

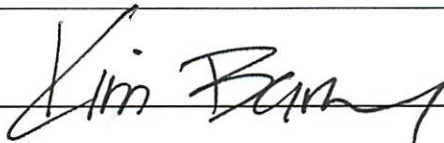
Mayor's Office: Council Agenda Item Request Form
*This form and supporting documents (if applicable) are due the Wednesday
before the COW meeting by noon.*

Date Received
(office use)

1 Feb 2017

Date of Request	1-31-2017
Requesting Staff Member	Ben Stringham, Real Estate Project Manager
Requested Council Date	2-7-2017
Topic/Discussion Title	Approval of lease for Elections Clerk warehouse
Description	The lease by the County Clerk for warehouse space at 2490 S 300 W needs to be renewed because it expired Jan. 31 2017. The Lease exceeds \$50,000/yr and therefore requires Council approval. The land lord requests that the County sign the lease first before it is returned to them for processing.
Requested Action¹	Approval of lease document and authorization for signature
Presenter(s)	David Clemence and Ben Stringham
Time Needed²	Consent agenda
Time Sensitive³	
Specific Time(s)⁴	
Contact Name & Phone	Ben Stringham, Ext. 80337
Please attach the supporting documentation you plan to provide for the packets to this form. While not ideal, if supporting documents are not yet ready, you can still submit them by 10 am the Friday morning prior to the COW agenda. Items without documentation may be taken off for consideration at that COW meeting.	

Mayor or Designee approval:



¹ What you will ask the Council to do (e.g., discussion only, appropriate money, adopt policy/ordinance) – in specific terms.

² Assumed to be 10 minutes unless otherwise specified.

³ Urgency that the topic to scheduled on the requested date.

⁴ If important to schedule at a specific time, list a few preferred times.

RESOLUTION NO. _____

ADOPTED: _____, 2017

A RESOLUTION OF THE SALT LAKE COUNTY COUNCIL APPROVING THE
LEASE AGREEMENT BETWEEN SALT LAKE COUNTY, ON BEHALF OF THE
COUNTY CLERK, AND UTAH ITX PARTNERS, LLC, FOR WAREHOUSE FOR
STORAGE OF ELECTRONIC VOTING MACHINES

RECITALS

- A. The County Clerk requires warehouse space to store electronic voting machines owned by the County.
- B. The County wishes to continue to use the industrial building owned by Utah ITX Partners, LLC, and located at approximately 2490 South 300 West, in South Salt Lake.
- C. It has been determined that the best interests of Salt Lake County will be served by leasing said warehouse space on behalf of the Clerk's office as a secure storage space for electronic voting machines.

NOW, THEREFORE, it is hereby resolved by the Salt Lake County Council that the Lease Agreement between Salt Lake County and Utah ITX Partners, LLC attached hereto as Exhibit A, be, and the same is hereby approved, and that the Mayor is authorized to execute said Lease and any additional documents necessary to effectuate the leasing of the warehouse space referenced above on behalf of the County Clerk.

APPROVED and ADOPTED this _____ day of _____, 2017.

SALT LAKE COUNTY COUNCIL

By _____
Steve DeBry, Chair

ATTEST:

Sherrie Swensen
Salt Lake County Clerk

Council Member Bradley voting	_____
Council Member Bradshaw voting	_____
Council Member Burdick voting	_____
Council Member DeBry voting	_____
Council Member Granato voting	_____
Council Member Jensen voting	_____
Council Member Newton voting	_____
Council Member Snelgrove voting	_____
Council Member Wilson voting	_____

APPROVED AS TO FORM:

R. Christopher Preston
R. Christopher Preston
Deputy District Attorney
Date: 1/27/2017

Exhibit A
Lease Agreement

HARRISON PROPERTIES

MULTI-TENANT INDUSTRIAL GROSS LEASE

ARTICLE 1: BASIC TERMS. This ARTICLE 1 contains the Basic Terms of this Lease between the Landlord and Tenant named below. Other Articles and Sections and Paragraphs of the Lease referred to in this ARTICLE 1 explain and define the Basic Terms and are to be read in conjunction with the Basic Terms.

Section 1.01 Date of Lease: February 1, 2017

Section 1.02 Landlord: Utah ITX Partners, LLC, a Utah Limited Liability Company, 5112 North 40th Street, Suite 105 Phoenix, AZ 85018.

Section 1.03 Tenant name and address: Salt Lake County; Salt Lake County Elections Division 2001 S State #S1-200, Salt Lake City, Utah, 84114-4575

Section 1.04 Property: The Property is part of Landlord's multi-tenant real property development known as Interchange Business Park and described or depicted in Exhibit "A" (the "Project"). The Project includes the land, the buildings and all other improvements located on the land, and the common areas with a street address of 2490 South 300 West. The Property is: Approximately 16,183 square feet located at 2490 South 300 West, Salt Lake City, UT 84115 *See Exhibit "A" Site Plan*

Section 1.05 Lease Term: 1 year beginning on February 1, 2017 or such other date as is specified in this Lease, and ending January 31, 2018 (the "Initial Term").

Provided that the Lease is in full force and effect and Tenant is not in default under any of the terms of the lease, and the Property is occupied by the original Tenant named herein, Landlord hereby grants to Tenant the option to extend the Initial Term (the "Renewal Option") or subsequently extended Term on the same terms, conditions and provisions as contained in the Lease, except as otherwise provided herein for up to three additional 1-year terms (each a "Renewal Term"). In order to exercise the Renewal Option, Tenant must give Landlord written notice thereof not less than ninety days prior to the Expiration Date of the Initial Term or then effective Renewal Term. The Base Rent for the Property during each Renewal Term shall increase by 3% as provided in Section 1.11.

Section 1.06 Permitted Uses: (See ARTICLE 5:) Office, training, storage and maintenance facility for elections equipment.

Section 1.07 Tenant's Guarantor: None

Section 1.08 Tenant's Broker: None

Section 1.09 Initial Security Deposit: (See Section 3.02) None

Section 1.10 Vehicle Parking Spaces Allocated to Tenant: (See Section 4.05(a)) Pro rata

Section 1.11 Rent and Other Charges Payable by Tenant:

(a) **BASE RENT:** Ten Thousand One Hundred Fifteen and 52/00 Dollars (\$10,115.52) per month for the 12 months of the Initial Term. If the Initial Term is extended in accordance with the Renewal Option, the BASE RENT for the first Renewal Term shall be increased on the 13th month to Ten Thousand Four Hundred and Eighteen and 99/00 Dollars (\$10,418.99) per month for the next 12 months. If the first Renewal Term is extended in accordance with the Renewal Option, the BASE RENT for the second Renewal Term shall then be increased on the 25th month to Ten Thousand Seven Hundred and Thirty-One and 56/00 Dollars (\$10,731.56) for the next 12 months. If the Second Renewal Term is extended in accordance with the Renewal Option, the BASE RENT for the third Renewal Term shall then be increased on the 37th month to Eleven Thousand Fifty-Three and 50/00 Dollars (\$11,053.50) for the next 12 months.

(b) **OTHER PERIODIC PAYMENTS:** (i) Utilities (See Section 4.03); and (iii) Maintenance, Repairs and Alterations (See ARTICLE 6:).

Section 1.12 Costs and Charges Payable by Landlord: (a) Base Real Property Taxes (See Section 4.02); (b) Insurance Premiums (See Section 4.04(b)); (c) Maintenance of Common Areas (See Section 4.05(b)); (d) Maintenance and Repair (See Section 6.03); and (e) Certain Damages (See ARTICLE 7:).

Section 1.13 Riders: The following Riders are attached to and made a part of this Lease: Exhibit "A" Site Plan.

ARTICLE 2: LEASE TERM

Section 2.01 Lease of Property for Lease Term. Landlord leases the Property to Tenant and Tenant leases the Property from Landlord for the Lease Term. The Lease Term is for the period stated in Section 1.05 above and shall begin and end on the dates specified in Section 1.05 above, unless the beginning or end of the Lease Term is changed under any provision of this Lease. The "Commencement Date" shall be the date specified in Section 1.05 above for the beginning of the Lease Term, unless advanced or delayed under any provision of this Lease.

