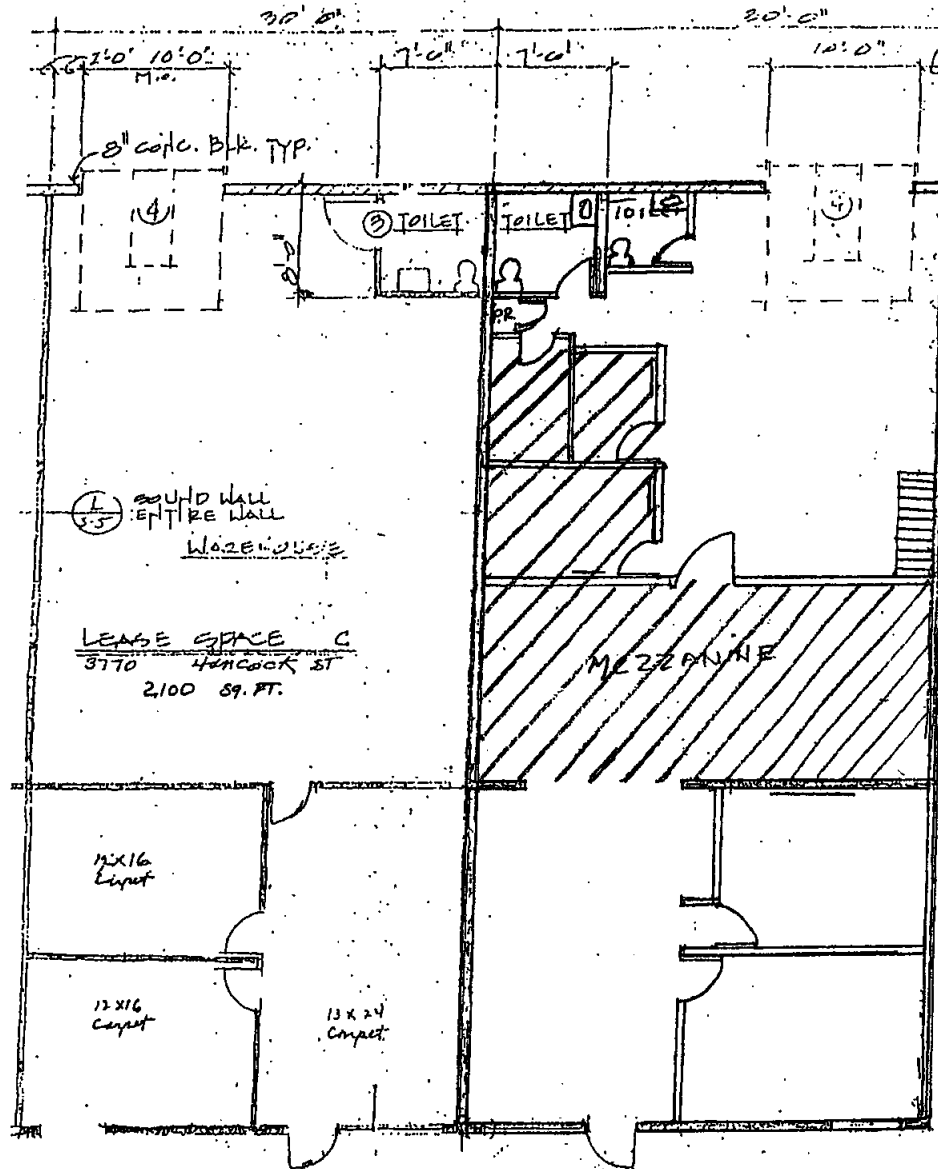
SW

SUBLESSEE'S INITIALS

MS

EXHIBIT B

PREMISES PLAN (IF AVAILABLE)



Sports Arena Business Park
 3770 Hancock Street
 Suite D 2,100 S.F.

Revised 9/17/13

EXHIBIT C
Page 1 of 3

Addendum to Standard Commercial Sublease

1. Early Possession: With early move-in of Sublessee, Sublessee may not interfere with any improvements needed to be done by Sublessor. Additionally, MCS Sports Arena Business Park LLC is not responsible for loss, theft, or damage of any of Sublessee's property should Sublessee desire to move-in prior to commencement of the Term.
2. Term Adjustment: If the Commencement Date is other than the first day of a calendar month, the Term shall be deemed to have commenced on the first day of the next succeeding month.
3. Modified Common Area Operating Expenses: Sublessor shall pay Sublessee's portion of common area maintenance, taxes, and insurance.
 - a. "Operating Costs" means all costs reasonably incurred by Sublessor in accordance with generally accepted accounting principles, and fairly allocable to the applicable Calendar Year which relate to, or are fairly allocable to, the ownership and operation of the Common Areas. Sublessor shall pay Sublessee's portion of common area maintenance, taxes and insurance.
 - b. Periodic painting of the building exterior and common areas shall be included as a common area operating expense. If Sublessor undertakes a program of preventive maintenance for the HVAC systems for all of the Sublessees per Paragraph 7.1(b), the cost thereby shall be included as a common area expense.
 - c. The common area definition shall also include lighting facilities, sewer, water, gas, electric, phone and other utility lines, storm drains, roads and approaches servicing the Center generally; and any other items that Sublessor deems necessary and appropriate.
 - d. Replacement costs, defined as that which cannot be repaired other than at a cost which is in excess of fifty percent (50%) of the cost of replacing such item, then such item shall be replaced and the cost prorated over sixty (60) months and Sublessee shall pay one sixtieth ($\frac{1}{60}$) of the cost each month of the Sublease term and extension thereto.
 - e. For avoidance of doubt, the Sublessor and Sublessee agree that Sublessee shall not be responsible for any common area maintenance charges, taxes, insurance, Operating Costs or replacement costs.
4. Utilities: Sublessee shall pay before delinquency all charges for water, sewer, gas heat, electricity, power, telephone service and all and any other services or utilities used in, upon or about the Premises by Sublessee or any of its Sublessees, licensees or concessionaries, provided, however, if any such services or utilities shall be billed to Sublessor and not separately metered to the Premises the amount thereof shall be prorated and Sublessee shall pay to Sublessor upon demand as additional rental hereunder an amount equal to that proportion of the total charges therefore which the number of square feet of Gross Floor Area in the Premises bears to the total number of square feet of gross floor area of stores then rented as of the date of the utility bill served in the area and/or buildings covered by such combined charges. With respect to gas and electric service, which is not separately metered, Sublessor may, at Sublessor's option, in lieu of prorating on the fore-going basis, determine the amount of use of such services by Sublessee on the basis of Sublessee's estimated usage as determined by the utility company servicing the Premises, or, if such company ceases providing such service, by a qualified electrical contractor selected by Sublessor. Water is furnished to the part of the Common Area via as is central meter. Accordingly, Sublessee will pay Sublessor a flat charge of _____ (per Section 1.7 (d)) a month for its share of the water for its Premises. Water charges may be reevaluated and increased by Sublessor based on the use of the Premises especially due to the number of patrons of and Sublessee's business use. Sublessor may require a high water user such as a restaurant or beauty parlor to install a separate meter or if the cost is prohibitive, to install an inline meter at Sublessee's expense to be able to determine Sublessee's fair share for any excess use.
5. Continuous Operation: Intentionally Deleted.
6. Locks: Should Sublessee change the locks on their suite, Sublessee must furnish Sublessor with a copy of the new key which is for the protection of the Sublessee and per the Sublease.
7. Vacating Premises: The definition of "ordinary wear and tear" shall NOT include such items as carpet cleaning, cleaning, patching and painting necessary to restore Premises to the condition in which the Premises was delivered. Additionally, in the event the Premises is not surrendered in the condition that it was delivered, Sublessee may be charged for damages related to: repainting rear access doors, repairing store front doors, rekeying locks to the master system and removing alarm systems, personal property and/or debris upon the earlier termination or expiration of this Sublease.

Exhibit C (continued)

8. Insurance: Lessor's appropriate liability insurance coverage is \$3,000,000. Therefore, Paragraph 8.1 and/or Paragraph 8.2 is amended to increase the ceiling to \$3,000,000.

9. Assignment and Subletting:

(This is in addition to Sublease language and prevails in the event of conflict.)

a. Consent to Assignment or Subletting shall not be unreasonably withheld: Subject to a compatible and noncompetitive business use with respect to the other businesses in the Center and sufficient financial statement and credit record of assignee and reasonable experience in conducting the intended business, Sublessor's consent to assign or sublet this Sublease shall not be unreasonably withheld provided however, that Sublease shall not be in default and/or if Sublessee shall have, previously breached or otherwise failed to perform under this Sublease since its inception, and Sublessee did not cure that breach, Sublessor, at its sole discretion, may declare this Sub-paragraph null and void. Any increase in rents shall become the property of the Sublessor. Any such assignment or subleasing even with the approval of the Sublessor, shall not relieve the Sublessee from liability for payment of the rental herein provided or from the obligation to keep and be bound by the terms, conditions and covenants of this Sublease.

b. Assignment or Transfer to a Corporation: Notwithstanding anything to the contrary set forth herein, Sublessee may assign this Sublease, without the consent of Sublessor, to a corporation or other entity not less than fifty percent (50%) of the voting stock or controlling interest of which is owned by Sublessee; provided that Sublessee shall at all times remain liable for performance hereunder; and provided, further, that any transfer by Sublessee of the controlling stock or interest in such corporation or other entity shall be a prohibited assignment hereunder.

c. Consent to be in writing: Sublessee shall not assign, mortgage, pledge, hypothecate or encumber this Sublease or the Sublease-hold interest created hereby or any interest herein or sublet the Premises or any portion thereof, or license the use of all or any portion of the Premises, without the written consent of Sublessor first had and obtained. Without in any way limiting any other rights available to the Sublessor at the time of any proposed assignment or subletting, Sublessor expressly reserves the right to adjust the Guaranteed Minimum Monthly Rental to an amount derived by multiplying said guaranteed minimum monthly rental times a number equal to the percentage by which the Bureau of Labor Statistics, United States Department of Labor for Los Angeles-Riverside-Orange County under the heading of "All Items" for "All Urban Consumers" for the month in which the date of such assignment or subletting occurs has increased over the same Cost of Living Index figure for the month in which the Commencement Date under this Sublease occurs (i.e., if the percentage of such increase is thirty percent (30%), then the guaranteed minimum monthly rental will be multiplied times 130%). Sublessee agrees to pay Sublessor an administrative fee of \$500 and to reimburse Sublessor for Sublessor's reasonable attorney fees incurred in conjunction with the processing and documentation of any such requested transfer, assignment, subletting, licensing or concession agreement

10. Broker's Fee:

- a. All Broker's fees as referred to in the Sublease and Sublease addendums shall be by separate agreement pursuant to a schedule to be agreed upon by Owner and Broker.
- b. However, it is understood and agreed that no commissions shall be paid on option exercises, or renewals, or expansions that unless at the invitation of the Owner first had obtained in writing.

11. Sublessee's Financial Information: Sublessee will furnish financial statements which shall be subject to Sublessor's approval and shall reimburse Sublessor \$35 if Sublessor obtains a credit report. Sublessee also agrees to deliver to Sublessor a resume of its business experience and a completed Sublessor's "Credit Information" form. The Sublease is contingent upon Sublessor's review and approval to its sole satisfaction of Sublessee's qualifications to Sublease. Said credit application must include but not be limited to listing specifics of next of kin, closest living relative not living with you, closest non-relative and who to notify in case of emergency.

12. Dispute or Delay: In the event of any dispute between the parties concerning the time of actual completion of Sublessor's Work or Sublessee's Work or any claimed excuse for delay in performance or non-performance thereof or whether such work has been adequately performed in a good and workmanlike manner and is satisfactory for the use intended, such dispute shall be referred to Sublessor's architect whose determination with regard thereto shall be final and conclusive upon the parties.

13. Deletion: Wherever in this Sublease a Section or Subsection is preceded by the word "Deleted" or "Deleted," such Section or Subsection is deleted from this Sublease in its entirety and is of no force or effect.

Exhibit C (continued)

14. Attorney's Fees: The Sublessor is entitled to attorney's fees or costs for the enforcement of the Sublease regardless of whether an action is filed, said fees and costs to be considered additional rent.

15. Sublease Incentives: If Sublessee is in default under this Sublease at any time during the Term and without limiting the foregoing, if Sublessor has given Sublessee any Sublease incentives or other inducements or consideration in connection with this Sublease ("Incentives"), including without limitation, any abatement of rent, the unamortized portion of any Sublessee Improvement Allowance and/or leasing commissions then the incentives will terminate and Sublessor may recover from Sublessee the value of all such Incentives received by Sublessee in addition to all other damages recoverable by Sublessor pursuant to the provisions of this Sublease.

16. Confidentiality: Sublessee shall keep the content and all copies of this Sublease and related documents now or hereafter entered into, and all proposals, materials, information and matters relating thereto, strictly confidential, and shall not disclose, disseminate or distribute any of the same, or permit the same to occur, except to the extent reasonably required for proper business purposes by Sublessee's attorneys, insurers, auditors and lenders, and, in such event, Sublessee shall obligate any such parties to whom disclosure is permitted to honor the confidentiality provisions hereto, except as may be required by Law or court proceedings.

17. Substitute Premises. Intentionally Deleted.

18.

A. Sublessee is responsible for sending rent payments on the first of the month to:

MCS Sports Arena Business Park LLC,
a California limited liability company
990 Highland Drive, Suite 200
Solana Beach, CA 92075

B. For any questions or building management problems, call:

Lesley Jackson
MC Strauss Company
990 Highland Drive, Suite 200
Solana Beach, CA 92075
Phone: 858-792-7500; Fax: 858-792-7834

C. Required Personal Data:

Sublessee's Home Address:

722 Grand Ave. San Diego, CA 92109
Home Phone: 619-859-2100 Home Fax: N/A

In case of emergency:

Kristine Duehren
Address: 1941 Lahand Dr. Cardiff, CA 92007
Phone: 619-259-7374 Fax: N/A

Next of Kin (Name):

Patricia Spencer
Address: 150 W Tamarack Ln. Prescott, AZ 86301
Phone: 619-982-9300 Fax: N/A

D. Other: Sublessor reserves the right to change the management company and the address to which rent payments shall be made by delivering notice to Sublessee in accordance with this Sublease.

SUBLESSOR'S INITIALS:

DS

SUBLESSEE'S INITIALS:

MS

EXHIBIT D

SUBLESSEE IMPROVEMENTS AND ACCEPTANCE OF PREMISES

Scope of Sublessor's Work

Sublessor shall provide Sublessee, at the sole cost and expense of Sublessor, the following "standard" improvements as follows:

1. Sublessor has completed construction of the Premises and Sublessee acknowledges that the Premises are being subleased in "as-is, where-is" in broom clean condition and that Sublessee has inspected same and the Premises are in satisfactory condition with the following exceptions:
2. Sublessor shall professionally clean flooring within the Premises, including removal of grease left by the prior tenant.

Scope of Sublessee's Work

All improvements desired by Sublessee, shall be considered "Non-standard" and shall be at the sole cost and expense of Sublessee including, but not limited to:

1. Permits, Plans, and supervision for any Sublessee improvements.
2. Sublessor grants permission to Sublessee to install necessary and/or required improvements or modifications, subject to Sublessor's prior written approval, to accommodate Sublessee's intended business use, at Sublessee's sole cost and expense, and in accordance with any and all governmental requirements including the obtaining of any required permits for the Premises and said business.

