



Memorandum

To: Mayor, Town Council
From: Rick Wixom
Date: October 5, 2023
Re: **October 11, 23 Town Council Meeting**
Medical Clinic Building Lease Agreement – Family Healthcare

Attached is a draft lease agreement prepared by the Town Attorney. The agreement is standard commercial, triple net lease agreement. Also attached is a rent summary report for commercial rents in Springdale.

The use of the existing clinic building is intended to be a stopgap while a new facility is constructed. While timelines are not completely known, the existing building could conceivably see a few years of use by Family Healthcare. While the lease may be more detailed than needed for the existing space, the Town Attorney intended this lease to be easily transitioned from the lease of the existing 780 square foot building to a larger, new facility.

The draft agreement has been provided to Family Healthcare and they are reviewing it. If during that review changes are made, those changes will be provided to the Council as soon as possible.

The Council will note several highlights throughout the document. These are points where Greg thought there should be additional discussion by the Council or conversation with Family Healthcare. Please expect additional work related to these areas and potential updates before the meeting.

One question that the Council should discuss is rent. In renting a publicly owned building, the Town needs to demonstrate that there is a public benefit attached to the rental and that the Town receives rent for the facility based on market conditions. The market survey conducted by Dan Johnson indicates that a fair market rate for commercial space is \$2.50/square foot/month. When asked, Dan confirmed that this rate is effectively a mid-point rate and there would be a range of applicable rates depending on building age, condition, and other factors, ultimately negotiated between the parties.

In this case, the public benefit to leasing the building appears obvious. Medical care for the community and visitors is a primary need and any other medical care is 30 miles away in Hurricane. The Town has supported medical services in the existing building under the previous owners and caregivers in several ways and the community appears to value the services provided. Unfortunately, it also seems clear that demand for medical services doesn't justify a fully market driven system of care. So, the question of rent should have some discussion and deliberation by the Council. While we can't provide a space rent free, the Council may adjust the rate as needed to ensure the public benefit continues. Family Healthcare has requested a lower monthly rate of \$1.5/square foot/month for the existing space and understands that the rate will be higher in a new facility developed with borrowed public funds.

As you review the attached lease document, please pass along questions to either me or Attorney Hardman. He won't be able to attend the meeting next week, so if questions can be provided prior to Wednesday, we'll have a better chance of having answers available before the meeting to facilitate your deliberation.

If the Council finds the draft lease acceptable, you may want to approve the lease subject to further review by the Attorney, or to additional minor revisions based on Family Healthcare's review. Alternatively, if there are significant questions or concerns from the Council, the lease could be tabled to allow for continued discussion and negotiation.

COMMERCIAL LEASE AGREEMENT

between

TOWN OF SPRINGDALE,
LANDLORD

and

SOUTHWEST UTAH COMMUNITY HEALTH CENTER, INC.,
doing business as "Family Healthcare,"
TENANT

Lease Draft Date: [insert date]

COMMERCIAL LEASE AGREEMENT

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MUNICIPAL CAMPUS LEASE AGREEMENT

ARTICLE I – ABSTRACT OF LEASE

Date of Lease: This Lease is entered into by the undersigned parties on this _____ of _____ 2023.

1.1 PARTIES.

A. LANDLORD:

Name: Town of Springdale, Attn. Rick Wixom, Town Manager
Address: 118 Lion Boulevard, Springdale, Utah 84767
Telephone: (435) 772-3434
Email: rwixom@springdale.utah.gov
(for notices)

B. TENANT:

Name: Southwest Utah Community Health Center, Inc., doing business as “Family Healthcare,” Attn. Lori Wright
Address: 2276 East Riverside Drive, St. George, Utah 84790
Telephone: (435) 986-2565
Email: _____
(for notices)

C. GUARANTOR(S):

Name: _____ Phone _____
Address: _____

Name: _____ Phone _____
Address: _____

1.2 PROPERTY.

A. MUNICIPAL CAMPUS:

Name: Zion Canyon Medical Clinic
Location: 118 and 120 Lion Boulevard,
Springdale, Utah 84767
(include county)

Description: Site Plan showing the layout of the Municipal Campus (and approximate location of Premises) is attached as Exhibit A-1 and legally described on Exhibit A-2.

B. PREMISES:

Description: Approximately 780 square feet modular building of gross floorspace as outlined on the Site Plan and an 80 square feet storage shed attached as Exhibit A-1.

1.3 TERM OF LEASE.

A. The term (the “Term”) of this Lease, as described herein (also referred to as the “Initial Term” in Section 3.1A), shall be for a period of **three (3)** years, commencing on the date of Landlord’s delivery of possession of the Premises to Tenant with Landlord’s Work “substantially completed” (as defined and described in Section 6.2 below) (the “Commencement Date”), and ending and expiring on the date (the “Termination Date”), which is the last day of the month which is **()** years and after (i) the Rent Commencement Date, if the Rent Commencement Date is the first day of a month or, (ii) the first day of the first full month following the Rent Commencement Date, if the Rent Commencement Date is other than the first day of a month, unless sooner terminated or extended as provided in this Lease. Unless otherwise set forth in the Lease, the Rent Commencement Date shall be the Commencement Date.