Section 2.02 Delay in Commencement. Landlord shall not be liable to Tenant if Landlord does not deliver possession of the Property to Tenant on the Commencement Date. Landlord's non-delivery of the Property to Tenant on that date shall not affect this Lease or the obligations of Tenant under this Lease except that the Commencement Date shall be delayed until Landlord delivers possession of the Property to Tenant and the Lease Term shall be extended for a period equal to the delay in delivery of possession of the Property to Tenant, plus the number of days necessary to end the Lease Term on the last day of a month. If Landlord does not deliver possession of the Property to Tenant within sixty (60) days after the Commencement Date, Tenant may give notice of intent to cancel this Lease by giving written notice to Landlord. If Tenant gives such notice and the Landlord does not deliver possession to Tenant within ten (10) days of Landlord's receipt of Tenant's notice of intent to cancel this Lease, then for a period of not more than thirty (30) days thereafter, Tenant may cancel this Lease upon notice to Landlord. If Tenant does not cancel this Lease within such period, then Tenant may invoke this provision again at any time after the expiration of such thirty (30) day period by giving another ten (10) day notice of intent to cancel. Upon any cancellation under this section, the Lease shall be canceled and neither Landlord nor Tenant shall have any further obligations to the other, except for the return of any deposit by Tenant.

Section 2.03 Early Occupancy. If Tenant occupies the Property prior to the Commencement Date, Tenant's occupancy of the Property shall be subject to all of the provisions of this Lease. Early occupancy of the Property shall not advance the expiration date of this Lease. Tenant shall pay Base Rent and all other charges specified in this Lease for the early occupancy period.

Section 2.04 Holding Over. Tenant shall vacate the Property upon the expiration or earlier termination of this Lease. Tenant shall reimburse Landlord for and indemnify Landlord against all damages which Landlord incurs from Tenant's delay in vacating the Property. If Tenant does not vacate the Property upon the expiration or earlier termination of the Lease and Landlord thereafter accepts rent from Tenant, Tenant's occupancy of the Property shall be a "month-to-month" tenancy, subject to all of the terms of this Lease applicable to a month-to-month tenancy, except that the Base Rent then in effect shall be increased after 60-day grace period by twenty-five percent (25%). Any holding over by the Tenant shall be subject to termination at the end of any applicable month, provided that the Landlord or Tenant gives the other not less than 15 days written notice of termination.

ARTICLE 3: BASE RENT.

Section 3.01 Time and Manner of Payment. Upon execution of this Lease, Tenant shall pay Landlord the Base Rent in the amount stated in Section 1.11(a) above for the first month of the Lease Term. On the first day of the second month of the Lease Term and each month thereafter, Tenant shall pay Landlord the Base Rent, in advance, without offset, deduction or prior demand. The Base Rent shall be payable at Landlord's address or at such other place as Landlord may designate in writing.

Section 3.02 Security Deposit; Increases. Upon the execution of this Lease, Tenant shall deposit with Landlord a cash Security Deposit in the amount set forth in Section 1.09 above. Landlord may apply all or part of the Security Deposit to any unpaid rent or other charges due from Tenant or to cure any other defaults of Tenant. If Landlord uses any part of the Security Deposit, Tenant shall restore the Security Deposit to its full amount within ten (10) days after Landlord's written request. Tenant's failure to do so shall be a material default under this Lease. No interest shall be paid on the Security Deposit. Landlord shall not be required to keep the Security Deposit separate from its other accounts and no trust relationship is created with respect to the Security Deposit.

Section 3.03 Termination; Advance Payments. Upon termination of this Lease under ARTICLE 7: (Damage or Destruction), ARTICLE 8: (Condemnation) or any other termination not resulting from Tenant's default, and after Tenant has vacated the Property in the manner required by this Lease, Landlord shall refund or credit to Tenant (or Tenant's successor) the unused portion of the Security Deposit, any advance rent or other advance payments made by Tenant to Landlord, and any amounts paid for real property taxes and other reserves which apply to any time periods after termination of the Lease.

ARTICLE 4: OTHER CHARGES PAYABLE BY TENANT

Section 4.01 Additional Rent. All charges payable by Tenant other than Base Rent are called "Additional Rent." Unless this Lease provides otherwise, Tenant shall pay all Additional Rent then due with the next monthly installment of Base Rent. The term "rent" shall mean Base Rent and Additional Rent.

Section 4.02 Property Taxes.

(a) **Real Property Taxes.** Landlord shall pay the "Real Property Taxes" on the Property during the Lease Term. Tenant is a tax-exempt government entity.

(b) **Definition of "Real Property Tax."** "Real property tax" means: (i) any fee, license fee, license tax, business license fee, commercial rental tax, levy, charge, assessment, penalty or tax imposed by any taxing authority against the Property; (ii) any tax on the Landlord's right to receive, or the receipt of, rent or income from the Property or against Landlord's business of leasing the Property; (iii) any tax or charge for fire protection, streets, sidewalks, road maintenance, refuse or other services provided to the Property by any governmental agency; (iv) any tax imposed upon this transaction or based upon a re-assessment of the Property due to a change of ownership, as defined by applicable law, or other transfer of all or part of Landlord's interest in the Property; and (v) any charge or fee replacing any tax previously included within the definition of real property tax. "Real property tax" does not, however, include Landlord's federal or state income, franchise, inheritance or estate taxes.

(c) **Personal Property Taxes.** Tenant shall pay all taxes, if any, charged against trade fixtures, furnishings, equipment or any other personal property belonging to Tenant. Tenant shall have personal property taxed separately from the Property.

Section 4.03 Utilities. Tenant shall pay, directly to the appropriate supplier, the cost of all natural gas, heat, light, power, telephone, refuse disposal and other utilities and services supplied to the Property. However, if any services or utilities are jointly metered with other property, Landlord shall make a reasonable determination of Tenant's proportionate share of the cost of such utilities and services and Tenant shall pay such share to Landlord in monthly in arrears. At Landlord's election, Landlord may base such charges on the prior year's annual amount spread equally over the 12 months of the current year. Landlord shall be responsible for water and sewer service provided to the Project.

Section 4.04 Insurance Policies.

(a) **Liability Insurance.** Tenant is self-insured and, as such, is to provide liability insurance coverage pursuant to the Utah Governmental Immunity Act, Title 63G, Chapter 7, Utah Code Ann. (2016) as amended. Tenant shall provide at Tenant's own expense such insurance on Tenant's personal property as Tenant deems necessary. Landlord may also obtain comprehensive public liability insurance in an amount and with coverage determined by Landlord insuring Landlord against liability arising out of ownership, operation, use or occupancy of the Property. The policy obtained by Landlord shall not be contributory and shall not provide primary insurance.

(b) Property Insurance.

(i) Tenant. During the Lease Term, Tenant shall maintain policies of insurance covering loss of or damage to the furniture, fixtures, equipment and other tangible and intangible personal property that is located on or within the Property and/or stored in any portion of the common area (to the extent that Tenant is allowed to use the common area for that purpose, such as vehicles, storage sheds and the like) in the full amount of its replacement value. Such policy shall contain an endorsement for inflation and shall provide protection against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief, special extended perils (all risk), sprinkler leakage and any other perils that are reasonably necessary; provided that Tenant shall not be obligated to insure any of the Property, nor tangible personal property and/or fixtures belonging to the Landlord, if any.

(ii) Landlord. During the Lease Term, Landlord shall maintain policies of insurance covering loss of or damage to the Property in the full amount of its replacement value. Such policy shall contain an endorsement for inflation and shall provide protection against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief, special extended perils (all risk), sprinkler leakage and any other perils which Landlord deems reasonably necessary. Landlord shall have the right to obtain flood and earthquake insurance if required by any lender holding a security interest in the Property. Landlord shall not obtain insurance for Tenant's fixtures or equipment or building improvements installed by Tenant on the Property. Tenant shall not do or permit anything to be done which invalidates any such insurance policies.

(c) General Insurance Provisions.