Perform any and all additional work required to complete the Premises to a condition customary and ready for the normal operation of Sublessee's business. Sublessee shall be responsible to pay for any additional water, and/or sewer impact fees if imposed due to the nature of Sublessee's business or use of Premises.

Within thirty (30) days following the execution of the Sublease, Sublessee, at Sublessee's sole cost and expense, shall deliver to Sublessor a fully dimensioned 1/4-inch scale set of plans. Said plans shall show all storefronts, interior partitions, fixtures, lighting, electrical outlets, plumbing (including fixtures), floor coverings, ceiling and other improvements that Sublessee wishes to construct and install upon Premises. Said plans shall be subject to Sublessor's approval prior to start of any work by Sublessee or his contractors, which shall not be unreasonably withheld, which shall thereafter be called "Sublessee Plans Approved for Construction." Should Sublessee fail to deliver to Sublessor plans for "Sublessee's Work" within thirty (30) days following execution of the Sublease, Sublessor may, at his option and with written notification to that effect to Sublessee, terminate this Sublease.

No changes, modifications or alterations to Sublessee Plans Approved for Construction may be made without the written consent of Sublessor. Any additional costs, including any increased fees which Sublessor may be required to pay for architectural, engineering and/or other similar services arising by reason of any subsequent change to Sublessee Plans Approved for Construction made at the request of Sublessee, shall be at the sole cost and expense of Sublessee and shall be paid by Sublessee to Sublessor before the performance of the work requested by Sublessee.

All of Sublessee's work and improvements shall be performed by Sublessee, at Sublessee's sole cost and expense except as outlined above and pursuant to the plans and specifications approved by Sublessor. It is understood that the approval of Sublessor shall in no manner relieve Sublessee of Sublessee's obligation to obtain, at Sublessee's sole cost and expense, all necessary and appropriate permits from all applicable governmental or public agencies for the construction of Sublessee's improvements, installation of Sublessee's personal property and the operation of Sublessee's business at Premises.

Upon delivery of Premises to the Sublessee, Sublessee shall immediately and diligently proceed to install Sublessee's Work as described in Sublessee's Plans Approved for Construction at Sublessee's sole cost and expense without interfering with other work being done, if any, in the building or shopping center.

All work done by Sublessee shall be done by a licensed contractor and in compliance with all rules and regulations required by local building authorities, Sublessor or his agents and in accordance with all uniform building codes as dictated by state, federal and local requirements.

Upon final completion of Sublessee's Work, Sublessee shall furnish Sublessor with all certificates, approvals and permits "signed off" by local governmental building inspector, that were required to complete Sublessee's Work. Sublessor shall not be responsible for any loss or damage to Sublessee's improvements/property that is installed or left on Premises.

Sublessee's entry upon Premises prior to commencement of the Term of this Sublease shall be subject to all provisions of this Sublease other than payment of rent. At all times after such entry, Sublessee shall maintain an insurance policy that complies with the provisions of this Sublease. The inability of Sublessee to complete Sublessee's Work in a timely manner and to a condition acceptable for conducting business, through no fault of Sublessor, shall not delay the Term Commencement or payment of rent.

Sublessee hereby indemnifies and holds Sublessor free and harmless from and against any and all claims, demands and liabilities, including, but not limited to attorney costs, expenses and court costs, arising from or relating to Sublessee's Work and improvements. It is the intent of the parties that this indemnification shall survive the expiration or sooner termination of this Sublease.

SUBLESSOR'S INITIALS:

_____

SUBLESSEE'S INITIALS:

_____

*DOES NOT APPLY

*EXHIBIT E

ESTIMATED OPERATING EXPENSES (GROSS SUBLEASE)

~~The operating expenses are estimated at \$ _____ per square foot annually or
(\$ _____ pcf x _____ sq. ft. / 12 = \$ _____) per month for the
Premises until adjusted per the Sublease.~~

SUBLESSOR'S INITIALS: _____

SUBLESSEE'S INITIALS: _____

MS

EXHIBIT F

RENT ADJUSTMENT(S)

ADDENDUM TO
STANDARD SUBLEASE

NOT APPLICABLE

EXHIBIT G

CENTER SIGN CRITERIA

The purpose of this sign criteria has been established for the intent of assuring an outstanding shopping center and mutual benefit of all Sublessee's. Conformance will be strictly enforced. Any Installed non-conforming or unapproved signs will be brought into conformance at the expense of the Sublessee.

A. Sublessee shall be entitled to signage above the Premises. Signage shall be subject to City of San Diego and Sublessors prior written approval. All costs associated with the design, construction, installation, as well as removal, shall be borne by Sublessee. Sublessee shall be required to remove all Sublessee signage at the conclusion of Sublessee's occupancy of the Premises. Ground level Sublessee's shall be entitled to signage on the Center's pole sign at its expense and subject to availability.

B. General Requirements:

1. Sublessee shall submit to the Sublessor the exact sign specifications, copy and colors desired for Sublessor's approval from a licensed and experienced sign company.
2. All approvals or disapprovals of sign submittals based on esthetics and design shall remain sole right of the Sublessor and local governing authorities.
3. Selected sign company will be responsible for obtaining all permits and sign installation.
4. No exposed lamp, raceways, crossovers, conduit, conductors, transformers or similar devices shall be permitted.
5. All maintenance of signage shall be the responsibility of the Sublessee.
6. All signs shall be individually illuminated.
7. No audible, flashing or animated signs will be permitted.
8. No projections above or below the sign will be permitted.
9. Electrical service to all signs will be connected to Sublessee's meter.
10. Sublessee's signs shall be designed and installed in a manner compatible with and complimentary to adjacent and facing storefronts and the overall design concept of the center.
11. All penetrations of the building structure required for sign installation shall be sealed in a watertight condition and shall be patched to match adjacent finish. At termination of Sublease when sign is removed, Sublessee or its sign company shall patch and paint and restore to "as was" condition.
12. No advertising placards, banners, pennants, names, insignias or other descriptive material shall be affixed or maintained upon the glass pane supports of the show windows and doors or upon the exterior walls of building without the prior written approval of Sublessor.
13. Logos require prior approval of Sublessor unless nationally recognized logos of a franchise.
14. Letter height restrictions:
 - a. One line of copy with the letter and logo height not to exceed 24 inches or to be less than 10 inches. Allowable, sign fascia coverage not to exceed seventy-five percent (75) of store frontage.
 - b. Two lines of copy will be allowed with the overall height of the two lines of letters not to exceed 30 inches with a maximum height of the letters not to exceed 18 inches or to be less than 16 inches.
15. Designs submitted for the City/County approval must follow the following guidelines:
 - a. Drawings of elevations and sign with all measurements to scale.
 - b. Plot plan and legal description (plans to scale).

- c. Sections drawings of sign and fascia showing construction and electrical details.
- d. Color of plastic faces and logos.
- e. Color of neon, size and intensity.
- f. Letter style selection

16. Sublessee is granted permission by Sublessor to install a temporary sign banner at its expense above the premises while signs are being fabricated.

17. Sublessee shall indemnify and hold harmless Sublessor against any loss, cost, damages or liability caused to persons, property or otherwise caused by Sublessee's sign Installations.

SUBLESSOR'S INITIALS:

DM

SUBLESSEE'S INITIALS:

MS

EXHIBIT H

SPECIAL USE OF PREMISES CLAUSE

A. Uses Of Premises:

Sublessee shall occupy and use the Premises solely for the operation of a general warehouse for storage of restaurant equipment and office, and for no other purpose or use.

Sublessee specifically acknowledges and agrees, by initialing below, that it will not at any time sell, store, use, grow or distribute in any form, any form of Cannabis, including but not limited to marijuana, HEMP, or ditch weed, or any such variety of same or any new variety of same or anything similar to same from or in the Premises or the Project. Sublessee agrees that a violation of this paragraph will be a default under the Sublease for which there is no cure period and that, therefore, Sublessor may immediately terminate this Sublease with twenty four (24) hours' notice to Sublessee. Sublessee further agrees that if Sublessee violates this paragraph, Sublessee shall pay to Sublessor a fine of Five Thousand Dollars (\$5,000.00) per day for each day or partial day that the violation continues until Sublessor regains possession of the Premises.

MS

Sublessee's initials

SUBLESSOR'S INITIALS:

MS

SUBLESSEE'S INITIALS:

MS

EXHIBIT I

APPLICATION FOR SUBLEASE AND CREDIT INFORMATION

INTENTIONALLY DELETED

EXHIBIT J

GUARANTY OF SUBLEASE

INTENTIONALLY DELETED

EXHIBIT J-1

SPOUSAL CONSENT

INTENTIONALLY DELETED

EXHIBIT K
MEMORANDUM
CERTIFICATE

SAMPLE – DO NOT COMPLETE UNTIL DELIVERY OF POSSESSION OF THE PREMISES

This memorandum is made of _____, 2020 with reference to that certain Sublease Agreement (hereinafter referred to as the "Sublease") dated _____, 2020 by and between MCS Sports Arena Business Park LLC, a California limited liability company, as "Sublessor" therein, and Matt Spencer, a single man, as "Sublessee."

The undersigned, as Sublessee under said Sublease, hereby confirms the following:

1. The Sublessee accepted possession of the Premises (as described in said Sublease) on _____ and acknowledges that the Premises are as represented by Sublessor and in good order, condition and repair; and that the improvements, if any, required to be constructed for and/or furnished to Sublessee by Sublessor under said Sublease have been so constructed and/or furnished and are satisfactorily completed in all respects.
2. That all conditions of said Sublease to be performed by Sublessor prerequisite to the full effectiveness of said Sublease have been satisfied and that Sublessor has fulfilled all of its duties of an inducement nature.
3. That in accordance with the provisions of Paragraph 4 of said Sublease the Commencement Date (as the phrase "Commencement Date" is defined in said Sublease) of the term is _____ and that, unless sooner terminated, the original term thereof expires on _____.
4. That said Sublease (as amended, if amended) is in full force and effect and that the same represents the entire agreement between Sublessor and Sublessee concerning said Sublease.
5. That there are no existing defenses which Sublessee has against the enforcement of said Sublease by Sublessor, and no offsets or credits against rentals except as may be expressly provided in said Sublease.
6. That the minimum rental obligation of said Sublease is presently in effect and that all rentals, charges and other obligations on the part of Sublessee undersaid Sublease commenced to accrue on _____.
7. That the undersigned Sublessee has no notice of any prior assignment, hypothecation or pledge of said Sublease or of the rents thereunder.

SUBLESSOR:

MCS SPORTS ARENA BUSINESS PARK LLC
A CALIFORNIA LIMITED LIABILITY COMPANY
BY: MCS GUARDIAN PROPERTIES LLC
A DELWARE LIMITED LIABILITY COMPANY

ITS: MANAGER

BY: _____
MATTHEW C. STRAUSS

ITS: CEO

SUBLESSEE:

MATT SPENCER
A SINGLE MAN

BY: _____

ITS: _____

This "Memorandum" is hereby approved in form and shall be completed (if necessary) pursuant with Paragraph 4.A of The Sublease and incorporated as part of The Sublease.

SUBLESSOR'S INITIALS:

SUBLESSEE'S INITIALS:

EXHIBIT L

OPTION(S) TO EXTEND

ADDENDUM TO
STANDARD SUBLEASE

INTENTIONALLY DELETED

EXHIBIT M
SPECIAL ADDENDUM

This Addendum to Sublease ("Addendum") is made a part of the Sublease dated August 7 2020, by and between MCS Sports Arena Business Park LLC, a California limited liability company, ("Sublessor") and Matt Spencer, a single man, ("Sublessee") for the Premises commonly known as 3770 Hancock Street, Suite D, San Diego, CA 92110. Should there be any conflicts between the terms and conditions of this Addendum and the Sublease, this Addendum shall prevail.

The City will not be liable for any damages arising from Sublessor's obligation to its Sublessee under this Section.

2. SUBLEASE CONTINGENCY:

This Sublease is contingent upon Sublessor obtaining a Consent to Sublease from the City of San Diego. In the event the City does not consent to this Sublease, the Sublessee shall immediately be terminated and of no further force or effect. In such event, Sublessor and Sublessee shall forever be discharged of its obligations and shall be released from liability.

Furthermore, Sublessee acknowledges that the prior sublessee's FF & E remain in the Premises due to a pending bankruptcy. This Sublease is contingent upon the current sublessee vacating the Premises and surrendering the Premises free and clear of FF & E.

SUBLESSOR:

MCS SPORTS ARENA BUSINESS PARK LLC
A CALIFORNIA LIMITED LIABILITY COMPANY
BY: MCS GUARDIAN PROPERTIES LLC
A DELWARE LIMITED LIABILITY COMPANY

ITS: MANAGER

BY: 
MATTHEW C. STRAUSS Daniel Weiss

ITS: ~~CEO~~ Vice President - Real Estate

SUBLESSEE:

MATT SPENCER
A SINGLE MAN

BY: 

ITS: An individual

Exhibit N

**SPORTS ARENA BUSINESS PARK
RULES AND REGULATIONS**

1. Use of Premises.

- (a) All floor area, including vestibules, entrances and returns, doors, fixtures, windows and plate glass shall be maintained in a safe, neat and clean condition.
- (b) All trash, refuse and waste material shall be regularly removed from the Premises of each occupant and until removal shall be stored (i) in adequate containers, which containers shall be located so as not to be visible to the general public in the Center; and (ii) so as not to constitute any health or fire hazard or nuisance to any occupant.
- (c) No portion of the Premises or Center shall be used for lodging purposes.
- (d) Neither sidewalks nor walkways shall be used to display, store or place any merchandise, equipment or devices.
- (e) No advertising medium, device, instrument or apparatus shall be utilized which can be heard or experienced outside the Premises including, without limiting the generality of the foregoing, flashing lights, searchlights, loudspeakers, phonographs, organs, radios, television or video monitors.
- (f) No auction, fire, bankruptcy, or going-out-of-business sale shall be conducted in, at, or about the Center or any portion or portions thereof, except pursuant to court order.
- (g) No use shall be made of the Center or any portion or portions thereof which would (i) violate any law, ordinance or regulation; (ii) constitute a nuisance; (iii) constitute a hazardous use; or (iv) violate, suspend; or void any policy or policies of insurance.
- (h) All occupants of the Center shall use their best efforts to cause all trucks servicing retail facilities within the Center to load and unload prior to the hours of the Center opening for business to general public.

2. Conduct of Persons.

The following rules and regulations govern the use of roadways, walkways, the Center, parking areas and other common areas and facilities:

- (a) No person shall use any roadway or walkway except as a means of egress from or ingress to any floor area or parking area within the Center or adjacent public streets. Such use shall be in an orderly manner and in accordance with directional or other signs or guides. Roadways shall not be used at a speed in excess of ten (10) miles per hour or any lesser posted speed limit and shall not be used for parking or stopping, except for the immediate loading or unloading of passengers. No walkways, hallways or corridors shall be used for other than pedestrian travel.
- (b) No person shall use any parking area, except for ingress and egress to and from the Center and for the parking of motor vehicles during the period of time such person or the occupants of such vehicle are customers or business invitees of the establishments within the Center. All motor vehicles shall be parked in an orderly manner within the painted lines defining the individual parking places. During peak periods of business activity, limitations may be imposed as to the length of time for parking use. Such limitations may be made in specified areas.

(c) No person shall use any utility area, truck court or other area reserved for use in connection with the conduct of business, except for the specific purpose for which permission to use such area is given.