B. Extended Term: **[insert number of years – if applicable – or insert “intentionally omitted” – if inapplicable]** (see Section 3.1B).

1.4 RENT AND OTHER TENANT CONTRIBUTIONS.

A. Minimum Rent shall be: See Exhibit B

B. Additional Rent as more specifically defined in Section 4.3A shall include Tenant’s Proportionate Share of Common Area Expenses, Real Estate Taxes and Insurance (as such terms are defined and described in Section 4.3 below), with an annual adjustment as provided in Section 4.3C. If it is determined by Landlord, in Landlord’s reasonable judgment, that any estimates in Additional Rent are incorrect, it may adjust Tenant’s estimated payments at any time during the term.

C. The term “Rent” shall include Minimum Rent, Additional Rent, and all other amounts payable by Tenant pursuant to the terms of this Lease.

D. Notwithstanding anything in this Lease to the contrary, Rent for the first month (“Initial Rent”) and the Security Deposit described in Section 1.5 below shall be paid to Landlord upon execution of the Lease by Tenant. The Initial Rent shall be applied toward the first month that Rent is due pursuant to Section 4.1 and Exhibit B.

1.5 SECURITY DEPOSIT.

A. **[Insert Amount]** (See Section 5.1)

1.6 CONSTRUCTION, ALTERATIONS, MAINTENANCE, AND REPAIRS.

A. Initial Construction by Landlord (Section 6.2):
_____ None. _____ (See Exhibit C-1)

B. Initial Construction by Tenant (Section 6.4 and 6.7):
_____ None. _____ (See Exhibit C-2)

C. Sign criteria (Section 6.5) are attached as Exhibit D.

1.7 USE OF PREMISES. Tenant shall use the Premises for only the operation of **a family practice medical clinic** and for no other purposes whatsoever. Tenant shall operate the Premises throughout the

Term under Tenant's trade name, "Family Healthcare" ("Tenant's Trade Name").

1.8 RESTRICTED AREA. All area located within five (5) miles (measured in a straight line in all directions from the outside property lines of the Premises.

1.9 ANTICIPATED TENANT OPENING DATE: [REDACTED] ("Opening Date").

1.10 ABSTRACT OF VARIABLE PROVISIONS AND STANDARD PROVISIONS. The previous provisions of this Article I will be referred to as the "Abstract of Lease" and the provisions of the remaining Articles of this Lease will be referred to as the "Standard Provisions." Wherever in the Standard Provisions or elsewhere the parties, effective date, premises, rent, charges or other variable terms are defined or referred to, they shall be those identified in the Abstract of Lease above and the exhibits to this Lease. In the event of any conflict between the terms of the Abstract of Lease and the Standard Provisions, the terms of the Abstract of Lease shall supersede and prevail. The Standard Provisions may, however, add detail or clarification to the summary provisions described in the Abstract of Lease.

ARTICLE II – MUNICIPAL CAMPUS; PREMISES

2.1 MUNICIPAL CAMPUS. The Premises are part of a municipal campus of buildings owned by the Town of Springdale, Utah, which is depicted substantially in accordance with a site plan ("Site Plan") as outlined in the attached Exhibit A-1 and legally described on Exhibit A-2. The purpose of the Site Plan attached is to show the general configuration of the Municipal Campus and the approximate location of the Premises. Landlord reserves the right to change the size, layout and location of any buildings or common area, parking and other facilities shown on Exhibit A-1 as well as reduce or expand the size of the Municipal Campus. The term "Municipal Campus" herein shall be deemed to mean the entire development owned by Landlord from time to time, including any and all existing and proposed structures (whether reflected in Exhibit A-1 or hereafter incorporated in the Municipal Campus during the term or any extension thereof), parking facilities, common facilities, and the like to be built on the property shown on said Exhibit A-1 as the same may from time to time be increased by the addition of other land, together with structures and the like thereon, which may from time to time be included by Landlord in the development.

2.2 PREMISES.

A. DESCRIPTION. Landlord on behalf of and as owner of the Municipal Campus hereby leases to Tenant and Tenant leases and accepts subject to the terms and conditions of this Lease, the Premises. The square footage of the Premises shall be the square footage set forth in Section 1.2.B above. If the floor area of the Premises, or the Municipal Campus shall be more or less than the estimated square footage set forth in Section 1.2 of the Abstract of the Lease, neither the Minimum Rent nor calculation of Tenant's Proportionate Share hereunder shall be affected. Under no circumstances shall Landlord or Tenant be entitled to any rent credits or other credits past, present and future for an error in the square footage calculation.

B. EXCEPTION AND RESERVATION. Landlord reserves and excepts from the Premises the roof and exterior walls of the building or buildings of which the Premises are a part, and further reserves the right to construct additional floors on the building of which the Premises are a part and the right in, over and upon the Premises as may be reasonably necessary or advisable for the servicing of the Premises or of other portions of the Municipal Campus.