(i) If Tenant fails to deliver any policy, certificate or renewal to Landlord required under this Lease within the prescribed time period or if any such policy is canceled or modified during the Lease Term without Landlord's consent, Landlord may obtain such insurance, in which case Tenant shall reimburse Landlord for the cost of such insurance within fifteen (15) days after receipt of a statement that indicates the cost of such insurance.

(ii) Unless prohibited under any applicable insurance policies maintained, Landlord and Tenant each hereby waive any and all rights of recovery against the other, or against the officers, employees, agents or representatives of the other, for loss of or damage to its property

or the property of others under its control, if such loss or damage is covered by any insurance policy in force (whether or not described in this Lease) at the time of such loss or damage. Upon obtaining the required policies of insurance, Landlord and Tenant shall give notice to the insurance carriers of this mutual waiver of subrogation.

Section 4.05 Parking & Common Areas.

(a) **Specific Provision re: Vehicle Parking.** Tenant shall be entitled to use the exclusive number of vehicle parking spaces, if any, in the Project allocated to Tenant in Section 1.10 of the Lease. Tenant shall be entitled to use other parking spaces on a first come, first serve basis, provided that if the Landlord determines that it is reasonably necessary, the Landlord may establish reasonable rules and regulations concerning the use of parking spaces. All parking shall be without paying any additional rent. Except for the exclusive parking granted to Tenant and other tenants within the Project, no tenant's parking spaces (including the Tenant's parking spaces) shall be reserved. Parking striped for use by passenger vehicles shall be limited to vehicles no larger than standard size automobiles or pickup utility vehicles. Tenant may use large trucks or other large vehicles to be parked within the Project or on the adjacent public streets (except where prohibited by law or ordinances) to the extent that such areas are not committed to passenger vehicle parking, again provided that the Landlord may adopt reasonable rules and regulations if it becomes necessary to control parking of such vehicles. No vehicles shall be parked in driveways, loading areas (except with the permission of the applicable tenant), or other locations not specifically designated for passenger, pickup truck and or large truck parking. Handicapped spaces shall only be used by those legally permitted to use them.

(b) **Maintenance of Common Areas.** Landlord shall maintain those areas of the Project that are not set aside for exclusive use by one tenant (the "Common Areas") in good order, condition and repair and shall operate the Project, in Landlord's sole discretion, as a first-class industrial/commercial real property development.

Section 4.06 Late Charges. Tenant's failure to pay rent promptly may cause Landlord to incur unanticipated costs. The exact amount of such costs is impractical or extremely difficult to ascertain. Such costs may include, but are not limited to, processing and accounting charges and late charges which may be imposed on Landlord by any ground lease, mortgage or trust deed encumbering the Property. Therefore, if Landlord does not receive any rent payment by the tenth of the applicable month, Tenant shall pay Landlord a late charge equal to five percent (5%) of the overdue amount. The parties agree that such late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of such late payment.

Section 4.07 Interest on Past Due Obligations. Any amount owed by Tenant to Landlord which is not paid when due shall bear interest at the rate of five percent (5%) per annum from the due date of such amount. However, interest shall not be payable on late charges to be paid by Tenant under this Lease. The payment of interest on such amounts shall not excuse or cure any default by Tenant under this Lease. If the interest rate specified in this Lease is higher than the rate permitted by law, the interest rate is hereby decreased to the maximum legal interest rate permitted by law.

ARTICLE 5: USE OF PROPERTY

Section 5.01 Permitted Uses. Tenant may use the Property only for the Permitted Uses set forth in Section 1.06 above.

Section 5.02 Manner of Use. Tenant shall not cause or permit the Property to be used in any way which constitutes a violation of any law, ordinance, or governmental regulation or order, which annoys or interferes with the rights of tenants of the Project, or which constitutes a nuisance or waste. Tenant shall not engage in any business consisting of distribution, office, warehousing, and sales of security, fire, access control, closed circuit television, home automation, central vacuum and telephone systems, structured cable and other low voltage equipment and supplies, along with related or similar devices and services. Tenant shall obtain and pay for all permits, including a Certificate of Occupancy, required for Tenant's occupancy of the Property and shall promptly take all actions necessary to comply with all applicable statutes, ordinances, rules, regulations, orders and requirements regulating the use by Tenant of the Property, including the Occupational Safety and Health Act.

Section 5.03 Hazardous Materials. As used in this Lease, the term "Hazardous Material" means any flammable items, explosives, radioactive materials, hazardous or toxic substances, material or waste or related materials, including any substances defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials" or "toxic substances" now or subsequently regulated under any applicable federal, state or local laws or regulations, including without limitation petroleum-based products, paints, solvents, lead, cyanide, DDT, printing inks, acids, pesticides, ammonia compounds and other chemical products, asbestos, PCBs and similar compounds, and including any different products and materials which are subsequently found to have adverse effects on the environment or the health and safety of persons. Tenant shall not cause or permit any Hazardous Material to be generated, produced, brought upon, used, stored, treated or disposed of in or about the Property by Tenant, its agents, employees, contractors, subleases or invitees without the prior written consent of Landlord. This provision shall not prohibit commercially reasonable quantities of Hazardous Materials used in cleaning or other purposes in the ordinary course of business by the Tenant; provided that all such use shall be in strict accord with all laws, rules, regulations, ordinances or other restrictions on such use

and in accord with all applicable manufacturer's restrictions. If any of such uses requires a special permit, the Tenant shall obtain such permit at its sole cost and expenses. Moreover, no application for such a permit may be made without the Landlord's specific written approval, which may be granted or withheld in the sole and unfettered discretion of the Landlord. Failure to obtain such prior approval shall constitute a non-curable default, unless waived in writing by the Landlord. If and to the extent that the Landlord has to or elects to obtain approval of any institutional lender who has loaned Landlord money secured by the Project, by itself or with other projects, the failure of such lender to approve such permit application shall be full and complete justification for refusing to approve the application for such a permit. In no event, however, shall Landlord be required to consent to the installation or use of any above or underground storage tanks on the Property.

Section 5.04 Signs and Auctions. Tenant shall not place any signs on the Property without Landlord's prior written consent. Tenant shall not conduct or permit any auctions or sheriff's sales at the Property.

Section 5.05 Indemnity.

- (a) Tenant is a body corporate and politic of the State of Utah and by entering into this Lease, Tenant does not waive any defenses or governmental immunity under the Utah Governmental Immunity Act, Title 63G, Chapter & Utah Code Ann. (2016) as amended. Nothing contained in this Lease shall be construed to increase Tenant's liability to third parties beyond that set forth in the Act.
- (b) Indemnification of Landlord. Consistent with the terms of the Utah Governmental Immunity Act, Tenant shall indemnify Landlord against and hold Landlord harmless from any and all costs, claims or liability arising from: (a) any accident, injury or damage occurring in, at or upon the Property and caused by the wrongful or negligent conduct of Tenant; (b) any breach or default in the performance of Tenant's obligations under this Lease; (c) any violation or alleged violation of Tenant of any applicable laws or regulations. Landlord shall give Tenant prompt and timely notice of any claim or suit instituted, which comes to its knowledge and which in any way, directly or indirectly, contingently or otherwise, affects or might involve Tenant's indemnity obligation..
- (c) Landlord Indemnification. Landlord hereby agrees to indemnify, defend, and hold Tenant harmless from and against any and all losses actually suffered or incurred by Tenant as the sole and direct result of any willful or intentional acts or omissions of Landlord or any party within the direct and sole control of Landlord. In the event that any such action or proceeding is brought against Tenant, and the foregoing indemnity is applicable to such action or proceeding, then Landlord, upon notice from Tenant, shall resist and defend such action or proceeding. Notwithstanding anything to the contrary set forth in this Lease, however in all events and under all circumstances the liability of Landlord to Tenant shall be limited to the interest of Landlord in the Property, and Tenant agrees to look solely to Landlord's interest in the Property for the recovery of any judgment or award against Landlord, it being intended that Landlord shall not be personally liable for any judgment or deficiency.

Section 5.06 Landlord's Access. Landlord or its agents may enter the Property at all reasonable times to show the Property to potential buyers, investors or tenants or other parties; to do any other act or to inspect and conduct tests in order to monitor Tenant's compliance with all applicable environmental laws and all laws governing the presence and use of Hazardous Material; or for any other purpose Landlord deems necessary. Landlord shall give Tenant prior notice of such entry, except in the case of an emergency. Landlord may place customary "For Sale" or "For Lease" signs on the Property.