(d) No Sublessee, contractor, agent or employee of any business in the Center shall use any area for motor vehicle parking, except the area or areas specifically designated by Sublessor for employee parking and for the particular period of time such use is to be made as determined, or as established by ordinance.

(e) Unless the following prohibitions are forbidden by law, no person shall, in or on any part of the common areas:

(i) Vend, peddle, store, display, place or solicit orders for sales or distribution of any merchandise, equipment, device, service, periodical, book, pamphlet or other matter whatsoever.

(ii) Exhibit any sign, placard, banner, notice or other written material; distribute any circular, booklet, handbill, placard, or other material; solicit signatures or registration for membership in any organization, group or association or contribution for any purpose; parade, rally, patrol, picket, demonstrate, or engage in any conduct that might tend to interfere with or impede the use of any of the common areas by any person entitled to use the same, create a disturbance, attract attention or harass, annoy, disparage or be detrimental to the interest of any of the retail establishments within the Center.

(iii) Throw, discard, or deposit any paper, glass or extraneous matter of any kind, except in designated receptacles, or create litter or hazards of any kind.

(iv) Use any sound-making device of any kind or create or produce in any manner noise or sound that is annoying, unpleasant, or distasteful to occupants or invitees.

(vi) Deface, damage or demolish any sign, light standard or fixture, landscaping material or other improvements within the Center, or the property of customers, business invitees or employees situated within the Center.

The listing of specific items as being prohibited is not intended to be exclusive, but to indicate in general the manner in which the right to use the common areas solely as a means of access and convenience in shopping at the establishments in the Center is limited and controlled.

3. Prohibited Operations and Nuisances.

No use or operation will be made, conducted or permitted on any part of the Center site, which use or operation is clearly objectionable to the development or operation of the Center. Included among the uses or operations which are objectionable are uses or operations which produce or are accompanied by the following characteristics, which list is not intended to be all inclusive:

(a) Any noise, litter, dust, dirt, odor or other activity which may constitute a public or private nuisance;

(b) Any unusual firing, explosive or other damaging or dangerous hazards (including the storage, display or sale of explosives or fireworks);

(c) Any trailer court, mobile home park, labor camp, junkyard, stockyard or animal raising;

(d) The sale, distribution or growth of marijuana.

SUBLESSOR'S INITIALS:



SUBLESSEE'S INITIALS:



(For City Attorney's Office use)

Date Received: _____ Sent Acknowledgment Email on _____

Assigned ProLaw No. _____

OFFICE OF THE CITY ATTORNEY
Legal Services Request (LSR) Form

To: City Attorney (MS-59)

Attention: Karen Li (ksli@sandiego.gov) and Hilda Mendoza (hmendoza@sandiego.gov)

From:  8.18.20
Signature of Supervisor Authorizing Legal Request Date of Original Request

Re: 3770 Hancock Street, Suite D, San Diego, CA 92110
Location/Identification of Property/Subject Matter for Request

MCS Sports Arena Business Park
Name of Lessee, Permittee, or Third Party

Consent to Sublease
Type of Legal Document (e.g., Lease, Amendment, ROE Permit, Easement, etc.)

This is a request for legal services. Please establish an assignment based upon the following information:

- A. Property Agent/Staff (Please print): Heide Farst Telephone: 619.236.6727
- B. Requested Response Date: 10.1.20 (If response needed in less than **30 working days** from the date of your request, please state specific reasons, including reference to any legal deadlines)

- C. Please check those applicable to the Property and provide corresponding back-up documents with this LSR form (e.g., Deed, Dedication Ordinance, Resolution, Acquisition document):
☐ Pueblo Lands ☐ Tidelands Trust Property ☐ Dedicated/Deed Restriction (parkland, civic use, etc.) ☐ Public Utilities Asset ☐ Airport ☐ Stadium ☐ Pure Water Related ☐ Other: _____
☐ None of these apply
- D. Requested form of response (please check one): ☐ Written ☐ Oral ☐ Attend Meeting/Hearing
☐ Edit Document ☐ Sign as to Form ☐ Other:

Description of Legal Request: (Please provide a detailed statement of the question or issue, including all necessary background information. Copies of background documents should be provided with this LSR form.)

Lessee has requested a Consent to Sublease for property located at 3770 Hancock Street, Suite D, to a single individual for general warehouse for storage of restaurant equipment and office and for no other purpose or use.

The term is for one (1) year. Marco Verdugo has previously worked on several consents for this property.

(Add pages as needed)

CITY OF SAN DIEGO
CONSENT TO SUBLEASE

THIS CONSENT TO SUBLEASE (Consent) is made by THE CITY OF SAN DIEGO, a California municipal corporation (City), to be effective as of the later date that this Consent is executed by City and approved by the San Diego City Attorney (Effective Date).

RECITALS

- A. City and Kathryn Crake dba Triland Development Company were the original parties to that certain Flat Rate Lease filed in the Office of the San Diego City Clerk on October 25, 1978, as Document No. 764812 (Master Lease). Through a series of City-approved assignments, MCS Sports Arena Business Park LLC (MCS) became the successor in interest to the Master Lease and is the current lessee under the Master Lease (Lessee).
- B. Lessee now desires to sublease a portion of its leasehold, consisting of approximately 2,100 rentable square feet of the premises located at 3770 Hancock Street, Suite D, to Matt Spencer, a single man (Sublessee).
- C. Section IV.A.2 of the Master Lease requires that the Lessee obtain City's consent prior to the sublease of any portion of Lessee's right, title or interest in the Master Lease.

NOW, THEREFORE, based on the foregoing recitals which are incorporated into this Consent by this reference, City provides its consent subject to the following conditions:

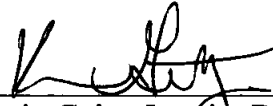
- 1. In reliance upon Sublessee's written agreement to assume the rights and obligations subleased and to keep and perform all covenants, conditions, and provisions of the Master Lease which are applicable to the rights acquired, City hereby consents to Lessee's request to sublease that certain portion, as set forth in Recital "B" above, of its right, title and interest in and to the Master Lease to Sublessee in accordance with the permitted use stated in the Master Lease. By providing its Consent, City is merely consenting to Lessee's request to sublease that certain portion of the Master Lease to the Sublessee, not approving the sublease between Lessee and Sublessee. All terms and conditions of the Master Lease shall control and supersede all provisions in any sublease executed between Lessee and Sublessee.
- 2. City does not release, discharge or modify Lessee's obligations to City under the Master Lease.
- 3. This Consent does not constitute consent to any subsequent subleases.
- 4. Prior to the Effective Date of this Consent, Lessee must pay City any applicable processing and or administrative fee(s) in the amount of Nine Hundred Ninety Dollars and No Cents (\$990.00) for processing this Consent. Payment was received by CITY on August 18, 2020.

5. City shall not be liable for any brokerage commission or finder's fee in connection with the consummation of the sublease. Further, Lessee agrees to protect, defend, indemnify, and hold City, its elected officials, officers, representatives, agents, and employees harmless from and against any claim for any brokerage commission or finder's fee related to the consummation of this Consent, and from and against any cost or expense (including without limitation attorney fees) incurred by City in resisting any claim for any such brokerage commission or finder's fee.

IN WITNESS WHEREOF, this Consent is executed by City acting by and through its Mayor, or his designee.

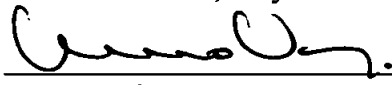
THE CITY OF SAN DIEGO, a California
municipal corporation

Date: 2/9/2021

BY: 
Kristin Geitz, Interim Director
Real Estate Assets Department

Approved as to form this 24th day
of February 2021.

MARA W. ELLIOT, City Attorney

BY: 
Deputy City Attorney

Marco A. Verdugo
Deputy City Attorney

H:\Shared\READ\Farst\MCS Sports Arena Business Park/ Consent to Sublease – Matt Spencer 1.4.21

DEPOSIT SUMMARY
Location Real Estate Assets
PRICE: SING FEE of \$990.00
Deposit on September 03, 2020

File Names:
 SnP Deposit Upload Real Estate Assets 3-Sep-20 \$990.00.xlsx
 SnP Deposit Summary Real Estate Assets 3-Sep-20 \$990.00.pdf
 SnP Deposit Summary Real Estate assets 3-Sep-20 \$990.00.xls

Notes:
AGENT: HEIDE FARST - 199HLOC PROCESSING FEE FROM MCS SPRTS ARENA BUSINESS PARK FOR CONSENT TO SUBLEASE. CHECK NO. 1549, CHECK D DATED 9/01/2020, BANK D 24WPM TORREY PINES BANK
Deposited by: ASALDANA 55512
Prepared by: ASALDANA 55512
Reviewed by: ASALDANA 55512
Approved by:
Distribution:

[illegible]

CC: Heide
Farst
102381377

DEPOSIT REQUEST FORM

PLEASE DO NOT LEAVE ANY SECTION BLANK - N/A IF NOT APPLICABLE

Requesting Agent:

Heide Farst

Date:

9/03/2020

Internal Order (Job No.):

Sr. Act Clerk ONLY (New Security Deposits):

New SAP BP#:

New SAP CA#:

Depositor (Name on check):

MCS Sports Arena Business Park

Address:

900 Highland Dr. Ste 200, Solana Beach, CA 92075

Lessee Name:

Lease:

Sublessee:

Project Name & Descriptive Location:

Consent to Sublease 3770 Hancock St.

Suite H

(Sports Arena Business Park)

Description of Payment: E.G., Earnest Money Deposit, Processing Fee (ROE permit, new lease, etc.), Security Deposit, Interest, Refund from Escrow, Trust Fund, etc...

Processing Fee

Security Deposits ONLY: Scheduled Termination Date:

OFFICIAL RECEIPT NO.:

CHECK NO.:

1649

BANK CHECK DRAWN:

TORREY PINES BANK

DATED:

9/01/2020

FILL IN CORRECT ACCOUNTING DATA:

FUND	GL ACCOUNT	COST OBJECT- as needed			AMOUNT
		COST CENTER	INTERNAL ORDER	WBS ELEMENT	
100000	422069				\$990.00

READ Trust - Security Deposit ONLY:

COST CENTER
Not needed

FUND
820062

GL ACT
110998

Processing Fees ONLY: All-General Fund 1613000001
Water Dept. 2013000001
MWWD 2012150001
Airport (Brwn Fld) 2111000011
(MYF) 2111000012

100000
700011
700000
700033

422069



M.C. STRAUSS
COMPANY

LSR is Due
10/14/20

August 31, 2020

via USPS Priority Mail

The City of San Diego
Real Estate Assets Department
1200 Third Avenue, Suite 1700, MS 51A
San Diego, CA 92101-4199
Attn: Heide Farst

**RE: SPORTS ARENA BUSINESS PARK
CONSENT TO SUBLEASE**

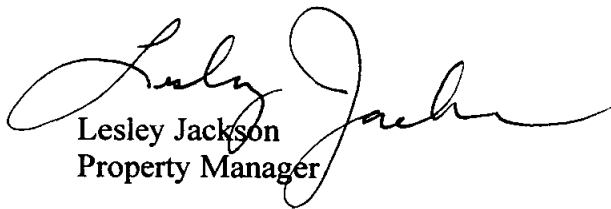
Dear Heide,

Enclosed please find Check #1649 made payable to City Treasure in the amount of \$990.00. This will serve as the processing fee for the Consent to Sublease for the following location:

3770 Hancock Street, Suite H

Also enclosed is a copy of the fully executed lease.

Sincerely,


Lesley Jackson
Property Manager

Enclosures

EXHIBIT K
MEMORANDUM
CERTIFICATE

SAMPLE - DO NOT COMPLETE UNTIL DELIVERY OF POSSESSION OF THE PREMISES

This memorandum is made of August 10, 2020 with reference to that certain Sublease Agreement (hereinafter referred to as the "Sublease") dated August 7, 2020 by and between MCS Sports Arena Business Park LLC, a California limited liability company, as "Sublessor" therein, and Matt Spencer, a single man, as "Sublessee."

The undersigned, as Sublessee under said Sublease, hereby confirms the following:

1. The Sublessee accepted possession of the Premises (as described in said Sublease) on 8/10/20 and acknowledges that the Premises are as represented by Sublessor and in good order, condition and repair, and that the improvements, if any, required to be constructed for and/or furnished to Sublessee by Sublessor under said Sublease have been so constructed and/or furnished and are satisfactorily completed in all respects.
2. That all conditions of said Sublease to be performed by Sublessor prerequisite to the full effectiveness of said Sublease have been satisfied and that Sublessor has fulfilled all of its duties of an inducement nature.
3. That in accordance with the provisions of Paragraph 1.3 of said Sublease the Commencement Date (as the phrase "Commencement Date" is defined in said Sublease) of the term is 8/10/20 and that, unless sooner terminated, the original term thereof expires on 8/31/21.
4. That said Sublease (as amended, if amended) is in full force and effect and that the same represents the entire agreement between Sublessor and Sublessee concerning said Sublease.
5. That there are no existing defenses which Sublessee has against the enforcement of said Sublease by Sublessor, and no offsets or credits against rentals except as may be expressly provided in said Sublease.
6. That the minimum rental obligation of said Sublease is presently in effect and that all rentals, charges and other obligations on the part of Sublessee undersaid Sublease commenced to accrue on 8/10/20.
7. That the undersigned Sublessee has no notice of any prior assignment, hypothecation or pledge of said Sublease or of the rents thereunder.

SUBLESSOR:
MCS SPORTS ARENA BUSINESS PARK LLC
A CALIFORNIA LIMITED LIABILITY COMPANY
BY: MCS GUARDIAN PROPERTIES LLC
A DELWARE LIMITED LIABILITY COMPANY

ITS: MANAGER

BY:

Matt Spencer
MATTHEW C. STRAUSS

SUBLESSEE:
MATT SPENCER
A SINGLE MAN

BY:

ITS:

ITS: CEO

This "Memorandum" is hereby approved in form and shall be completed (if necessary) pursuant with Paragraph 4.A of The Sublease and incorporated as part of The Sublease.

SUBLESSOR'S INITIALS:

SUBLESSEE'S INITIALS:

MS

MS

By and Between

**MCS Sports Arena Business Park LLC,
a California limited liability company**

As: Sublessor

And

**Orsy's Speed Shop LLC,
A California limited liability company**

As: Sublessee

**At Sports Arena Business Park
3770 Hancock Street, Suite H
San Diego, CA 92110**

Standard Commercial Sublease

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Standard Commercial Sublease

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**STANDARD INDUSTRIAL/ COMMERCIAL
SUBLEASE—GROSS
AMERICAN INDUSTRIAL REAL ESTATE ASSOCIATION**

1. Basic Provisions ("Basic Provisions").

1.1 **Parties:** This Sublease ("Sublease"), dated August 26, 2020, is made by and between MCS Sports Arena Business Park LLC, a California limited liability company, ("Sublessor") and Orsy's Speed Shop LLC, a California limited liability company, ("Sublessee"), (collectively the "Parties", or individually a "Party").

1.2(a) **Premises:** That certain portion of the Project (as defined below), including all Improvements therein or to be provided by Sublessor under the terms of this Sublease, commonly known by the street address of 3770 Hancock Street, Suite H, located in the City of San Diego, County of San Diego, State of California, with zip code 92110, as outlined on Exhibit A & A-1 attached hereto ("Premises") and generally described as (describe briefly the nature of the Premises): Sport Arena Business Park. The demised premises consists of approx. 900 rentable square feet. The property is further described on Exhibit A & A.1.