Section 5.07 Quiet Possession. If Tenant pays the rent and complies with all other terms of this Lease, Tenant may occupy and enjoy the Property for the full Lease Term, subject to the provisions of this Lease.

ARTICLE 6: CONDITION OF PROPERTY, MAINTENANCE, REPAIRS AND ALTERATIONS

Section 6.01 Existing & Future Conditions. Tenant accepts the Property in its condition as of the execution of the Lease, subject to all recorded matters, laws, ordinances, and governmental regulations and orders. Except as provided herein, Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation as to the condition of the Property or the suitability of the Property for Tenant's intended use. Tenant represents and warrants that Tenant has made its own inspection of and inquiry regarding the condition of the Property and is not relying on any representations of Landlord or any Broker with respect thereto. Moreover, from time to time, the Landlord may find it reasonable or necessary to grant easements, dedicate rights-of-way or otherwise encumber the Project including, but not limited to expansion, providing additional utilities, cooperate with municipal or other governmental authorities, etc. Landlord may do so, in its unfettered discretion, provided that if such action significantly impairs the Tenant's use of the Property, Tenant shall be entitled to a reduction of rent to the extent of such impairment, either as agreed between Landlord and Tenant.

Section 6.02 Intentionally left blank.

Section 6.03 Landlord's Obligations. Subject to the provisions of ARTICLE 7:(Damage or Destruction) and ARTICLE 8: (Condemnation), and except for damage caused by any act or omission of Tenant, or Tenant's employees, agents, contractors or invitees, Landlord shall keep the foundation, roof and structural portions of exterior walls of the improvements on the Property in good order, condition and repair.

However, Landlord shall not be obligated to maintain or repair windows, doors, plate glass or the surfaces of walls. Landlord shall not be obligated to make any repairs under this Section 6.03 until a reasonable time after receipt of a written notice from Tenant of the need for such repairs. Tenant waives the benefit of any present or future law which might give Tenant the right to repair the Property at Landlord's expense or to terminate the Lease because of the condition of the Property.

Section 6.04 Tenant's Obligations. Except as provided in Section 6.03, ARTICLE 7: (Damage or Destruction) and ARTICLE 8: (Condemnation), Tenant shall keep all portions of the Property (including interior nonstructural systems and equipment) in good order, condition and repair (including interior repainting and refinishing, as needed). If any portion of the Property or any system or equipment in the Property which Tenant is obligated to repair cannot be fully repaired or restored, Tenant shall promptly replace such portion of the Property or system or equipment in the Property, regardless of whether the benefit of such replacement extends beyond the Lease Term; but if the benefit or useful life of such replacement extends beyond the Lease Term (as such term may be extended by exercise of any options), the useful life of such replacement shall be prorated over the remaining portion of the Lease Term (as extended), and Tenant shall be liable only for that portion of the cost which is applicable to the Lease Term (as extended). Landlord shall maintain and repair the heating and air conditioning systems. In addition, Tenant shall, at Tenant's expense, repair any damage to the roof, foundation or structural portions of walls caused by Tenant's intentional or willful acts or omissions. It is the intention of Landlord and Tenant that, at all times during the Lease Term, Tenant shall maintain the Property in an attractive, first-class and fully operative condition. Tenant shall fulfill all of Tenant's obligations under this Section 6.04 at Tenant's sole expense. If Tenant fails to maintain, repair or replace the Property as required by this Section 6.04, Landlord may, upon ten (10) days prior notice to Tenant (except that no notice shall be required in the case of an emergency), enter the Property and perform such maintenance or repair (including replacement, as needed) on behalf of Tenant. In such case, Tenant shall reimburse Landlord for all costs incurred in performing such maintenance or repair immediately upon demand.

Section 6.05 Alterations, Additions, and Improvements. Tenant shall not make any alterations, additions, or improvements to the Property without Landlord's prior written consent, except for non-structural alterations which do not exceed Ten Thousand Dollars (\$10,000) in cost cumulatively over the Lease Term and which are not visible from the outside of any building of which the Property is part. Landlord may require Tenant to provide demolition and/or lien and completion bonds in form and amount satisfactory to Landlord. Tenant shall promptly remove any alterations, additions, or improvements constructed in violation of this Section 6.05 upon Landlord's written request. All alterations, additions, and improvements shall be done in a good and workmanlike manner, in conformity with all applicable laws and regulations, and by a contractor approved by Landlord, whose approval shall not be unreasonably withheld. Upon completion of any such work, Tenant shall provide Landlord with "as built" plans, copies of all construction contracts, and proof of payment for all labor and materials. Tenant shall pay when due all claims for labor and material furnished to the Property. Tenant shall give Landlord at least twenty (20) days' prior written notice of the commencement of any work on the Property, regardless of whether Landlord's consent to such work is required. Landlord may elect to record and post notices of non-responsibility on the Property.

Section 6.06 Condition upon Termination. Upon the termination of the Lease, Tenant shall surrender the Property to Landlord, broom clean and in the same condition as received (if and to the extent that this Lease relates to a continuation of a previous Lease between Landlord or its predecessor in interest or the Tenant was the assignee of a Lease of the Property, the reference to "received" shall mean the commencement of the somewhat continuous occupancy of the Property) except for ordinary wear and tear which Tenant was not otherwise obligated to remedy under any provision of this Lease. However, Tenant shall not be obligated to repair any damage which Landlord is required to repair under ARTICLE 7: (Damage or Destruction). In addition, Landlord may require Tenant to remove any alterations, additions or improvements (whether or not made with Landlord's consent) prior to the expiration of the Lease and to restore the Property to its condition at the time Tenant received it, all at Tenant's expense. All alterations, additions and improvements which Landlord has not required Tenant to remove shall become Landlord's property and shall be surrendered to Landlord upon the expiration or earlier termination of the Lease, except that Tenant may remove any of Tenant's machinery or equipment which can be removed without material damage to the Property. Tenant shall repair, at Tenant's expense, any damage to the Property caused by the removal of any such machinery or equipment. In no event, however, shall Tenant remove any of the following materials or equipment (which shall be deemed Landlord's property) without Landlord's prior written consent: any power wiring or power panels; lighting or lighting fixtures; wall coverings; drapes, blinds or other window coverings; carpets or other floor coverings; heaters, air conditioners or any other heating or air conditioning equipment; fencing or security gates; or other similar building operating equipment and decorations.

ARTICLE 7: DAMAGE OR DESTRUCTION

Section 7.01 Partial Damage to Property. Tenant shall notify Landlord in writing immediately upon the occurrence of any damage to the Property. If the Property is only partially damaged (i.e., less than fifty percent (50%) of the Property is untenantable as a result of such damage or less than fifty percent (50%) of Tenant's operations are materially impaired) and if the proceeds received by Landlord from the insurance policies described in Section 4.04(b) are sufficient to pay for the necessary repairs, this Lease shall remain in effect and Landlord shall repair the damage as soon as reasonably possible. Landlord may elect (but is not required) to repair any damage to Tenant's fixtures, equipment, or improvements. If the insurance proceeds received by Landlord are not sufficient to pay the entire cost of repair or if the cause of the damage is

not covered by the insurance policies which Landlord maintains under Section 4.04(b), Landlord may elect either to (i) repair the damage as soon as reasonably possible, in which case this Lease shall remain in full force and effect, or (ii) terminate this Lease as of the date the damage occurred. Landlord shall notify Tenant within thirty (30) days after receipt of notice of the occurrence of the damage whether Landlord elects to repair the damage or terminate the Lease. If Landlord elects to repair the damage and, if the damage was due to an act or omission of Tenant, or Tenant's employees, agents, contractors or invitees, Tenant shall pay Landlord the difference between the actual cost of repair and any insurance proceeds received by Landlord. If Landlord elects to terminate the Lease, Tenant may elect to continue this Lease in full force and effect, in which case Tenant shall repair any damage to the Property and any building in which the Property is located. Tenant shall pay the cost of such repairs, except that upon satisfactory completion of such repairs, Landlord shall deliver to Tenant any insurance proceeds received by Landlord for the damage repaired by Tenant. Tenant shall give Landlord written notice of such election within ten (10) days after receiving Landlord's termination notice. If the damage to the Property occurs during the last six (6) months of the Lease Term and such damage will require more than thirty (30) days to repair, either Landlord or Tenant may elect to terminate this Lease as of the date the damage occurred, regardless of the sufficiency of any insurance proceeds. The party electing to terminate this Lease shall give written notification to the other party of such election within thirty (30) days after Tenant's notice to Landlord of the occurrence of the damage.

Section 7.02 Substantial or Total Destruction. If the Property is substantially or totally destroyed by any cause whatsoever (i.e., the damage to the Property is greater than partial damage as described in Section 7.01), and regardless of whether Landlord receives any insurance proceeds, this Lease shall terminate as of the date the destruction occurred. Notwithstanding the preceding sentence, if the Property can be rebuilt within six (6) months after the date of destruction, Landlord may elect to rebuild the Property at Landlord's own expense, in which case this Lease shall remain in full force and effect. Landlord shall notify Tenant of such election within thirty (30) days after Tenant's notice of the occurrence of total or substantial destruction. If Landlord so elects, Landlord shall rebuild the Property at Landlord's sole expense, except that if the destruction was caused by an act or omission of Tenant, Tenant shall pay Landlord the difference between the actual cost of rebuilding and any insurance proceeds received by Landlord.

Section 7.03 Temporary Reduction of Rent. If the Property is destroyed or damaged and Landlord or Tenant repairs or restores the Property pursuant to the provisions of this ARTICLE 7, any rent payable during the period of such damage, repair and /or restoration shall be reduced according to the degree, if any, to which Tenant's use of the Property is impaired. However, the reduction shall not exceed the sum of one year's payment of Base Rent, insurance premiums and real property taxes. Except for such possible reduction in Base Rent, insurance premiums and real property taxes, Tenant shall not be entitled to any compensation, reduction, or reimbursement from Landlord as a result of any damage, destruction, repair, or restoration of or to the Property.

Section 7.04 Waiver. Tenant waives the protection of any statute, code or judicial decision which grants a tenant the right to terminate a lease in the event of the substantial or total destruction of the leased property. Tenant agrees that the provisions of Section 7.02 above shall govern the rights and obligations of Landlord and Tenant in the event of any substantial or total destruction of the Property.

ARTICLE 8: CONDEMNATION. If all or any portion of the Property is taken under the power of eminent domain or sold under the threat of that power (all of which are called "Condemnation"), this Lease shall terminate as to the part taken or sold on the date the condemning authority takes title or possession, whichever occurs first. If more than twenty percent (20%) of the floor area of the building in which the Property is located, or which is located on the Property, is taken, either Landlord or Tenant may terminate this Lease as of the date the condemning authority takes title or possession, by delivering written notice to the other within ten (10) days after receipt of written notice of such taking (or in the absence of such notice, within ten (10) days after the condemning authority takes title or possession). If neither Landlord nor Tenant terminates this Lease, this Lease shall remain in effect as to the portion of the Property not taken, except that the Base Rent and Additional Rent shall be reduced in proportion to the reduction in the floor area of the Property. Any Condemnation award or payment shall be distributed in the following order: (a) first, to any ground lessor, mortgagee or beneficiary under a deed of trust encumbering the Property, the amount of its interest in the Property; (b) second, to Tenant, only the amount of any award specifically designated for loss of or damage to Tenant's trade fixtures or removable personal property; and (c) third, to Landlord, the remainder of such award, whether as compensation for reduction in the value of the leasehold, the taking of the fee, or otherwise. If this Lease is not terminated, Landlord shall repair any damage to the Property caused by the Condemnation, except that Landlord shall not be obligated to repair any damage for which Tenant has been reimbursed by the condemning authority. If the severance damages received by Landlord are not sufficient to pay for such repair, Landlord shall have the right to either terminate this Lease or make such repair at Landlord's expense.

ARTICLE 9: ASSIGNMENT AND SUBLETTING

Section 9.01 Landlord's Consent Required. No portion of the Property or of Tenant's interest in this Lease may be acquired by any other person or entity, whether by sale, assignment, mortgage, sublease, transfer, operation of law, or act of Tenant, without Landlord's prior written consent, except as provided in Section 9.02 below. Landlord has the right to grant or withhold its consent as provided in Section 9.04 below. Any attempted transfer without consent shall be void and shall constitute a non-curable breach of this Lease.

Section 9.02 Tenant Affiliate. Tenant may assign this Lease or sublease the Property without Landlord's consent, to any corporation which controls, is controlled by or is under common control with Tenant, or to any corporation resulting from the merger of or consolidation with Tenant ("Tenant's Affiliate"). In such case, as a condition to be performed within 30 days of any such assignment or sublease, Tenant's Affiliate shall assume in writing all of Tenant's obligations under this Lease, without the release of Tenant.

Section 9.03 No Release of Tenant. No transfer permitted by this ARTICLE 9, whether with or without Landlord's consent, shall release Tenant or change Tenant's primary liability to pay the rent and to perform all other obligations of Tenant under this Lease. Landlord's acceptance of rent from any other person is not a waiver of any provision of this ARTICLE 9. Consent to one transfer is not a consent to any subsequent transfer. If Tenant's transferee defaults under this Lease, Landlord may proceed directly against Tenant without pursuing remedies against the transferee. Landlord may consent to subsequent assignments or modifications of this Lease by Tenant's transferee, without notifying Tenant or obtaining its consent. Such action shall not relieve Tenant's liability under this Lease.

Section 9.04 Landlord's Consent. Tenant's request for consent to any transfer described in Section 9.01 shall set forth in writing the details of the proposed transfer, including the name, business and financial condition of the prospective transferee, financial details of the proposed transfer (e.g., the term of and the rent and security deposit payable under any proposed assignment or sublease), and any other information Landlord deems relevant. Landlord shall have the right to withhold consent, if reasonable, or to grant consent, based on the following factors: (i) the business of the proposed assignee or subtenant and the proposed use of the Property; (ii) the net worth and financial reputation of the proposed assignee or subtenant; (iii) Tenant's compliance with all of its obligations under the Lease; and (iv) such other factors as Landlord may reasonably deem relevant. If Landlord objects to a proposed assignment solely because of the net worth and/or financial reputation of the proposed assignee, Tenant may nonetheless sublease (but not assign), all or a portion of the Property to the proposed transferee, but only on the other terms of the proposed transfer.

(a) If Tenant assigns or subleases, the following shall apply:

(i) Tenant shall pay to Landlord as Additional Rent under the Lease the Landlord's Share (stated in Section 1.13) of the Profit (defined below) on such transaction as and when received by Tenant, unless Landlord gives written notice to Tenant and the assignee or subtenant that Landlord's Share shall be paid by the assignee or subtenant to Landlord directly. The "Profit" means (A) all amounts paid to Tenant for such assignment or sublease, including "key" money, monthly rent in excess of the monthly rent payable under the Lease, and all fees and other consideration paid for the assignment or sublease, including fees under any collateral agreements, less (B) costs and expenses directly incurred by Tenant in connection with the execution and performance of such assignment or sublease for real estate broker's commissions and costs of renovation or construction of tenant improvements required under such assignment or sublease. Tenant is entitled to recover such costs and expenses before Tenant is obligated to pay the Landlord's Share to Landlord. The Profit in the case of a sublease of less than all the Property is the rent allocable to the subleased space as a percentage on a square footage basis.

(ii) Tenant shall provide Landlord a written statement certifying all amounts to be paid from any assignment or sublease of the Property within thirty (30) days after the transaction documentation is signed, and Landlord may inspect Tenant's books and records to verify the accuracy of such statement. On written request, Tenant shall promptly furnish to Landlord copies of all the transaction documentation, all of which shall be certified by Tenant to be complete, true and correct. Landlord's receipt of Landlord's Share shall not be a consent to any further assignment or subletting. The breach of Tenant's obligation under this Section 9.04(a)(ii) shall be a material default of the Lease.