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

1.2(b) **Parking:** Zero (0) unreserved vehicle parking spaces ("Unreserved Parking Spaces"); and one (1) reserved vehicle parking space(s), ("Reserved Parking Spaces"). Reserved Parking Spaces are reserved Monday through Friday, from 6 a.m. to 5 p.m. (See also Paragraph 2.6)

1.3 **Term:** Thirty-eight (38) months ("Original Term") commencing upon mutual execution of this Lease and Sublessor's receipt of: (i) pre-paid Base Rent; (ii) Security Deposit; (iii) certificate of liability insurance naming Sublessor as an Additional Insured and the corresponding Additional Insured Endorsement; and (iv) delivery of possession of the Premises ("Term Commencement Date") and expiring thirty-eight (38) months thereafter ("Expiration Date"). (See also Paragraph 3) (see Exhibit K).

1.4 **Early Possession:** Intentionally omitted.

1.5 **Base Rent:** \$1,395.00 per month ("Base Rent"), payable on the First day of each month commencing upon the Term Commencement Date, (See also Paragraph 4). Rent shall be abated for months two (2) and three (3) of the Sublease Term ("Rent Abatement Period"). Sublessee shall be responsible for Water/Sewage Fees in the amount of \$85.00 per month and separately metered utilities during the Rent Abatement Period.

0 If this box is checked, there are provisions in this Sublease for the Base Rent to be adjusted. See Exhibit F.

1.6 **Sublessee's Share of Common Area Operating Expenses:** (not applicable) percent (N/A%) ("Sublessee's Share").

1.7 **Base Rent and Other Monies paid Upon Execution:**

(a) Base Rent: First month's Base Rent (\$1,395.00) + Water/Sewer Fees (\$85.00) = \$1,480.00

(b) Common Area Operating Expenses: \$ N/A for the period N/A

(c) Security Deposit: \$4,455.00 for three times Last month's Rent plus three times the water/sewer fees of \$255.00 per month = \$4,710.00 ("Security Deposit"). (See also Paragraph 5.)

(d) San Diego Approval Fee: \$990.00 for the City of San Diego Approval fee.

(e) Other: \$35.00 for credit application.

(f) Total Due Upon Execution of this Sublease: \$7,215.00

1.8 **Agreed Use:** Motorcycle repair, warehousing, distributing and related office uses and for no other purpose or use. See Exhibit H. (See also Paragraph 6.)

1.9 **Insuring Party:** Sublessor is the "Insuring Party". (See also Paragraph 8.)

1.10 **Real Estate Brokers:** (See also Paragraph 5).

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

0 Roc Beas/CAA Cre represents Sublessor exclusively ("Sublessor's Broker");
0 Jeff Brown/Kidder Matthews represents Sublessee exclusively ("Sublessee's Broker"); or
0 _____ represents both Sublessor and Sublessee ("Dual Agency").

(b) **Payment to Brokers:** Upon execution and delivery of this Sublease by both Parties, Sublessor shall pay to the Brokers the brokerage fee agreed to in a separate written agreement (or if there is no such agreement, the sum of not applicable or N/A% of the total Base Rent for the brokerage services rendered by the Brokers).

1.11 **Guarantor.** The obligations of the Sublessee under this Sublease are to be guaranteed by Jason Orsborn. See Exhibits J and J.1 ("Guarantor"). (See also Paragraph 37.)

1.12 **Addenda and Exhibits:** Attached hereto is an Addendum or Addenda consisting of Paragraphs ____ through ____ and Exhibits A through N, all of which constitute a part of this Sublease.

2. Premises.

2.1 **Letting.** Sublessor hereby Subleases to Sublessee, and Sublessee hereby Subleases from Sublessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Sublease. Unless otherwise provided herein, any statement of size set forth in this Sublease, or that may have been used in calculating Rent, is an approximation which the Parties agree is reasonable and any payments based thereon are not subject to revision whether or not the actual size is more or less.

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

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

Substance, or the reinforcement or other physical modification of the Unit, Premises and/or Building ("Capital Expenditure"), Sublessor and Sublessee shall allocate the cost of such work as follows:

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

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

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

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

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

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

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

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

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

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

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

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

2.10 Common Areas—Changes. Sublessor shall have the right, in Sublessor's sole discretion, from time to time:

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

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

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

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

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

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

3. Term.

3.1 Term. The Commencement Date, Expiration Date and Original Term of this Sublease are as specified in Paragraph 1.3. (see Exhibit C #2)

3.2 Early Possession. If Sublessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such early possession. All other terms of this Sublease (including but not

limited to the obligations to pay Sublessee's Share of Common Area Operating Expenses, Real Property taxes and insurance premiums and to maintain the Premises) shall, however, be in effect during such period. Any such early possession shall not affect the Expiration Date. (See Exhibit C # 1)

3.3 **Delay In Possession.** Sublessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Sublessee by the Commencement Date. If, despite said efforts, Sublessor is unable to deliver possession as agreed, Sublessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Sublease. Sublessee shall not, however, be obligated to pay Rent or perform its other obligations until it receives possession of the Premises. If possession is not delivered within 60 days after the Commencement Date, Sublessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Sublease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Sublessor within said 10 day period, Sublessee's right to cancel shall terminate. Except as otherwise provided, if possession is not tendered to Sublessee by the Start Date and Sublessee does not terminate this Sublease, as aforesaid, any period of rent abatement that Sublessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Sublessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Sublessee. If possession of the Premises is not delivered within 4 months after the Commencement Date, this Sublease shall terminate, unless other agreements are reached between Sublessor and Sublessee, in writing. (See Exhibit C #12)

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

4. **Rent.**

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

4.2 **Common Area Operating Expenses. INTENTIONALLY DELETED**

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

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

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

(bb) Exterior signs and any tenant directories.

(cc) Any fire sprinkler systems.

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

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

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

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

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

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

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

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

(b) Any Common Area Operating Expenses and Real Property Taxes that are specifically attributable to the Unit, the Building or to any other building in the Project or to the operation, repair and maintenance thereof, shall be allocated entirely to such Unit, Building, or other building. However, any Common Area Operating Expenses and Real Property Taxes, that are not specifically attributable to the Building or to any other building or to the operation, repair and maintenance thereof, shall be equitably allocated by Sublessor to all buildings in the Project. (See Exhibit C, Items 3 & 4.)

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

(d) **INTENTIONALLY DELETED**

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

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

5. **Security Deposit.** Sublessee shall deposit with Sublessor upon execution hereof the Security Deposit as security for Sublessee's faithful performance of its obligations under this Sublease. If Sublessee fails to pay Rent, or otherwise Defaults under this Sublease, Sublessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount due Sublessor or to reimburse or compensate Sublessor for any liability, expense, loss or damage which Sublessor may suffer or incur by reason thereof. If Sublessor uses or applies all or any portion of the Security Deposit, Sublessee shall within 10 days after written request therefore deposit monies with Sublessor sufficient to restore said Security Deposit to the full amount required by this Sublease. If the Base Rent increases during the term of this Sublease, Sublessee shall, upon written request from Sublessor, deposit additional monies with Sublessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Sublessee or to accommodate a sub Sublessee or assignee, Sublessor shall have the right to increase the Security Deposit to the extent necessary. In Sublessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Sublessee occurs during this Sublease and following such change the financial condition of Sublessee is, in Sublessor's reasonable judgment, significantly reduced, Sublessee shall deposit such additional monies with Sublessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Sublessor shall not be required to keep the Security Deposit separate from its general accounts. Within 14 days after the expiration or termination of this Sublease, if Sublessor elects to apply the Security Deposit only to unpaid Rent, and otherwise within 30 days after the Premises have been vacated pursuant to Paragraph 7.4(c) below, Sublessor shall return that portion of the Security Deposit not used or applied by Sublessor. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Sublessee under this Sublease. Notwithstanding anything contained herein to the contrary, provided that Tenant has not been in monetary default of the Lease \$1480.00 shall be deducted from the Security Deposit and shall be applied to the Base Rent due and payable for month eighteen (18) of the Term.

6. **Use.**

6.1 **Use.** Sublessee shall use and occupy the Premises only for the Agreed Use and for no other purpose. Sublessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. (See Exhibit C, Item 5.)

6.2 **Hazardous Substances,**

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

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

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

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

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

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

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

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

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

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

7.1 **Sublessee's Obligations.**

(a) **In General.** Subject to the provisions of Paragraph 2.2 (Condition), 2.3 (Compliance), 6.3 (Sublessee's Compliance with Applicable Requirements), 7.2 (Sublessor's Obligations), 9 (Damage or Destruction), and 14 (Condemnation), Sublessee shall, at

Sublessee's sole expense, keep the Premises, Utility Installations (intended for Sublessee's exclusive use, no matter where located), and Alterations in good order, condition and repair (whether or not the portion of the Premises requiring repairs, or the means or repairing the same, are reasonably or readily accessible to Sublessee, and whether or not the need for such repairs occurs as a result of Sublessee's use, any prior use, the elements or the age of such portion of the Premises), including, but not limited to, all equipment or facilities, such as plumbing, HVAC equipment, electrical, lighting facilities, boilers, pressure vessels, fixtures, interior walls, interior surfaces of exterior walls, ceilings, floors, windows, doors, plate glass, and skylights but excluding any items which are the responsibility of Sublessor pursuant to Paragraph 7.2. Sublessee, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices, specifically including the procurement and maintenance of the service contracts required by Paragraph 7.1(b) below. Sublessee's obligations shall include restorations, replacements or renewals when necessary to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair. (See Exhibit C, Item 6.)

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

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

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

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

7.3 Utility Installations; Trade Fixtures; Alterations.

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

(b) **Consent.** Sublessee shall not make any Alterations or Utility Installations to the Premises without Sublessor's prior written consent. Sublessee may, however, make non-structural Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Sublessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof or any existing walls, and the cumulative cost thereof during this Sublease as extended does not exceed a sum equal to 3 month's Base Rent in the aggregate or a sum equal to one month's Base Rent in any one year. Notwithstanding the foregoing, Sublessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Sublessor. Sublessor may, as a precondition to granting such approval, require Sublessee to utilize a contractor chosen and/or approved by Sublessor. Any Alterations or Utility Installations that Sublessee shall desire to make and which require the consent of the Sublessor shall be presented to Sublessor in written form with detailed plans. Consent shall be deemed conditioned upon Sublessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Sublessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Sublessee shall promptly upon completion furnish Sublessor with as-built plans and specifications. For work which costs an amount in excess of one month's Base Rent, Sublessor may condition its consent upon Sublessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Sublessee's posting an additional Security Deposit with Sublessor.

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

7.4 Ownership; Removal; Surrender; and Restoration.

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

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

(c) **Surrender; Restoration.** Sublessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof broom clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing, if this Sublease is for 12 months or less, then Sublessee shall surrender the Premises in the same condition as delivered to Sublessee on the Start Date with NO allowance for ordinary wear and tear. Sublessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures. Sublessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Sublessee. Sublessee shall also completely remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Sublessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Project) even if such removal would require Sublessee to perform or pay for work that exceeds statutory requirements. Trade Fixtures shall

remain the property of Sublessee and shall be removed by Sublessee. The failure by Sublessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Sublessor shall constitute a holdover under the provisions of Paragraph 26 below. (See Exhibit C, Item 7.)

8. Insurance Indemnity.

8.1 Payment of Premium Increases.

(a) As used herein, the term "Insurance Cost Increase" is defined as any increase in the actual cost of the insurance applicable to the Building and/or the Project and required to be carried by Sublessor, pursuant to Paragraphs 8.2(b), 8.3(a) and 8.3(b) ("Required Insurance"), over and above the Base Premium, as hereinafter defined, calculated on an annual basis. Insurance Cost Increase shall include, but not be limited to, requirements of the holder of a mortgage or deed of trust covering the Premises, Building and/or Project, increased valuation of the Premises, Building and/or Project, and/or a general premium rate increase. The term Insurance Cost Increase shall not, however, include any premium increases resulting from the nature of the occupancy of any other tenant of the Building. If the parties insert a dollar amount in Paragraph 1.9, such amount shall be considered the "Base Premium." The Base Premium shall be the annual premium applicable to the 12 month period immediately preceding the Start Date. If, however, the Project was not insured for the entirety of such 12 month period, then the Base Premium shall be the lowest annual premium reasonably obtainable for the Required Insurance as of the Start Date, assuming the most nominal use possible of the Building. In no event, however, shall Sublessee be responsible for any portion of the premium cost attributable to liability insurance coverage in excess of \$3,000,000 procured under Paragraph 8.2(b).

(b) INTENTIONALLY DELETED

8.2 Liability Insurance.

(a) **Carried by Sublessee.** Sublessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Sublessee and Sublessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$1,000,000 per occurrence with an annual aggregate of not less than \$3,000,000, an "Additional Insured-Managers or Sublessor's of Premises Endorsement" and contain the "Amendment of the Pollution Exclusion Endorsement" for damage caused by heat, smoke or fumes from a hostile fire. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Sublease as an "Insured Contract" for the performance of Sublessee's indemnity obligations under this Sublease. The limits of said insurance shall not, however, limit the liability of Sublessee nor relieve Sublessee of any obligation hereunder. All insurance carried by Sublessee shall be primary to and not contributory with any similar insurance carried by Sublessor, whose insurance shall be considered excess insurance only. (See Exhibit C, Item 8.)

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

8.3 Property Insurance - Building, Improvements and Rental Value.

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

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

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

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

8.4 Sublessee's Property; Business Interruption Insurance.

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

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

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

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

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

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

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

9. **Damage or Destruction.**

9.1 **Definitions.**

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

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

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

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

(e) **"Hazardous Substance Condition"** shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance as defined in Paragraph 6.2(a), in, on, or under the Premises.

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

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

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

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

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

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

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

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

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

10. **Real Property Taxes.**

10.1 **Definitions.**

(a) **"Real Property Taxes."** As used herein, the term "Real Property Taxes" shall include a form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Sublessor in the Project, Sublessor's right to other income there from, and/or Sublessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Project address and where the proceeds so generated are to be applied by the city, county or other local taxing authority of a jurisdiction within which the Project is located. The term "Real Property Taxes" shall also include any tax, fee, levy, assessment or charge, or any increase therein, imposed by reason of events occurring during the term of this Sublease, including but not limited to, a change in the ownership of the Project or any portion thereof or a change in the improvements thereon.

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

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

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

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

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

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

12. **Assignment and Subletting.** (see Exhibit C #9)

12.1 **Sublessor's Consent Required.**

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

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

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

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

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

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

(a) Regardless of Sublessor's consent, any assignment or subletting shall not: (i) be effective without the express written assumption by such assignee or Sublessee of the obligations of Sublessee under this Sublease, (ii) reSublease Sublessee of any obligations hereunder, or (iii) after the primary liability of Sublessee for the payment of Rent or for the performance of any other obligations to be performed by Sublessee.

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

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

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

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

(f) Any assignee of, or Sublessee under, this lease shall, by reason of accepting such assignment or entering into such subSublease, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition

and obligation herein to be observed or performed by Sublessee during the term of said assignment or subSublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or subSublease to which Sublessor has specifically consented to in writing.

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

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

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

(c) Any matter requiring the consent of the Sublessor under a subSublease shall also require the consent of Sublessor.

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

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

13. Default; Breach; Remedies.

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

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

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

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

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

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

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

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

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

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

was not previously given, a notice to pay rent or quit, or to perform or quit given to Sublessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Sublessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Sublease entitling Sublessor to the remedies provided for in this Sublease and/or by said statute.

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

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

13.3 Inducement Recapture. Any agreement for free or abated rent or other charges, or for the giving or paying by Sublessor to or for Sublessee of any cash or other bonus, inducement or consideration for Sublessee's entering into this Sublease, all of which concessions are hereinafter referred to as "**Inducement Provisions**," shall be deemed conditioned upon Sublessee's full and faithful performance of all of the terms, covenants and condition, of this Sublease. Upon Breach of this Sublease by Sublessee, any such Inducement Provision shall automatically be deemed deleted from this Sublease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Sublessor under such an Inducement Provision shall be immediately due and payable by Sublessee to Sublessor, notwithstanding any subsequent cure of said Breach by Sublessee. The acceptance by Sublessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Sublessor of the provisions of this paragraph unless specifically so stated in writing by Sublessor at the time of such acceptance. (See Exhibit C #16)

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

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

13.6 Breach by Sublessor.

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

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

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

15. Brokerage Fees. (see Exhibit C #10)

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

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

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

16. **Estoppel Certificates.**

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

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

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

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

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

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

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

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

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

23. **Notices.**

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

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

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

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

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

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

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

and observation of the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

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

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

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

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

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

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

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

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

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

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

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

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

31. **Attorneys' Fees.** If any Party or Broker brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "Prevailing Party" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgement, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Sublessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach (\$200 is a reasonable minimum per occurrence for such services and consultation). (see Exhibit C #15)

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

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

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

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

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

37. **Guarantor.**

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

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

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

39. **Options.** If Sublessee is granted an option, as defined below, then the following provisions shall apply. (see Exhibit L, if any)

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

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

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

39.4 **Effect of Default on Options.**

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

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

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

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

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

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

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

44. **Conflict.** Any conflict between the printed provisions of this Sublease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions. (see Exhibit C #13)

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

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

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

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

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

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

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

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

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

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

Executed at: San Diego, CA
on: August 26, 2020

By SUBLESSOR:
MCS Sports Arena Business Park, LLC
a California limited liability company

By: MCS Guardian Properties LLC
A Delaware limited liability company
Title: Manager

By: [Signature]
Name Printed: Matthew O. Strauss
Title: CEO
Address: 990 Highland Drive #200
Solana Beach, CA 92075

Telephone: (858) 792-7500
Facsimile: (858) 792-7834
Federal ID No. _____

Executed at: _____
on: _____

By SUBLESSEE:
Orsy's Speed Shop
a California limited liability company

By: [Signature]
Name Printed: JASON ORSBURN
Title: PRESIDENT

By: _____
Name Printed: _____
Title: _____
Address: _____

Telephone: 619 206-6369
Facsimile: () _____
Federal ID No. _____

These forms are often modified to meet changing requirements of law and needs of the industry. Always write or call to make sure you are utilizing the most current form: American Industrial Real Estate Association, 700 South Flower Street, Suite 600, Los Angeles, CA 90017. (213) 687-8777.

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EXHIBIT A
LEGAL DESCRIPTION & SITE PLAN

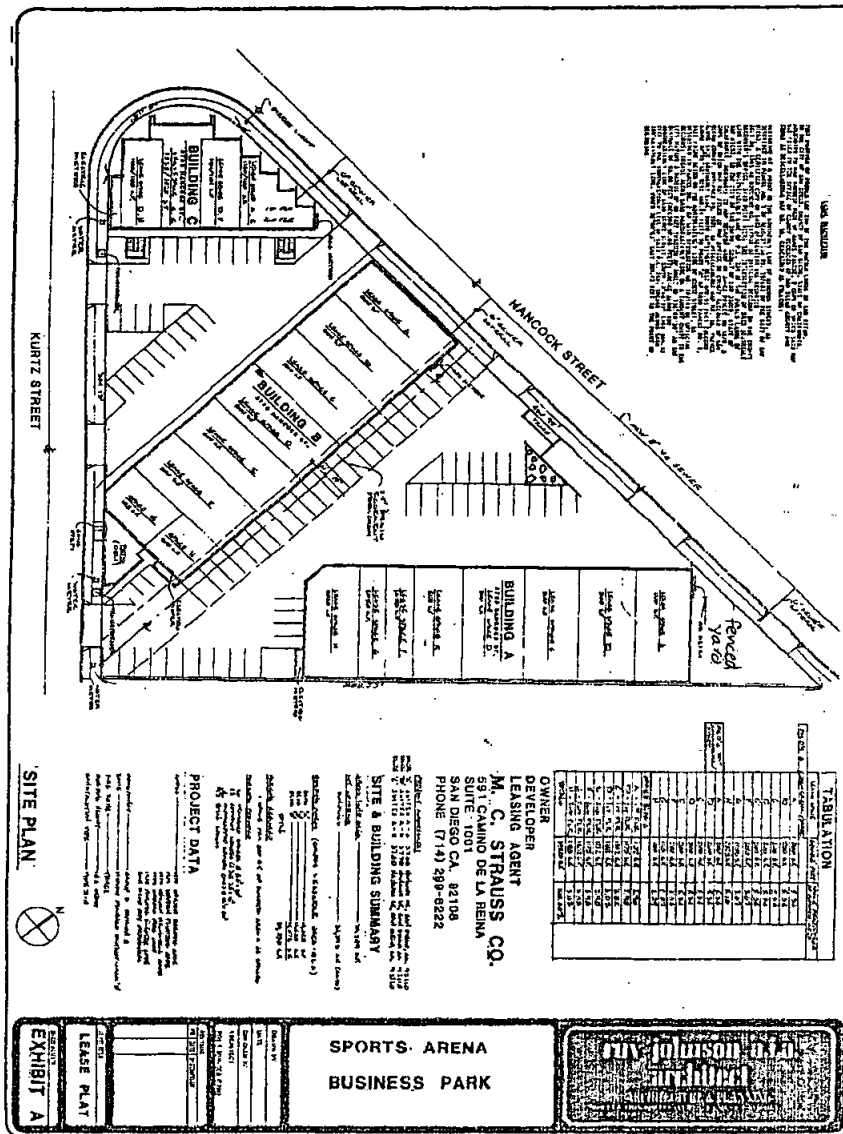


EXHIBIT A

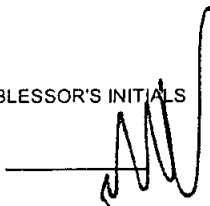
EXHIBIT A-1 TO SUBLEASE
MINIMUM STANDARD SUBLEASE CONDITIONS

WHEREAS, There exists a Master Lease by and between The City of San Diego ("Master Lessor") and MCS Sports Arena Business Park LLC, a California limited liability company (successor in interest to: Kathryn Crake dba: Triland Development Company), dated June 23, 1997 ("Master Lease").

(1) PROVISIONS CONSTITUTING SUBLEASE.

- (a) This Sublease is subject to all of the terms and conditions of the Master Lease. And Sublessee shall not commit or permit to be committed on the subleased Premises any act or omission, which shall violate any terms or conditions of the Sublease or of the Master Lease.
- (b) All of the terms and conditions contained in the Master Lease are incorporated as terms and conditions of the Sublease and shall be the complete terms and conditions of this Sublease.
- (2) HOLD HARMLESS: Sublessee shall assume the defense of, indemnify and save harmless Sublessor and City, its agents, officers and employees from all claims, expenses and liability of every nature, directly or indirectly arising from, or alleged to have arisen from the operations conducted on the Subleased Premises or from any act or omission of Sublessee, its agents and invitees.
- (3) INSURANCE: Sublessee shall be insured by an insurance carrier acceptable to the Sublessor and City against loss from public liability arising from the use or condition of or operation conducted on the Subleased Premises. Minimum coverage shall be as set forth in Section 8.2 of the body of the Sublease and Section 8 of Exhibit C to the Sublease hereof. A copy of the policy of insurance shall be filed with the City and shall name "THE CITY OF SAN DIEGO" as an additional insured. Said policy shall specify that the policy may not be terminated, altered or canceled without 30 days prior written notice to the City by the insurance company,
- (4) LEGAL PROCEEDINGS: Should it become necessary to Sublessor or City to commence legal Proceedings to collect rent, to recover possessions or enforce any other provision of this Sublease, Sublessee agrees that the prevailing party shall be entitled to all legal costs in connection therewith, including a reasonable sum as attorney's fees
- (5) SUBORDINATION: This agreement is in effect a Sublease of a portion of the premises covered by that Flat Rate Sublease filed in the Office of the San Diego City Clerk on October 25, 1978, as Document No. 764812, as amended between the Sublessor herein and the City of San Diego. This Sublease is subject and subordinated to the covenants and conditions of said Sublease Agreement notwithstanding any provision hereto contrary to or in conflict with said agreement.
- (6) The property is subject to a City of San Diego ground Sublease mentioned hereinabove and lies with in the recently formed North Bay Redevelopment Area. The property will be redeveloped sometime in the future. Accordingly, Sublessor and or City at its sole option may terminate this Sublease at anytime after Dec 1, 2003 with 6 months notice in writing, and without invalidating or superseding any of the rights contained here in this Addendum of the Sublease or the city land Sublease agreements there under.
- (7) APPROVAL OF MASTER LESSOR. Sublessee acknowledge that the Premises is on a Master Lease between MCS Sports Arena Business Park LLC, a California limited liability company and The City of San Diego.
 - (a) This Sublease is subject to the approval of the Master Lessor and the parties hereto agree to modify this Sublease so as to conform to any reasonable requests of the Master Lessor as a condition of its approval.
 - (b) In the event that Master Lessor does not approve of this Sublease, this Sublease shall become null and void effective immediately following notification of rejection of this Sublease by the Master Lessor.
 - (c) All terms and conditions of the Master Lease shall remain the same except as provided in this Sublease and as may be additionally required by Master Lessor pursuant to Paragraph 7a herein above.

SUBLESSOR'S INITIALS



SUBLESSEE'S INITIALS

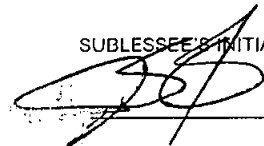
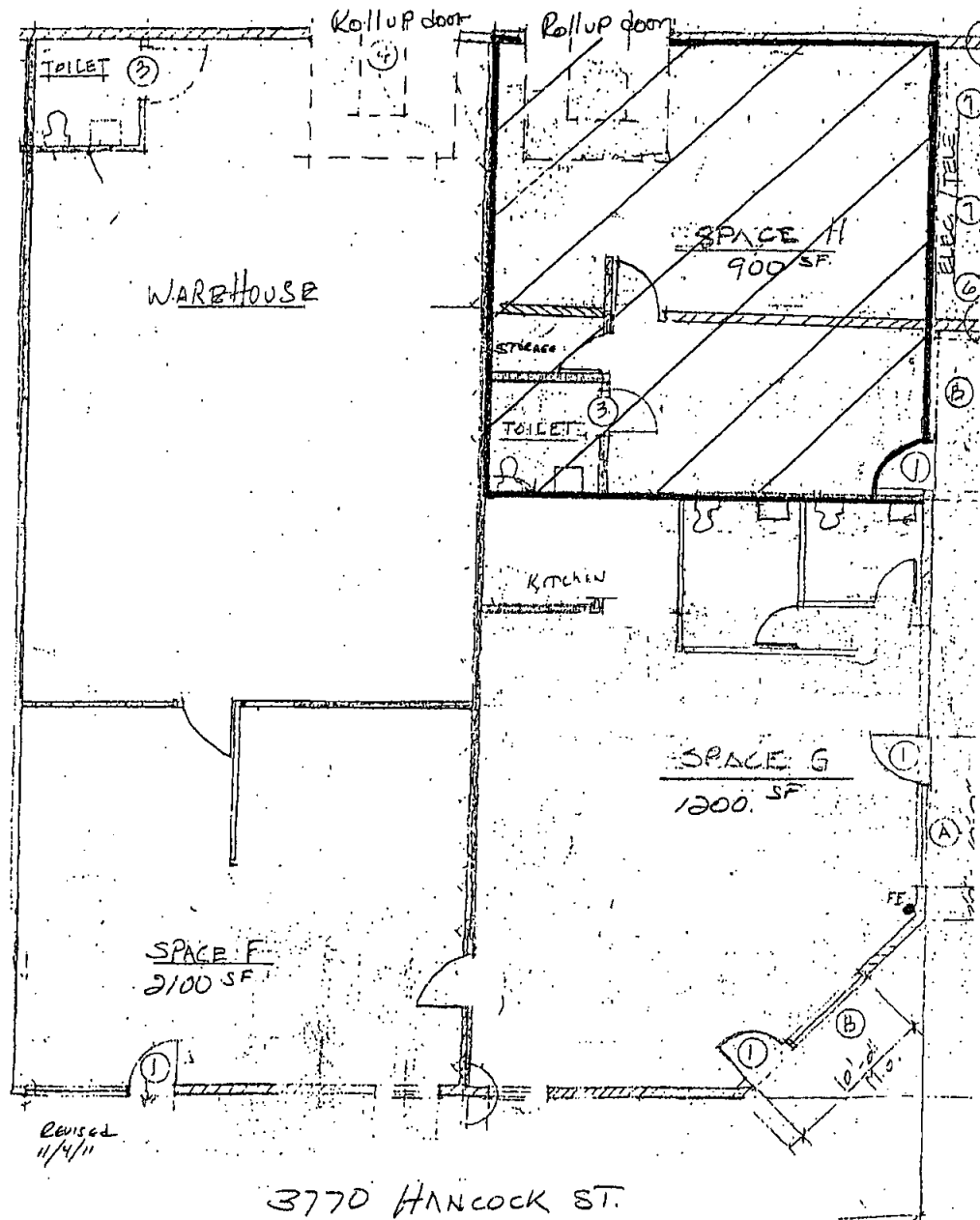