Section 9.05 No Merger. No merger shall result from Tenant's sublease of the Property under this ARTICLE 9, Tenant's surrender of this Lease or the termination of this Lease in any other manner. In any such event, Landlord may terminate any or all subtenancies or succeed to the interest of Tenant as sublandlord under any or all subtenancies.

ARTICLE 10: DEFAULTS; REMEDIES

Section 10.01 Covenants and Conditions. Tenant's performance of each of Tenant's obligations under this Lease is a condition as well as a covenant. Tenant's right to continue in possession of the Property is conditioned upon such performance. Time is of the essence in the performance of all covenants and conditions.

Section 10.02 Defaults. Tenant shall be in Default of this Lease:

(a) If Tenant abandons the Property;

(b) If Tenant fails to pay rent or any other charge when due and, following written notice from the Landlord to Tenant, fails to cure such default within the time period required by law; provided that the Landlord, with or without the approval of the Tenant, may grant time in excess of that required by law;

(c) If Tenant fails to perform any of Tenant's non-monetary obligations under this Lease and following written notice from the Landlord fails to cure such default within the time period allowed by law; provided that the Landlord, with or without the approval of the Tenant, may grant time in excess of that required by law;

(d) (i) If Tenant makes a general assignment or general arrangement for the benefit of creditors; (ii) if a petition for adjudication of bankruptcy or for reorganization or rearrangement is filed by or against Tenant and is not dismissed within thirty (30) days; (iii) if a trustee or receiver is appointed to take possession of substantially all of Tenant's assets located at the Property or of Tenant's interest in this Lease and possession is not restored to Tenant within thirty (30) days; or (iv) if substantially all of Tenant's assets located at the Property or of Tenant's interest in this Lease is subjected to attachment, execution or other judicial seizure which is not discharged within thirty (30) days and Tenant fails to cure such default within the time period required by law; provided that the Landlord, with or without the approval of the Tenant, may grant time in excess of that required by law;

(e) If any one or more guarantors of this lease shall in any manner put the willingness of any of such guarantors to continue such guarantee in question by giving notice of the desire of the guarantor to withdraw such guaranty or otherwise limit or impair the guaranty and Tenant fails to provide the Landlord with assurances from such guarantor that the guaranty will continue in full force and effect within the time period for cure of defaults under this lease as required by law; provided that the Landlord, with or without the approval of the Tenant, may grant time in excess of that required by law; or

(f) If the Tenant violates or allows others to violate covenants and/or conditions of this Lease which are not capable of being cured.

Section 10.03 Remedies.

(a) If the Tenant is in Material Default of this Lease because the Tenant abandons the Property, Landlord may elect to take immediate possession of the Property, relet the Property and hold the Tenant responsible for all costs associated with reletting the Property, including all costs of marketing the Property, all improvements that are reasonable or necessary to relet the Property and all deficiencies in rent collected from any new Tenant of all or any portion of the Property during the remainder of the Term of this Lease. The Tenant will be deemed to have abandoned the Property under any one or more of the following circumstances:

(i) If the Tenant has removed all of its personal property from the Property;

(ii) If (1) the Tenant has received notice of default from the Landlord, (2) Tenant is not responsive to inquiries from the Landlord, (3) no significant business is conducted by nor significant presence of the Tenant on the Property for a period of two consecutive business days, and (4) the Landlord has not received written notice of the Tenant denying its intent to abandon the Property;

(iii) If the Tenant gives the Landlord notice of abandonment, either by a written document, delivery of the keys to the Property to the Landlord or similar conduct indicating such abandonment; or

(iv) If there is no significant business conducted by the Tenant on the Property for any consecutive 10 business day period and no response from the Tenant to inquiries by the Landlord.

(b) If the Tenant is in Default of this Lease for any other reason other than Abandonment, then at any time prior to the cure of such Default and notice thereof to the Landlord, the Landlord may terminate the Lease and forfeit the interest of the Tenant therein. At and simultaneously with such termination of the Lease and forfeiture of the Tenant's interest in the Lease or if the Lease terminates under any other provisions of this Lease without a default, then at any time thereafter when the Tenant remains in possession of the Property, the Landlord may commence an Unlawful Detainer Action and pursue any and all remedies available to the Landlord at law or equity, including unpaid rent, damages to the Landlord, including waste to the Property, the cost of recovering possession of the Property, expenses of reletting, including necessary renovation or alteration of the Property, Landlord's reasonable attorneys' fees incurred in connection therewith, and any real estate commission paid or payable, together with a Landlord's lien against any property of the Tenant remaining on the Property (or the right to dispose of such property by a gift to charity of the same, if allowed by law);

(c) Pursue any other remedy now or hereafter available to Landlord under the laws or judicial decisions of the state in which the Property is located; and/or

(d) If a court of competent jurisdiction determines that any of the acts described in Section 10.02(d) is not a default under this Lease, and a trustee is appointed to take possession (or if Tenant remains a debtor in possession) and such trustee or Tenant transfers Tenant's interest hereunder, then Landlord shall receive, as Additional Rent, the excess, if any, of the rent (or any other consideration) paid in connection with such assignment or sublease over the rent payable by Tenant under this Lease.

Section 10.04 Repayment of "Free" Rent. If this Lease provides for a postponement of any monthly rental payments, a period of "free" rent or other rent concession, such postponed rent or "free" rent is called the "Abated Rent". Tenant shall be credited with having paid all of the Abated Rent on the expiration of the Lease Term only if Tenant has fully, faithfully, and punctually performed all of Tenant's obligations hereunder, including the payment of all rent (other than the Abated Rent) and all other monetary obligations and the surrender of the Property in the physical condition required by this Lease. Tenant acknowledges that its right to receive credit for the Abated Rent is absolutely conditioned upon Tenant's full, faithful and punctual performance of its obligations under this Lease. If Tenant defaults and does not cure within any applicable grace period, the Abated Rent shall immediately become due and payable in full and this Lease shall be enforced as if there were no such rent abatement or other rent concession. In such case Abated Rent shall be calculated based on the full initial rent payable under this Lease.

Section 10.05 Automatic Termination. Notwithstanding any other term or provision hereof to the contrary, the Lease shall terminate on the occurrence of any act which affirms the Landlord's intention to terminate the Lease as provided in Section 10.03 hereof, including the filing of an unlawful detainer action against Tenant. On such termination, Landlord's damages for default shall include all costs and fees, including reasonable attorneys' fees that Landlord incurs in connection with the filing, commencement, pursuing and/or defending of any action in any bankruptcy court or other court with respect to the Lease; the obtaining of relief from any stay in bankruptcy restraining any action to evict Tenant; or the pursuing of any action with respect to Landlord's right to possession of the Property. All such damages suffered (apart from Base Rent and other rent payable hereunder) shall constitute pecuniary damages which must be reimbursed to Landlord prior to assumption of the Lease by Tenant or any successor to Tenant in any bankruptcy or other proceeding.

Section 10.06 Cumulative Remedies. Landlord's exercise of any right or remedy shall not prevent it from exercising any other right or remedy.

ARTICLE 11: PROTECTION OF LENDER

Section 11.01 Subordination. Landlord shall have the right to subordinate this Lease to any ground lease, deed of trust or mortgage encumbering the Property, any advances made on the security thereof and any renewals, modifications, consolidations, replacements or extensions thereof, whenever made or recorded. Tenant shall cooperate with Landlord and any lender which is acquiring a security interest in the Property or the Lease. Tenant shall execute such further documents and assurances as such lender may require, provided that Tenant's obligations under this Lease shall not be increased in any material way (the performance of ministerial acts shall not be deemed material), and Tenant shall not be deprived of its rights under this Lease. Tenant's right to quiet possession of the Property during the Lease Term shall not be disturbed if Tenant pays the rent and performs all of Tenant's obligations under this Lease and is not otherwise in default. If any ground lessor, beneficiary or mortgagee elects to have this Lease prior to the lien of its ground lease, deed of trust or mortgage and gives written notice thereof to Tenant, this Lease shall be deemed prior to such ground lease, deed of trust or mortgage whether this Lease is dated prior or subsequent to the date of said ground lease, deed of trust or mortgage or the date of recording thereof.