EXHIBIT B
DEMISED PREMISES PLAN



Addendum to Commercial/Industrial Multi-Tenant Sublease

1. Early Possession: Intentionally omitted.
2. Term Adjustment: If the Commencement Date is other than the first day of a calendar month, the Term shall be deemed to have commenced on the first day of the next succeeding month.
3. Modified Common Area Operating Expenses: Sublessor shall pay Tenant's portion of common area maintenance, taxes, and insurance.
 - a. "Operating Costs" means all costs reasonably incurred by Sublessor in accordance with generally accepted accounting principles, and fairly allocable to the applicable Calendar Year which relate to, or are fairly allocable to, the ownership and operation of the Common Areas. Sublessor shall pay tenant's portion of common area maintenance, taxes and insurance.
 - b. Periodic painting of the building exterior and common areas shall be included as a common area operating expense. If Sublessor undertakes a program of preventive maintenance for the HVAC systems for all of the Tenants per Paragraph 7.1(b), the cost thereby shall be included as a common area expense.
 - c. The common area definition shall also include lighting facilities, sewer, water, gas, electric, phone and other utility lines, storm drains, roads and approaches servicing the Center generally; and any other items that Sublessor deems necessary and appropriate.
 - d. Replacement costs, defined as that which cannot be repaired other than at a cost which is in excess of fifty percent (50%) of the cost of replacing such item, then such item shall be replaced and the cost prorated over sixty (60) months and Tenant shall pay one sixtieth ($\frac{1}{60}$) of the cost each month of the Sublease term and extension thereto.
4. Utilities: Sublessee shall pay before delinquency all charges for water, sewer, gas heat, electricity, power, telephone service and all and any other services or utilities used in, upon or about the Demised Premises by Sublessee or any of its subtenants, licensees or concessionaries, provided, however, if any such services or utilities shall be billed to Sublessor and not separately metered to the Demised Premises the amount thereof shall be prorated and Sublessee shall pay to Sublessor upon demand as additional rental hereunder an amount equal to that proportion of the total charges therefore which the number of square feet of Gross Floor Area in the Demised Premises bears to the total number of square feet of gross floor area of stores then rented as of the date of the utility bill served in the area and/or buildings covered by such combined charges. With respect to gas and electric service, which is not separately metered, Sublessor may, at Sublessor's option, in lieu of prorating on the fore-going basis, determine the amount of use of such services by Sublessee on the basis of Sublessee's estimated usage as determined by the utility company servicing the Demised Premises, or, if such company ceases providing such service, by a qualified electrical contractor selected by Sublessor. Water is furnished to the part of the Common Area via as is central meter. Accordingly, Sublessee will pay Sublessor a flat charge of per Section 1.7 (d) a month for its share of the water for its premises. Water charges may be reevaluated and increased by Sublessor based on the use of the premises especially due to the number of patrons of and Sublessee's business use. Sublessor may require a high water user such as a restaurant or beauty parlor to install a separate meter or if the cost is prohibitive, to install an inline meter at Sublessee's expense to be able to determine Sublessee's fair share for any excess use.
5. Continuous Operations: Sublessee shall keep the Demised Premises open for business during all hours customarily maintained by business similar to Sublessee's business in the trading area in which the Demised Premises are located. At all such times Sublessee shall have upon the Demised Premises a sufficient number of employees and a sufficient stock of merchandise to adequately serve the patrons thereof or render the services offered. A business holiday of more than 30 days of consecutive closing in any one year shall be considered a default.
6. Locks: Should Sublessee change the locks on their suite, Sublessee must furnish Sublessor with a copy of the new key which is for the protection of the Sublessee and per the Sublease.
7. Vacating Premises: The definition "ordinary wear and tear" shall NOT include such items as carpet cleaning, cleaning, patching and painting necessary to restore Premises to a releasable condition. Additionally, Tenant will be charged for repainting rear access doors, repairing store front doors, rekeying locks to the master system and removing alarm systems or personal property and/or debris, etc, upon Sublease termination.
8. Insurance: Sublessor's appropriate liability insurance coverage is \$3,000,000. Therefore, Paragraph 8.1 and/or Paragraph 8.2 is amended to increase the ceiling to \$3,000,000 and Sublessee shall reimburse Sublessor for its portion accordingly.
9. Assignment and Subletting:
(This is in addition to Sublease language and prevails in the event of conflict.)
 - a. Consent to Assignment or Subletting shall not be unreasonably withheld: Subject to a compatible and noncompetitive business use with respect to the other businesses in the Center and sufficient financial statement and credit record of assignee and reasonable experience in conducting the intended business, Sublessor's consent to assign or sublet this Sublease shall not be unreasonably withheld provided however, that Sublease shall not be in default and/or if Sublessee shall have, previously breached or otherwise failed to perform under this Sublease since its inception, and Sublessee did not cure that breach, Sublessor, at its sole discretion, may declare this Sub-paragraph null and void. Any increase in rents shall become the property of the Sublessor. Any such assignment or subleasing even with the approval of the Sublessor, shall not relieve the Sublessee from liability for payment of the rental herein provided or from the obligation to keep and be bound by the terms, conditions and covenants of this Sublease.
 - b. Assignment or Transfer to a Corporation: Notwithstanding anything to the contrary set forth herein, Sublessee may assign this Subleasehold interest created hereby to a corporation or other entity not less than fifty percent (50%) of the voting stock or controlling interest of which is owned by Sublessee; provided that Sublessee shall at all times remain liable for performance hereunder; and provided, further, that any transfer by Sublessee of the controlling stock or interest in such corporation or other entity shall be a prohibited assignment hereunder.
 - c. Consent to be in writing: Sublessee shall not assign, mortgage, pledge, hypothecate or encumber this Sublease or the Subleasehold interest created hereby or any interest herein or sublet the Demised Premises or any portion thereof, or license the use of all or any portion of the Demised Premises, without the written consent of Sublessor first had and obtained. Without in any way limiting any other rights available to the Sublessor at the time of any proposed assignment or subletting, Sublessor expressly reserves the right to adjust the Guaranteed Minimum Monthly Rental to an amount derived by multiplying said guaranteed minimum monthly rental times a number equal to the percentage by which the Bureau of Labor Statistics, United States Department of Labor for Los Angeles-Riverside-Orange County under the heading of "All Items" for "All Urban Consumers" for the month in which the date of such assignment or subletting occurs has increased over the same Cost of Living Index figure for the month in which the Commencement Date under this Sublease occurs (i.e., if the percentage of such increase is thirty percent (30%), then the guaranteed minimum monthly rental will be multiplied times 130%). Tenant agrees to pay Sublessor an administrative fee of \$500 and to reimburse Sublessor for

Sublessor's reasonable attorney fees incurred in conjunction with the processing and documentation of any such requested transfer, assignment, subletting, licensing or concession agreement

10. Broker's Fee:

- a. All Broker's fees as referred to in the Sublease and Sublease addendums shall be by separate agreement pursuant to a schedule to be agreed upon by Owner and Broker.
- b. However, it is understood and agreed that no commissions shall be paid on option exercises, or renewals, or expansions that unless at the invitation of the Owner first had obtained in writing.

11. Sublessee's Financial Information: Sublessee has furnished financial statements which have been approved by Sublessor. Sublessee shall reimburse Sublessor \$35 if Sublessor obtains a credit report. Sublessee also agrees to deliver to Sublessor a resume of its business experience and a completed Sublessor's "Credit Information" form. The Sublease is contingent upon Sublessor's review and approval to its sole satisfaction of Sublessee's qualifications to Sublease. Said credit application must include but not be limited to listing specifics of next of kin, closest living relative not living with you, closest non-relative and who to notify in case of emergency.

12. Dispute or Delay: In the event of any dispute between the parties concerning the time of actual completion of Sublessor's Work or Sublessee's Work or any claimed excuse for delay in performance or non-performance thereof or whether such work has been adequately performed in a good and workmanlike manner and is satisfactory for the use intended, such dispute shall be referred to Sublessor's architect whose determination with regard thereto shall be final and conclusive upon the parties.

13. Deletion: Wherever in this Sublease a Section or Subsection is preceded by the word "~~Deleted~~" or "~~Deleted~~" such Section or Subsection is deleted from this Sublease in its entirety and is of no force or effect.

14. Attorney's Fees: The Sublessor is entitled to attorney's fees or costs for the enforcement of the Sublease regardless of whether an action is filed, said fees and costs to be considered additional rent.

15. Sublease Incentives: If Tenant is in default under this Sublease at any time during the Term and without limiting the foregoing, if Landlord has given Tenant any Sublease incentives or other inducements or consideration in connection with this Sublease ("Incentives"), including without limitation, any abatement of rent, the unamortized portion of any Tenant Improvement Allowance and/or leasing commissions then the incentives will terminate and Landlord may recover from Tenant the value of all such Incentives received by Tenant in addition to all other damages recoverable by Landlord pursuant to the provisions of this Sublease.

16. Confidentiality: Sublessee shall keep the content and all copies of this Sublease and related documents now or hereafter entered into, and all proposals, materials, information and matters relating thereto, strictly confidential, and shall not disclose, disseminate or distribute any of the same, or permit the same to occur, except to the extent reasonably required for proper business purposes by Sublessee's attorneys, insurers, auditors and lenders, and, in such event, Sublessee shall obligate any such parties to whom disclosure is permitted to honor the confidentiality provisions hereto, except as may be required by Law or court proceedings.

17. Substitute Premises: Sublessor shall have the right from time to time during the term of this Sublease to relocate the Premises within the Project on the following terms and conditions: (i) the square footage of the substitute premise ("Substitute Premises") are equal to the square footage of the Premises (subject to a variation of up to fifteen percent (15%) in the square footage of the Substitute Premises, provided that the amount of rent payable under this Sublease is not thereby increased); (ii) Sublessor shall pay the cost of providing Sublessee Improvements (defined below) in the Substitute Premises substantially comparable to the Tenant Improvements in the Premises; (iii) Sublessor shall pay the expenses directly related to and reasonably incurred by Sublessee in connection with such relocation to the Substitute Premises; and (iv) Sublessor shall not be liable for (a) any loss of business or good will, or (b) any damage to Sublessee's Property or other personal property relocated, unless caused by Sublessor or its employees gross negligence or willful misconduct. Sublessor shall deliver to Sublessee written notices of Sublessor's election to relocate the Premises specifying the new location at least thirty (30) days prior to the date the relocation is to be effective. If the relocation of the Premises is unacceptable to Sublessee, then Sublessee may terminate this Sublease during a period of thirty (30) days after receipt of Sublessor's notice to relocate, by delivering written notice to Sublessor within the thirty (30) day period. Such notice of termination shall be effective upon receipt thereof by Sublessor. If Sublessee elects to terminate this Sublease pursuant to this Section, then the parties shall be discharged from all obligations hereunder, other than those that have accrued prior to the actual date of Sublessee's termination of this Sublease or which specifically survive the termination of this Sublease and Sublessee shall be granted a reasonable period of tenancy in order to relocate to suitable premises.

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A. Sublessee is responsible for sending rent payments on the first of the month to:

MCS Sports Arena Business Park LLC,
a California Limited Liability Company
990 Highland Drive, Suite 200
Solana Beach, CA 92075

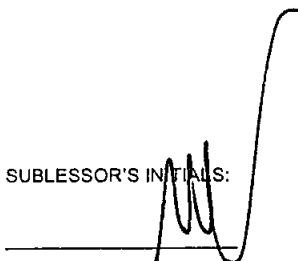
B. For any questions or building management problems, call:

Lesley Jackson
MC Strauss Company
990 Highland Drive, Suite 200
Solana Beach, CA 92075
Phone: 858-792-7500; Fax: 858-792-7834

C. Required Personal Data: 5552 BELLEVUE AVE LA JOLLA, CA 92037
Sublessee's Home Address: 5552 BELLEVUE AVE LA JOLLA, CA 92037
Home Phone: 619-206-0387
In case of emergency: TRISHA ORSBURN
Address: 5552 BELLEVUE AVE LA JOLLA, CA 92037
Phone: 619-997-4455 Fax:
Next of Kin (Name): RICHARD ORSBURN
Address: 461 SHARPSVILLE RD. FOWLER, OH 44418
Phone: 614-402-9080 Fax:

D. Other: Sublessor reserves the right to change the management company and the address to which rent payments shall be made by delivering notice to Sublessee in accordance with this Sublease.

SUBLESSOR'S INITIALS:



SUBLESSEE'S INITIALS:

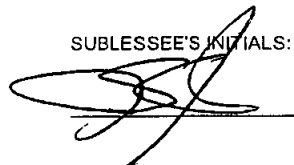


EXHIBIT D

TENANT IMPROVEMENTS AND ACCEPTANCE OF PREMISES

Scope of Sublessor's Work

Sublessor shall provide Sublessee, at the sole cost and expense of Sublessor, the following "standard" improvements as follows:

1. Sublessor has completed construction of the Demised Premises and Sublessee acknowledges that the Demised Premises are being Subleased in "as is" condition and that Sublessee has inspected same and the Demised Premises are in satisfactory condition.

Scope of Sublessee's Work

All improvements desired by Sublessee, shall be considered "Non-standard" and shall be at the sole cost and expense of Sublessee including, but not limited to :

1. Permits, Plans, and supervision for any Tenant improvements.
2. Sublessor grants permission to Sublessee to install necessary and/or required improvements or modifications, subject to Sublessor's prior written approval, to accommodate Sublessee's intended business use, at Sublessee's sole cost and expense, and in accordance with any and all governmental requirements including the obtaining of any required permits for the Demised Premises and said business.

Perform any and all additional work required to complete the Premises to a condition customary and ready for the normal operation of Sublessee's business. Sublessee shall be responsible to pay for any additional water, and/or sewer impact fees if imposed due to the nature of Sublessee's business or use of Premises.

Within thirty (30) days following the execution of the Sublease, Sublessee, at Sublessee's sole cost and expense, shall deliver to Sublessor a fully dimensioned 1/4-inch scale set of plans. Said plans shall show all storefronts, interior partitions, fixtures, lighting, electrical outlets, plumbing (including fixtures), floor coverings, ceiling and other improvements that Sublessee wishes to construct and install upon Premises. Said plans shall be subject to Sublessor's approval prior to start of any work by Sublessee or his contractors, which shall not be unreasonably withheld, which shall thereafter be called "Sublessee Plans Approved for Construction." Should Sublessee fail to deliver to Sublessor plans for "Sublessee's Work" within thirty (30) days following execution of the Sublease, Sublessor may, at his option and with written notification to that effect to Sublessee, terminate this Sublease.

No changes, modifications or alterations to Sublessee Plans Approved for Construction may be made without the written consent of Sublessor. Any additional costs, including any increased fees which Sublessor may be required to Pay for architectural, engineering and/or other similar services arising by reason of any subsequent change to Sublessee Plans Approved for Construction made at the request of Sublessee, shall be at the sole cost and expense of Sublessee and shall be paid by Sublessee to Sublessor before the performance of the work requested by Sublessee.

All of Sublessee's work and improvements shall be performed by Sublessee, at Sublessee's sole cost and expense except as outlined above and pursuant to the plans and specifications approved by Sublessor. It is understood that the approval of Sublessor shall in no manner relieve Sublessee of Sublessee's obligation to obtain, at Sublessee's sole cost and expense, all necessary and appropriate permits from all applicable governmental or public agencies for the construction of Sublessee's improvements, installation of Sublessee's personal property and the operation of Sublessee's business at Premises.

Upon delivery of Premises to the Sublessee, Sublessee shall immediately and diligently proceed to install Sublessee's Work as described in Sublessee's Plans Approved for Construction at Sublessee's sole cost and expense without interfering with other work being done, if any, in the building or shopping center.

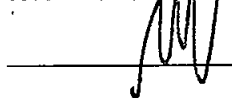
All work done by Sublessee shall be done by a licensed contractor and in compliance with all rules and regulations required by local building authorities, Sublessor or his agents and in accordance with all uniform building codes as dictated by state, federal and local requirements.

Upon final completion of Sublessee's Work, Sublessee shall furnish Sublessor with all certificates, approvals and permits "signed off" by local governmental building inspector, that were required to complete Sublessee's Work. Sublessor shall not be responsible for any loss or damage to Sublessee's improvements/property that is installed or left on Premises.

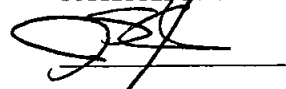
Sublessee's entry upon Premises prior to commencement of the Term of this Sublease shall be subject to all provisions of this Sublease other than payment of rent. At all times after such entry, Sublessee shall maintain an insurance policy that complies with the provisions of this Sublease. The inability of Sublessee to complete Sublessee's Work in a timely manner and to a condition acceptable for conducting business, through no fault of Sublessor, shall not delay the Term Commencement or payment of rent.

Sublessee hereby indemnifies and holds Sublessor free and harmless from and against any and all claims, demands and liabilities, including, but not limited to attorney costs, expenses and court costs, arising from or relating to Sublessee's Work and improvements. It is the intent of the parties that this indemnification shall survive the expiration or sooner termination of this Sublease.

SUBLESSOR'S INITIALS:



SUBLESSEE'S INITIALS:



*DOES NOT APPLY

~~*EXHIBIT-E~~

~~ESTIMATED OPERATING EXPENSES (GROSS SUBLEASE)~~

~~The operating expenses are estimated at \$_____ per square foot annually or
(\$_____ psf x _____ sq. ft. /12 = \$_____) per month for the Demised Premises until adjusted per the Sublease.~~

SUBLESSOR'S INITIALS: _____ SUBLESSEE'S INITIALS: _____

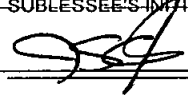
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EXHIBIT F

RENT ADJUSTMENT(S)

ADDENDUM TO
STANDARD SUBLEASE

Dated August 26, 2020
By and Between (Sublessor) MCS Sports Arena Business Park LLC
(Sublessee) Orsy's Speed Shop LLC
Property Address: 3770 Hancock Street, Suite H
San Diego, CA 92110

Paragraph 1.5

A. **RENT ADJUSTMENTS:**

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

0 I. **Fixed Rental Adjustment(s) (FRA)**

The monthly rent payable under paragraph 1.5 ("Base Rent") of the attached Sublease shall be increased to the following amounts on the dates set forth below.

Effective on the first anniversary of the Term Commencement Date, the new Base Rental shall be payable as follows:

Months 13-24: \$1.60psf x 900sf = \$1,440.00 per month, plus \$85.00 water/sewer fee per month = \$1,480.00 per month
Months 25-38: \$1.65psf x 900sf = \$1,485.00 per month, plus \$85.00 water/sewer fee per month = \$1,525.00 per month

B. **NOTICE:** Unless specified otherwise herein, notice at any escalations other than Fixed Rental Adjustment(s) shall be made as specified in paragraph 23 of the attached Sublease.

C. **BROKER'S FEE:** The Real Estate Brokers specified in paragraph 1.10 of the attached Sublease shall be paid a Brokerage Fee for each adjustment specified above in accordance with paragraph 15 of the attached Sublease.

SUBLESSOR'S INITIAL



SUBLESSEE'S INITIAL:

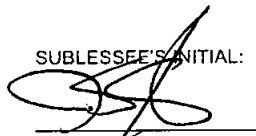


EXHIBIT G
CENTER SIGN CRITERIA

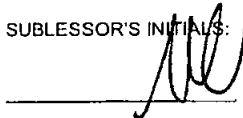
The purpose of this sign criteria has been established for the intent of assuring an outstanding shopping center and mutual benefit of all Sublessee's. Conformance will be strictly enforced. Any installed non-conforming or unapproved signs will be brought into conformance at the expense of the Sublessee.

A. Sublessee shall be entitled to signage above the Premises. Signage shall be subject to City of San Diego and Sublessors prior written approval. All costs associated with the design, construction, installation, as well as removal, shall be borne by Sublessee. Sublessee shall be required to remove all Sublessee signage at the conclusion of Sublessee's occupancy of the Premises. Ground level Sublessee's shall be entitled to signage on the Center's pole sign at its expense and subject to availability.

B. General Requirements:

1. Sublessee shall submit to the Sublessor the exact sign specifications, copy and colors desired for Sublessor's approval from a licensed and experienced sign company.
2. All approvals or disapprovals of sign submittals based on esthetics and design shall remain sole right of the Sublessor and local governing authorities.
3. Selected sign company will be responsible for obtaining all permits and sign Installation.
4. No exposed lamp, raceways, crossovers, conduit, conductors, transformers or similar devices shall be permitted.
5. All maintenance of signage shall be the responsibility of the Sublessee.
6. All signs shall be individually illuminated.
7. No audible, flashing or animated signs will be permitted.
8. No projections above or below the sign will be permitted.
9. Electrical service to all signs will be connected to Sublessee's meter.
10. Sublessee's signs shall be designed and installed in a manner compatible with and complimentary to adjacent and facing storefronts and the overall design concept of the center.
11. All penetrations of the building structure required for sign installation shall be sealed in a watertight condition and shall be patched to match adjacent finish. At termination of Sublease when sign is removed, Sublessee or its sign company shall patch and paint and restore to "as was" condition.
12. No advertising placards, banners, pennants, names, insignias or other descriptive material shall be affixed or maintained upon the glass pane supports of the show windows and doors or upon the exterior walls of building without the prior written approval of Sublessor.
13. Logos require prior approval of Sublessor unless nationally recognized logos of a franchise.
14. Letter height restrictions:
 - a. One line of copy with the letter and logo height not to exceed 24 inches or to be less than 10 inches. Allowable, sign fascia coverage not to exceed seventy-five percent (75) of store frontage.
 - b. Two lines of copy will be allowed with the overall height of the two lines of letters not to exceed 30 inches with a maximum height of the letters not to exceed 18 inches or to be less than 16 inches.
15. Designs submitted for the City/County approval must follow the following guidelines:
 - a. Drawings of elevations and sign with all measurements to scale.
 - b. Plot plan and legal description (plans to scale).
 - c. Sections drawings of sign and fascia showing construction and electrical details.
 - d. Color of plastic faces and logos.
 - e. Color of neon, size and intensity.
 - f. Letter style selection
16. Sublessee is granted permission by Sublessor to install a temporary sign banner at its expense above the premises while signs are being fabricated.
17. Sublessee shall indemnify and hold harmless Sublessor against any loss, cost, damages or liability caused to persons, property or otherwise caused by Sublessee's sign Installations.

SUBLESSOR'S INITIALS:



SUBLESSEE'S INITIALS:

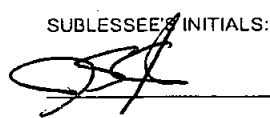
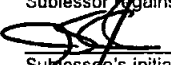


EXHIBIT H
SPECIAL USE OF PREMISES CLAUSE

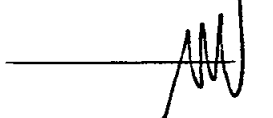
A. Uses Of Premises:

Sublessee shall occupy and use the premises solely for the operation of motorcycle repair, warehousing, distributing, and related office uses, and for no other purpose or use.

Sublessee specifically acknowledges and agrees, by initialing below, that it will not at any time sell, store, use, grow or distribute in any form, any form of Cannabis, including but not limited to marijuana, HEMP, or ditch weed, or any such variety of same or any new variety of same or anything similar to same from or in the Premises or the Project. Sublessee agrees that a violation of this paragraph will be a default under the Sublease for which there is no cure period and that, therefore, Sublessor may immediately terminate this Sublease with twenty four (24) hours' notice to Sublessee. Sublessee further agrees that if Sublessee violates this paragraph, Sublessee shall pay to Sublessor a fine of Five Thousand Dollars (\$5,000.00) per day for each day or partial day that the violation continues until Sublessor regains possession of the Premises.


Sublessee's initials

SUBLESSOR'S INITIALS:



SUBLESSEE'S INITIALS:

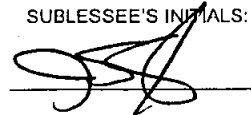


EXHIBIT I
APPLICATION FOR SUBLEASE AND CREDIT INFORMATION
INTENTIONALLY DELETED

EXHIBIT J

GUARANTY OF SUBLEASE

THIS GUARANTY OF SUBLEASE ("Guaranty"), effective as of August 26, 2020, is executed by Jason Orsborn, a married man, ("Guarantor"), with reference to the following facts:

RECITALS

A. MCS Sports Arena Business Park LLC, a California limited liability company, ("Sublessor"), and Orsy's Speed Shop LLC, a California limited liability company, ("Sublessee") have agreed to enter into that certain Sublease ("Sublease"), dated the same date as this Guaranty, covering Premises described therein, located in the City of San Diego, County of San Diego, State of California.
B. Sublessor requires, as a condition to its execution of the Sublease, that Guarantor guarantee the full performance of the obligations of Sublessee thereunder.
C. Guarantor is willing to execute this Guaranty for the benefit of Sublessor and as a material inducement to Sublessor to enter into the Sublease.

GUARANTY

NOW, THEREFORE, in order to induce Sublessor to enter into the Sublease, Guarantor agrees as follows:

1. **Guarantor's Obligations.** Guarantor hereby unconditional guarantees the full and timely performance of each and every obligation to be kept and performed by the Sublessee pursuant to the terms of the Sublease ("Sublease Obligations") in accordance with the terms of and at the time and place specified therein, including, but not limited to, the payment of all rents and other charges accruing pursuant thereto.
2. **Term.** This Guaranty shall continue for the term of the Sublease and any extension or renewal thereof. If the Sublease terminates and Sublessor has any rights which Sublessor may enforce against Sublessee after termination, Sublessor may also enforce such rights against Guarantor.
3. **Primary Liability.** The Sublease Obligations guaranteed by Guarantor under this Guaranty shall be primary and independent of the obligations of Sublessee under the Sublease. Sublessor may bring a separate action or actions against Guarantor hereon and such actions may be brought either in conjunction with actions against Sublessee or against Sublessee directly, regardless of whether Sublessor has commenced any action or obtained any judgment against Sublessee. If Sublessee defaults under the Sublease, Sublessor may proceed directly against Guarantor, without having commenced any action or obtained any judgment against Sublessee, and without applying any property of Sublessee (or any other person), if any; held by Sublessor as security for the performance of the Sublease Obligations. The liability of Guarantor hereunder shall not be released, diminished, or extinguished by Sublessor's failure or delay in enforcing any of its rights.
4. **Continuation; No ReSublease.** This Guaranty shall continue in favor of Sublessor notwithstanding any modification, alteration, extension or renewal of the Sublease entered into by the parties thereto, or their successors or assigns, and notwithstanding any assignment of the Sublease, with or without the consent of Sublessor. No such modification, alteration, extension, renewal or assignment shall affect this Guaranty or in any way reSublease, diminish, or extinguish the liability of Guarantor hereunder.
5. **Assignment.** Sublessor may, with notice to Guarantor, assign this Guaranty in whole, or in part in connection with any transfer of any interest in the Sublease or the Premises, and no such assignment or transfer shall reSublease, diminish, or extinguish or otherwise affect the liability of Guarantor hereunder. In such event the benefits of this Guaranty shall inure to the benefit of Sublessor's successors and assigns.
6. **Security.** Guarantor authorizes Sublessor, without further notice or demand and without affecting the liability of Guarantor hereunder, from time to time, to: (a) take and hold security (including the Security Deposit and any security filing consented to by Sublessee) (the "Security") (if any) for performance of the Sublease Obligations and exchange, enforce, waive or reSublease any such Security; (b) apply such Security in whole or in part and direct the order or manner of sale thereof as Sublessor, in Sublessor's discretion, may determine; and (c) proceed against Sublessee or proceed against and exhaust such Security held from Sublessee; the provisions of this paragraph shall constitute a waiver of Guarantor's right to claim exoneration from the Sublease Obligations for the foregoing actions.
7. **Events of Insolvency.**
 - 7.1. **Defined.** The term "Event of Insolvency" shall mean any of the following:
 - (a) Sublessee becomes insolvent or is adjudicated a bankrupt;
 - (b) Sublessee files a petition for reorganization, arrangement or similar relief under any present or future provisions of the Federal Bankruptcy Code, or any other state or federal statute for the relief of debtors or any similar law;
 - (c) A court approves a petition filed against Sublessee by its creditors for reorganization, arrangement or similar relief under any present or future provision of the Federal Bankruptcy Code, or any other state or federal statute for the relief of debtors or any other similar law;
 - (d) Sublessee seeks a judicial readjustment of the rights of its creditors under any present or future federal or state law; or
 - (e) A receiver of all or part of Sublessee's property and assets is appointed by any state or federal court.
 - 7.2. **Effect.** This Guaranty shall in full force and effect, notwithstanding the occurrence of any Event of Insolvency affecting Sublessee, or any successor or assignee of Sublessee, or in the event of any disaffirmance, or abandonment by a trustee of Sublessee, or in the event that the Sublease is terminated, rejected or modified in the course of any proceeding relating to an Event of Insolvency. To the extent necessary to effectuate the purpose of this Guaranty, Guarantor hereby assigns to Sublessor any rights Guarantor may have to file a claim and proof of claim in any bankruptcy or similar proceeding of Sublessee any awards or payments thereon to which Guarantor would otherwise be entitled, to the extent of any unsatisfied Sublease Obligations.
8. **Waiver of Defenses.** Guarantor waives any defense Guarantor may acquire by reason of Sublessor's election of any remedy against Guarantor or Sublessee, or both. In addition, Guarantor waives any defense arising by reason of any disability or other defense of Sublessee, including, without limitation, any defense based upon: (a) invalidity of the Sublease (b) any lack of authority of the officers, directors, partners or agents acting or purporting to act on behalf of Sublessee or any principal of Sublessee; or (c) by reason of the cessation from any cause whatsoever of the liability of Sublessee other than full performance and discharge of the Sublease Obligations.
9. **Waiver of Rights.** Guarantor waives the right to require Sublessor: (a) to proceed against Sublessee or any successor of Sublessee; and (b) to pursue any other remedy in Sublessor's power. Guarantor expressly waives the provisions of the California and/or Arizona Civil Code, which grants a surety certain rights to require a creditor to pursue alternative remedies before proceeding against a surety.
10. **Subrogation.** Until the Sublease Obligations shall have been performed in full, Guarantor shall have no right of subrogation and waive any right to enforce any remedy which Sublessor now has or may hereafter have against Sublessee. Guarantor waives any right to participate in any security now or hereafter held by Sublessor.
11. **Successive Demands.** Guarantor's liability shall extend to each and every payment to be made by Sublessee and any additional Sublease Obligation to be performed or observed by Sublessee. Successive demands may be made upon, and successive actions for the enforcement of such demands may be brought against Guarantor upon successive defaults by Sublessee and the enforcement of this Guaranty against Guarantor with respect to any Sublease Obligation shall not operate to exhaust this Guaranty or operate as a waiver of the right to proceed under this Guaranty with respect to any future default or defaults.

12. **General Provisions.**

12.1 **Attorney's Fees.** Guarantor agrees to pay all costs and other expenses, including reasonable attorneys' fees and court costs, paid or incurred by Sublessor in enforcing or attempting to enforce this Guaranty or the obligations guaranteed hereby. Guarantor is obligated as to attorney's fees and costs pursuant to Paragraphs 31 and 37.1 of the Sublease, as to the obligations under the Sublease and the Guaranty, and the provision in the Addendum as to attorneys fees made applicable here to the Sublease and the Guaranty.

12.2 **Governing Law.** This Guaranty shall be enforceable by Sublessor in accordance with the laws of the State of California and shall be construed in accordance therewith.

12.3 **Interest.** Interest shall accrue on all accounts which are not paid by Guarantor when due under the Sublease, from the date due until due date paid by Guarantor, at the interest rate specified in the Sublease, but not to exceed the maximum legal rate of interest.

12.4 **Joint and Several.** If Guarantor is more than one person, each person's obligations hereunder are joint and several and are independent of Sublessee's obligations. Sublessor may bring a separate action against any Guarantor whether the action is brought against any other Guarantor, or whether any other Guarantor is joined in the action.