Section 11.02 Attornment. If Landlord's interest in the Property is acquired by any ground lessor, beneficiary under a deed of trust, mortgagee, or purchaser at a foreclosure sale, Tenant shall attorn to the transferee of or successor to Landlord's interest in the Property and recognize such transferee or successor as Landlord under this Lease. Tenant waives the protection of any statute or rule of law which gives or purports to give Tenant any right to terminate this Lease or surrender possession of the Property upon the transfer of Landlord's interest.

Section 11.03 Signing of Documents. Upon written request, Tenant shall sign and deliver any instrument or documents necessary or appropriate to evidence any such attornment or subordination or agreement to do so. If Tenant fails to do so within ten (10) days after written request, in addition to such failure constituting a material default under this lease and triggering the right of the Landlord to give notice of default and, if the default is not timely cured, enforce all of its remedies hereunder, Tenant hereby makes, constitutes and irrevocably appoints Landlord, or any transferee or successor of Landlord, the attorney-in-fact of Tenant to execute and deliver any such instrument or document.

Section 11.04 Estoppel Certificates.

(a) Upon Landlord's written request, Tenant shall execute, acknowledge and deliver to Landlord a written statement certifying: (i) that none of the terms or provisions of this Lease have been changed (or if they have been changed, stating how they have been changed); (ii) that this Lease has not been canceled or terminated; (iii) the last date of payment of the Base Rent and other charges and the time period covered by such payment; (iv) that Landlord is not in default under this Lease (or, if Landlord is claimed to be in default, stating why); and (v) such other representations or information with respect to Tenant or the Lease as Landlord may reasonably request or which any prospective purchaser or encumbrancer of the Property may require. Tenant shall deliver such statement to Landlord within ten (10) days after Landlord's request. Landlord may give any such statement by Tenant to any prospective purchaser or encumbrancer of the Property. Such purchaser or encumbrancer may rely conclusively upon such statement as true and correct.

(b) If Tenant does not deliver such statement to Landlord within such ten (10)-day period, Landlord, and any prospective purchaser or

encumbrancer, may conclusively presume and rely upon the following facts: (i) that the terms and provisions of this Lease have not been changed except as otherwise represented by Landlord; (ii) that this Lease has not been canceled or terminated except as otherwise represented by Landlord; (iii) that not more than one month's Base Rent or other charges have been paid in advance; and (iv) that Landlord is not in default under the Lease. In such event, Tenant shall be estopped from denying the truth of such facts.

ARTICLE 12: LEGAL COSTS

Section 12.01 Legal Proceedings. If any action for breach of or to enforce the provisions of this Lease is commenced, the court in such action shall award to the party in whose favor a judgment is entered, a reasonable sum as attorneys fees and costs. The losing party in such action shall pay such attorneys fees and costs.

Section 12.02 Landlord's Consent. Tenant shall pay Landlord's reasonable attorneys fees incurred in connection with Tenant's request for Landlord's consent under ARTICLE 9: (Assignment and Subletting), or in connection with any other act which Tenant proposes to do and which requires Landlord's consent.

ARTICLE 13: MISCELLANEOUS PROVISIONS

Section 13.01 Non-Discrimination. Tenant promises, and it is a condition to the continuance of this Lease, that there will be no discrimination against, or segregation of, any person or group of persons on the basis of race, color, sex, creed, national origin or ancestry in the leasing, subleasing, transferring, occupancy, tenure or use of the Property or any portion thereof.

Section 13.02 Landlord's Liability; Certain Duties.

(a) As used in this Lease, the term "Landlord" means only the current owner or owners of the fee title to the Property or Project or the leasehold estate under a ground lease of the Property or Project at the time in question. Each Landlord is obligated to perform the obligations of Landlord under this Lease only during the time such Landlord owns such interest or title. Any Landlord who transfers its title or interest is relieved of all liability with respect to the obligations of Landlord under this Lease to be performed on or after the date of transfer. However, each Landlord shall deliver to its transferee all funds that Tenant previously paid if such funds have not yet been applied under the terms of this Lease.

(b) Tenant shall give written notice of any failure by Landlord to perform any of its obligations under this Lease to Landlord and to any ground lessor, mortgagee or beneficiary under any deed of trust encumbering the Property whose name and address have been furnished to Tenant in writing. Landlord shall not be in default under this Lease unless Landlord (or such ground lessor, mortgagee or beneficiary) fails to cure such non-performance within thirty (30) days after receipt of Tenant's notice. However, if such non-performance reasonably requires more than thirty (30) days to cure, Landlord shall not be in default if such cure is commenced within such thirty (30) -day period and thereafter diligently pursued to completion.

(c) Notwithstanding any term or provision here into the contrary the liability of Landlord for the performance of its duties and obligations under this Lease is limited to Landlord's interest in the Property and the Project, and neither the Landlord nor its partners, shareholders, officers or other principals shall have any personal liability under this Lease.

Section 13.03 Severability. A determination by a court of competent jurisdiction that any provision of this Lease or any part thereof is illegal or unenforceable shall not cancel or invalidate the remainder of such provision or this Lease, which shall remain in full force and effect.

Section 13.04 Interpretation. The captions of the Articles or Sections of this Lease are to assist the parties in reading this Lease and are not a part of the terms or provisions of this Lease. Whenever required by the context of this Lease, the singular shall include the plural and the plural shall include the singular. The masculine, feminine and neuter genders shall each include the other. In any provision relating to the conduct, acts or omissions of Tenant, the term "Tenant" shall include Tenant's agents, employees, contractors, invitees, successors or others using the Property with Tenant's expressed or implied permission.

Section 13.05 Incorporation of Prior Agreements; Modifications. This Lease is the only agreement between the parties pertaining to the lease of the Property and no other agreements are effective. All amendments to this Lease shall be in writing and signed by all parties. Any other attempted amendment shall be void.

Section 13.06 Notices. All notices required or permitted under this Lease shall be in writing and shall be personally delivered, sent by a national overnight courier or by certified mail, return receipt requested, postage prepaid. Notices to Tenant shall be delivered to the address specified in Section 1.03 above, except that upon Tenant's taking possession of the Property, the Property shall be Tenant's address for notice

purposes. Notices to Landlord shall be delivered to the address specified in Section 1.02 above. All notices shall be effective upon delivery. Either party may change its notice address upon written notice to the other party.

Section 13.07 Waivers. All waivers must be in writing and signed by the waiving party. Landlord's failure to enforce any provision of this Lease or its acceptance of rent shall not be a waiver and shall not prevent Landlord from enforcing that provision or any other provision of this Lease in the future. No statement on a payment check from Tenant or in a letter accompanying a payment check shall be binding on Landlord. Landlord may, with or without notice to Tenant, negotiate such check without being bound to the conditions of such statement.

Section 13.08 No Recordation. Tenant shall not record this Lease without prior written consent from Landlord. However, either Landlord or Tenant may require that a "Short Form" memorandum of this Lease executed by both parties be recorded. The party requiring such recording shall pay all transfer taxes and recording fees.

Section 13.09 Binding Effect; Choice of Law. This Lease binds any party who legally acquires any rights or interest in this Lease from Landlord or Tenant. However, Landlord shall have no obligation to Tenant's successor unless the rights or interests of Tenant's successor are acquired in accordance with the terms of this Lease. The laws of the state in which the Property is located shall govern this Lease. Notwithstanding the foregoing, Tenant may have claims under the terms of this Lease which involve amounts which are not liquidated. The Tenant agrees that it shall be entitled to reduce or offset an obligation of the Landlord to the Tenant with respect to such unless and until they are liquidated, but only the unliquidated amount shall be deferred until liquidation.

Section 13.10 Corporate Authority; Partnership Authority. Each person signing this Lease on behalf of Tenant represents and warrants to the Landlord that he has full authority to do so and that this Lease binds the named Tenant.

Section 13.11 Joint and Several Liability. All parties signing this Lease as Tenant shall be jointly and severally liable for all obligations of Tenant.