12.5 **Modification.** This Guaranty may not be amended, modified, released, or terminated except by a written instrument executed by Guarantor and Sublessor,

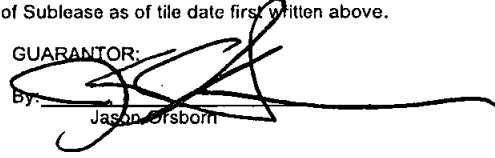
12.6 **Severability.** If any of Guarantor's obligations hereunder shall be held to be unenforceable, the remainder of this Guaranty and its application to all obligations other than those with respect to which is held unenforceable shall not be affected thereby and shall remain in full and effect.

12.7 **Successors.** The terms and provisions of this Guaranty shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the undersigned has executed this guaranty of Sublease as of the date first written above.

Res. Address: 5552 Bellevue Avenue
La Jolla, CA 92037
Phone: (619) 206 - 6369
Soc Sec#: 283 - 84 - 6335
DL#: N/A DOB: N/A

GUARANTOR:

By: 

Jason Orsborn

EXHIBIT J-1

SPOUSAL CONSENT

To the Sublease dated August 26 2020, by and between MCS Sports Arena Business Park LLC, a California limited liability company, as Sublessor, and Orsy's Speed Shop LLC, a California limited liability company, as Sublessee, for the premises known as 3770 Hancock Street, Suite H, located in the City of San Diego, County of San Diego, State of California, with zip code 92110.

The undersigned, being the spouse of the Guarantor to this Sublease, hereby (a) consent to the Sublease, (b) agree that all now owned and hereafter acquired community and quasi-community property of the undersigned and Guarantor shall be liable for the satisfaction of obligations imposed by the Sublease, and (c) agree solely for purposes of subjecting any community or quasi-community property received pursuant to liability for satisfaction of the obligations imposed by the Sublease, the undersigned have "incurred" the obligations of the Sublease.

Res. Address: 5552 Bellevue Avenue
La Jolla, CA 92037
Soc Sec#: 554 - 97 - 7403

Spouse

By: Trisha Orsborn

Trisha Orsborn
Trisha Orsborn

EXHIBIT K

MEMORANDUM
CERTIFICATE

This memorandum is made of _____, 2020 with reference to that certain Sublease Agreement (hereinafter referred to as the "Sublease") dated _____, 2020 by and between MCS Sports Arena Business Park LLC, a California limited liability company as "Sublessor" therein, and Orsy's Speed Shop LLC, a California limited liability company, as "Sublessee."

The undersigned, as Sublessee under said Sublease, hereby confirms the following:

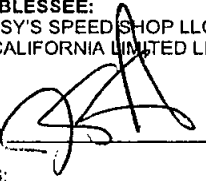
1. The Sublessee accepted possession of the Demised Premises (as described in said Sublease) on _____ and acknowledges that the premises are as represented by Sublessor and in good order, condition and repair; and that the improvements, if any, required to be constructed for and/or furnished to Sublessee by Sublessor under said Sublease have been so constructed and/or furnished and are satisfactorily completed in all respects.
2. That all conditions of said Sublease to be performed by Sublessor prerequisite to the full effectiveness of said Sublease have been satisfied and that Sublessor has fulfilled all of its duties of an inducement nature.
3. That in accordance with the provisions of Paragraph 4 of said Sublease the Commencement Date (as the phrase "Commencement Date" is defined in said Sublease) of the term is _____ and that, unless sooner terminated, the original term thereof expires on _____.
4. That said Sublease (as amended, if amended) is in full force and effect and that the same represents the entire agreement between Sublessor and Sublessee concerning said Sublease.
5. That there are no existing defenses which Sublessee has against the enforcement of said Sublease by Sublessor, and no offsets or credits against rentals except as may be expressly provided in said Sublease.
6. That the minimum rental obligation of said Sublease is presently in effect and that all rentals, charges and other obligations on the part of Sublessee undersaid Sublease commenced to accrue on _____.
7. That the undersigned Sublessee has no notice of any prior assignment, hypothecation or pledge of said Sublease or of the rents thereunder.

SUBLESSOR:
MCS SPORTS ARENA BUSINESS PARK LLC
A CALIFORNIA LIMITED LIABILITY COMPANY
BY: MCS GUARDIAN PROPERTIES LLC
A DELWARE LIMITED LIABILITY COMPANY

ITS: MANAGER

BY: _____
MATTHEW C. STRAUSS

SUBLESSEE:
ORSY'S SPEED SHOP LLC,
A CALIFORNIA LIMITED LIABILITY COMPANY

BY: 
ITS: _____

ITS: CEO

This "Memorandum" is hereby approved in form and shall be completed (if necessary) pursuant with Paragraph 4.A of The Sublease and incorporated as part of The Sublease.

SUBLESSOR'S INITIALS:

SUBLESSEE'S INITIALS:

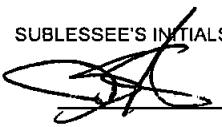


EXHIBIT L

OPTION(S) TO EXTEND

ADDENDUM TO
STANDARD SUBLEASE

Dated August 26, 2020
By and Between (Sublessor) MCS Sports Arena Business Park LLC
(Sublessee) Orsy's Speed Shop LLC
Property Address: 3770 Hancock Street, Suite H
San Diego, CA 92110

Paragraph 39

A. **OPTION(S) TO EXTEND:**

Sublessor hereby grants to Sublessee the option to extend the term of this Sublease for one (1) additional three (3) year period(s) commencing when the prior term expires upon each and all of the following terms and conditions:

(i) Sublessee gives to Sublessor, and Sublessor actually receives on a date which is prior to the date that the option period would commence (if exercised) by at least six (6) months and not more than nine (9) months, a written notice of the exercise of the option(s) to extend this Sublease for said additional term(s), time being of essence. If said notification of the exercise of said option(s) is (are) not so given and received, the option(s) shall automatically expire; said option(s) may (if more than one) only be exercised consecutively;

(ii) The provisions of paragraph 39, including the provision relating to default of Sublessee set forth in paragraph 39.4 of this Sublease are conditions of this Option;

(iii) All of the terms and conditions of this Sublease except where specifically modified by this option shall apply;

(iv) The monthly rent for each month of the option period shall be calculated as follows, using the method(s) indicated below:

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

(a) On the first day following the Expiration Date, the monthly rent payable under paragraph 1.5 ("Base Rent") of the attached Sublease shall be adjusted to the "Market Rental Value" of the property as follows:

1) Four months prior to the Market Rental Value (MRV) Adjustment Date(s) described above, Sublessor and Sublessee shall meet to establish an agreed upon new MRV for the specified term. If agreement cannot be reached, then:

i) Sublessor and Sublessee shall immediately appoint a mutually acceptable appraiser or broker to establish the new MRV within the next 30 days. Any associated costs will be split equally between the parties, or

ii) Both Sublessor and Sublessee shall each immediately select and pay the appraiser or broker of their choice to establish a MRV within the next 30 days. If, for any reason, either one of the appraisals is not completed within the next 30 days, as stipulated, then the appraisal that is completed at that time shall automatically become the new MRV. If both appraisals are completed and the two appraisers/brokers cannot agree on a reasonable average MRV then they shall immediately select a third mutually acceptable appraiser/broker to establish a third MRV within the next 30 days. The average of the two appraisals closest in value shall then become the new MRV. The costs of the third appraisal will be split equally between the parties.

2) In any event, the new MRV shall not be less than the rent payable for the month immediately preceding the date for rent adjustment plus \$0.05/psf and \$0.05/psf each succeeding option year.

(b) Upon the establishment of each New Market Rental Value as described in paragraph AII:

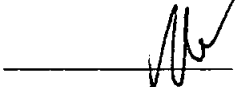
1) the monthly rental sum so calculated for each term as specified in paragraph AII(a) will become the new "Base Rent" for the purpose of calculating any further Cost of Living Adjustments as specified in paragraph AII(a) above and

2) the first month at each Market Rental Value term as specified in paragraph AII(a) shall become the new "Base Month" for the purpose of calculating any further Cost of Living Adjustments as specified in paragraph AII(b).

B. **NOTICE:** Unless specified otherwise herein, notice at any escalations other than Fixed Rental Adjustment(s) shall be made as specified in paragraph 23 of the attached Sublease.

C. **OPTION RIGHTS CONDITION:** Sublessee's Option Rights are contingent upon Sublessee not having previously breached or otherwise failed to perform under the Sublease since its inception. Otherwise Landlord at its sole discretion may declare any option to extend null and void.

SUBLESSOR'S INITIAL:



SUBLESSEE'S INITIAL:



EXHIBIT M
SPECIAL ADDENDUM

This Addendum to Sublease ("Addendum") is made a part of the Sublease dated August 26, 2020, by and between MCS Sports Arena Business Park LLC, a California limited liability company, ("Sublessor") and Orsy's Speed Shop LLC, a California limited liability company, ("Sublessee") for the Premises commonly known as 3770 Hancock Street, Suite H, San Diego, CA 92110. Should there be any conflicts between the terms and conditions of this Addendum and the Sublease, this Addendum shall prevail.

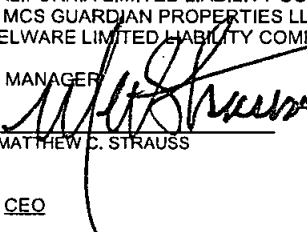
The City will not be liable for any damages arising from Sublessor's obligation to its Sublessee under this Section.

2. SUBLEASE CONTINGENCY:

This Sublease is contingent upon Sublessor obtaining a Consent to Sublease from the City of San Diego. In the event the City does not consent to this Sublease, the Sublessee shall immediately be terminated and of no further force or effect. In such event, Sublessor and Sublessee shall forever be discharged of its obligations and shall be released from liability.

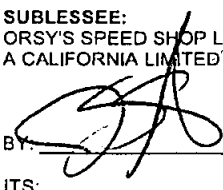
SUBLESSOR:
MCS SPORTS ARENA BUSINESS PARK LLC
A CALIFORNIA LIMITED LIABILITY COMPANY
BY: MCS GUARDIAN PROPERTIES LLC
A DELAWARE LIMITED LIABILITY COMPANY

ITS: MANAGER

BY: 
MATTHEW C. STRAUSS

ITS: CEO

SUBLESSEE:
ORSY'S SPEED SHOP LLC,
A CALIFORNIA LIMITED LIABILITY COMPANY

BY: 

ITS: _____

Exhibit N

SPORTS ARENA BUSINESS PARK

RULES AND REGULATIONS

1. Use of Premises.

- (a) All floor area, including vestibules, entrances and returns, doors, fixtures, windows and plate glass shall be maintained in a safe, neat and clean condition.
- (b) All trash, refuse and waste material shall be regularly removed from the premises of each occupant and until removal shall be stored (i) in adequate containers, which containers shall be located so as not to be visible to the general public in the Center; and (ii) so as not to constitute any health or fire hazard or nuisance to any occupant.
- (c) No portion of the Premises or Center shall be used for lodging purposes.
- (d) Neither sidewalks nor walkways shall be used to display, store or place any merchandise, equipment or devices.
- (e) No advertising medium, device, instrument or apparatus shall be utilized which can be heard or experienced outside the Premises including, without limiting the generality of the foregoing, flashing lights, searchlights, loudspeakers, phonographs, organs, radios, television or video monitors.
- (f) No auction, fire, bankruptcy, or going-out-of-business sale shall be conducted in, at, or about the Center or any portion or portions thereof, except pursuant to court order.
- (g) No use shall be made of the Center or any portion or portions thereof which would (i) violate any law, ordinance or regulation; (ii) constitute a nuisance; (iii) constitute a hazardous use; or (iv) violate, suspend; or void any policy or policies of insurance.
- (h) All occupants of the Center shall use their best efforts to cause all trucks servicing retail facilities within the Center to load and unload prior to the hours of the Center opening for business to general public.

2. Conduct of Persons.

The following rules and regulations govern the use of roadways, walkways, the Center, parking areas and other common areas and facilities:

- (a) No person shall use any roadway or walkway except as a means of egress from or ingress to any floor area or parking area within the Center or adjacent public streets. Such use shall be in an orderly manner and in accordance with directional or other signs or guides. Roadways shall not be used at a speed in excess of ten (10) miles per hour or any lesser posted speed limit and shall not be used for parking or stopping, except for the immediate loading or unloading of passengers. No walkways, hallways or corridors shall be used for other than pedestrian travel.
- (b) No person shall use any parking area, except for ingress and egress to and from the Center and for the parking of motor vehicles during the period of time such person or the occupants of such vehicle are customers or business invitees of the establishments within the Center. All motor vehicles shall be parked in an orderly manner within the painted lines defining the individual parking places. During peak periods of business activity, limitations may be imposed as to the length of time for parking use. Such limitations may be made in specified areas.
- (c) No person shall use any utility area, truck court or other area reserved for use in connection with the conduct of business, except for the specific purpose for which permission to use such area is given.
- (d) No tenant, contractor, agent or employee of any business in the Center shall use any area for motor vehicle parking, except the area or areas specifically designated by Landlord for employee parking and for the particular period of time such use is to be made as determined, or as established by ordinance.
- (e) Unless the following prohibitions are forbidden by law, no person shall, in or on any part of the common areas:
 - (i) Vend, peddle, store, display, place or solicit orders for sales or distribution of any merchandise, equipment, device, service, periodical, book, pamphlet or other matter whatsoever.
 - (ii) Exhibit any sign, placard, banner, notice or other written material; distribute any circular, booklet, handbill, placard, or other material; solicit signatures or registration for membership in any organization, group or association or contribution for any purpose; parade, rally, patrol, picket, demonstrate, or engage in any conduct that might tend to interfere with or impede the use of any of the common areas by any person entitled to use the same, create a disturbance, attract attention or harass, annoy, disparage or be detrimental to the interest of any of the retail establishments within the Center.
 - (iii) Throw, discard, or deposit any paper, glass or extraneous matter of any kind, except in designated receptacles, or create litter or hazards of any kind.
 - (iv) Use any sound-making device of any kind or create or produce in any manner noise or sound that is annoying, unpleasant, or distasteful to occupants or invitees.
 - (vi) Deface, damage or demolish any sign, light standard or fixture, landscaping material or other improvements within the Center, or the property of customers, business invitees or employees situated within the Center.

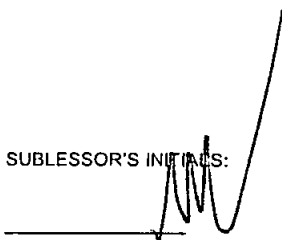
The listing of specific items as being prohibited is not intended to be exclusive, but to indicate in general the manner in which the right to use the common areas solely as a means of access and convenience in shopping at the establishments in the Center is limited and controlled.

3. Prohibited Operations and Nuisances.

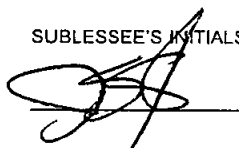
No use or operation will be made, conducted or permitted on any part of the Center site, which use or operation is clearly objectionable to the development or operation of the Center. Included among the uses or operations which are objectionable are uses or operations which produce or are accompanied by the following characteristics, which list is not intended to be all inclusive:

- (a) Any noise, litter, dust, dirt, odor or other activity which may constitute a public or private nuisance;
- (b) Any unusual firing, explosive or other damaging or dangerous hazards (including the storage, display or sale of explosives or fireworks);
- (c) Any trailer court, mobile home park, labor camp, junkyard, stockyard or animal raising;
- (d) The sale, distribution or growth of marijuana.

SUBLESSOR'S INITIALS:

A handwritten signature in black ink, consisting of several loops and a long vertical stroke extending upwards.

SUBLESSEE'S INITIALS:

A handwritten signature in black ink, featuring a large, stylized 'S' and 'A' intertwined.