Section 13.12 Force Majeure. If Landlord cannot perform any of its obligations due to events beyond Landlord's control, the time provided for performing such obligations shall be extended by a period of time equal to the duration of such events. Events beyond Landlord's control include, but are not limited to, acts of God, war, civil commotion, labor disputes, strikes, fire, flood or other casualty, shortages of labor or material, government regulation or restriction and weather conditions.

Section 13.13 Execution of Lease. This Lease may be executed in counterparts and, when all counterpart documents are executed, the counterparts shall constitute a single binding instrument. Landlord's delivery of this Lease to Tenant shall not be deemed to be an offer to lease and shall not be binding upon either party until executed and delivered by both parties.

Section 13.14 Survival. All representations and warranties of Landlord and Tenant shall survive the termination of this Lease.

ARTICLE 14: BROKERS

Section 14.01 Broker's Fee. When this Lease is signed by and delivered to both Landlord and Tenant, Landlord shall pay a real estate commission to Tenant's Broker named in Section 1.08 above, if any, as provided in the written agreement between Landlord and such Broker for services rendered to Tenant by Tenant's Broker in this transaction.

Section 14.02 No Other Brokers. Landlord and Tenant each warrant that they have dealt with no other real estate broker(s) in connection with this transaction except HP, the HP Agents and the Broker identified in Section 1.08.

ARTICLE 15: COMPLIANCE The parties hereto agree to comply with all applicable federal, state and local laws, regulations, codes, ordinances and administrative orders having jurisdiction over the parties, property or the subject matter of this Agreement, including, but not limited to, the 1964 Civil Rights Act and all amendments thereto, the Foreign Investment In Real Property Tax Act, the Comprehensive Environmental Response Compensation and Liability Act, and The Americans With Disabilities Act.

ARTICLE 16: EARLY TERMINATION Landlord and Tenant both acknowledge that funds are not presently available for performance of this Lease by the Tenant beyond December 31, 2017. Tenant's obligations for the performance of this Agreement beyond December 31, 2017 are contingent upon funds being appropriated for the Salt Lake County Clerk's Office, Elections Division. In the event that sufficient funds are not budgeted and appropriated in any succeeding fiscal years for the Salt Lake County Clerk's Office, Elections Division, to occupy the Property leased in this Agreement, then by ninety-(90)-days prior written notice to Landlord, this Lease shall terminate on the last day of the fiscal year for which sufficient funds were budgeted and appropriated.

ADDITIONAL PROVISIONS MAY BE SET FORTH IN A RIDER OR RIDERS ATTACHED HERETO OR IN THE BLANK SPACE BELOW.

Landlord and Tenant have signed this Lease on or before the date specified in Section 1.01 and have initialed all Riders which are attached to or incorporated by reference in this Lease.

"LANDLORD"

"TENANT"

Utah ITX Partners, LLC,
a Utah Limited Liability Company

Salt Lake County

By: _____
James D. Harrison, Jr., President

By: Kimberly Farnsworth
Its: _____

Date: _____

Date: 2/1/17

IN ANY REAL ESTATE TRANSACTION, IT IS RECOMMENDED THAT YOU CONSULT WITH A PROFESSIONAL, SUCH AS A CIVIL ENGINEER, INDUSTRIAL HYGIENIST OR OTHER PERSON WITH EXPERIENCE IN EVALUATING THE CONDITION OF THE PROPERTY, INCLUDING THE POSSIBLE PRESENCE OF ASBESTOS, HAZARDOUS MATERIALS AND UNDERGROUND STORAGE TANKS. THIS PRINTED FORM LEASE HAS BEEN DRAFTED BY LEGAL COUNSEL FOR THE LANDLORD. NO REPRESENTATION OR RECOMMENDATION IS MADE BY SUCH LEGAL COUNSEL, THE LANDLORD, THE REAL ESTATE BROKERS NAMED HEREIN, OR THEIR EMPLOYEES OR AGENTS, AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT OR TAX CONSEQUENCES OF THIS LEASE

APPROVED AS TO FORM
District Attorney's Office
By: R. Christopher Preston
Attorney
R. CHRISTOPHER PRESTON
Date: 1/27/2017

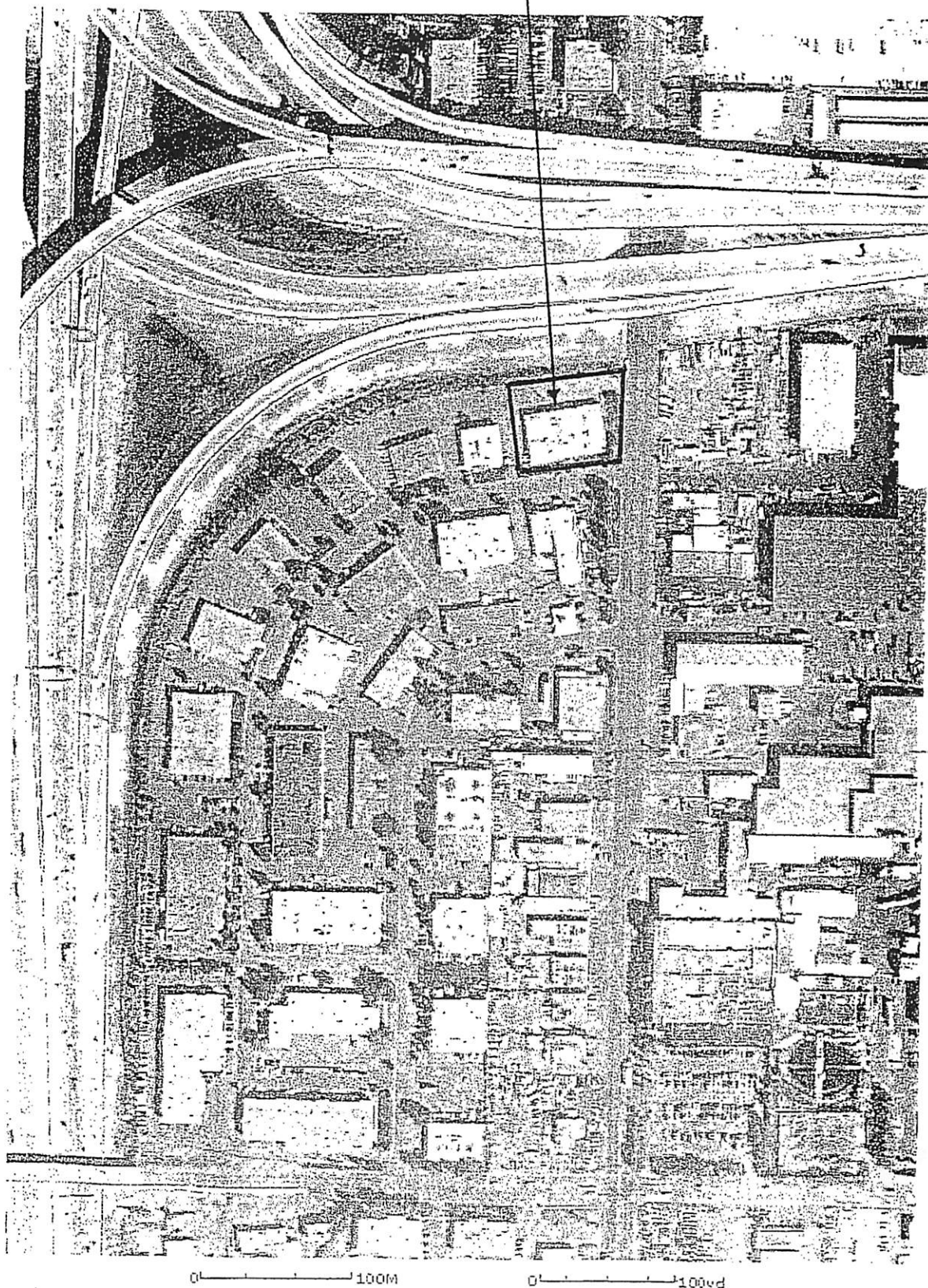
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11/11

APPROVED AS TO FORM
District Attorney's Office

By: _____
 Attorney
R. CHRISTOPHER FREESTON
Date: _____

GA

EXHIBIT "A"
THE "PROPERTY"



FLOOR PLAN