C. **SUBSTITUTE PREMISES.** After the date hereof, Landlord may substitute for the Premises other space (hereinafter called the “Substitute Premises”) in the Municipal Campus or in property to be acquired to expand the Municipal Campus. At present, the Substitute Premises is contemplated to be a much larger, freestanding commercial Class A office building of approximately 4,000 leasable square feet. Tenant agrees that all of the obligations of this Lease will continue despite Tenant’s relocation to the Substitute Premises, except that the amount of Minimum Rent and Additional Rent will increase based on the increased size of the Substitute Premises. Upon substantial completion of the Substitute Premises, this Lease will apply to the Substitute Premises as if it had been the space originally described in the Lease. Landlord shall use commercially reasonable efforts to minimize any period when the Premises shall be closed to the public as a result of relocation. Provided that Tenant shall be unable to conduct any business at the Municipal Campus solely due to such relocation, all Rent shall abate from the date the Premises are closed until the date the Substitute Premises are open for business. Tenant agrees to use all reasonable efforts to open for business in the Substitute Premises as quickly as is reasonably possible under the circumstances, and in all events within thirty (30) days after Landlord delivers possession of the Substitute Premises to Tenant. Landlord shall not be liable or responsible in any way for damages, loss of business, income or profits or injuries suffered by Tenant pursuant to a relocation in accordance with this provision including, but limited to, loss of goodwill, business, or profits.

2.3 COMMON AREA. Tenant along with its Lease of the Premises receives the non-exclusive right to use, in common with others, the Common Areas of the Municipal Campus, **as now existing or hereafter expanded.** The term “Common Area” herein shall include all service roads, loading facilities, sidewalks, automobile parking areas, driveways, footways and other facilities designed for common use, as may be installed by Landlord as hereinafter provided, and of such other and further facilities as may be provided or designated from time to time by Landlord for common use, subject, however, to the terms and conditions of this Lease and to reasonable rules and regulations for the use thereof, as prescribed from time to time by Landlord.

ARTICLE III – LEASE TERM AND POSSESSION OF PREMISES

3.1 TERM.

A. **INITIAL TERM.** The term of this Lease shall be as set forth in Section 1.3 above. Notwithstanding the foregoing, this Lease and all of the obligations of Landlord and Tenant set forth herein are binding and shall be in full force and effect from and after the date of their mutual execution of this Lease, and this Lease shall not be deemed a contract to make a lease. Tenant shall be responsible for the payment of any and all utilities servicing the Premises from and after the date that Landlord delivers the Premises to Tenant. Landlord and Tenant agree that if the Term shall not have commenced on or before the first (1st) anniversary of the date of this Lease, then Landlord and Tenant each shall have the right to terminate this Lease by delivering notice thereof to the other party prior to such commencement.

If this Lease is executed before any portion of the Premises becomes vacant or otherwise available and ready for occupancy, or if any present tenant or occupant of any portion of the Premises holds over and Landlord is unsuccessful in acquiring possession of such portion of the Premises prior to the Commencement Date, Landlord shall not be deemed to be in default hereunder nor in any way liable to Tenant and Tenant agrees to accept possession of such portion of the Premises at such time that

Landlord is able to tender the same. Upon its determination of the Commencement Date, the Termination Date and the Rent Commencement Date, Landlord will notify Tenant of same and such dates shall be binding on Landlord and Tenant for all purposes under this Lease.

B. **EXTENDED TERM.** Provided that Tenant is not in default hereunder, both at the time of exercise of the option as well as at the time of commencement of any Extended Term hereinafter defined, or has not been in default during the 365 days immediately preceding the Termination Date, and provided, further, that this Lease has not been terminated during the initial Term or a prior Extended Term, Tenant shall have the number of options to extend the Term for the number of years each as set forth in Section 1.3.B. above, immediately following the then current term and subject to all of the terms, conditions, covenants and provisions of this Lease ("Extended Term"). Tenant shall exercise its extension rights hereunder in each instance by delivery to Landlord of written notice no earlier than two hundred and seventy (270) days and no later than one hundred and eight (180) days prior to the expiration of the ten current term. Except to the extent expressly otherwise set forth herein, nothing contained in this Lease shall be construed as granting any rights to extend the Term beyond the Termination Date. In the event Tenant is in default either at the time it exercises its rights to extend or at the intended commencement date of such Extended Term, then all of Tenant's extension rights described in this Section shall terminate automatically. The rights set forth herein to extend the Term of this Lease are personal and reserved to the original Tenant and may not be exercised by any successor or assign of the original Tenant. For the purposes of this Lease, the "Term" shall include any "Extended Term."

3.2 QUIET ENJOYMENT. Landlord agrees that, if the Rent and any other additional charges are being paid in the manner and at the time prescribed and the covenants and obligations of Tenant are being all and singularly kept, fulfilled and performed, Tenant shall lawfully and peaceably have hold, possess, use and occupy and enjoy the Premises so long as this Lease remains in force without hindrance, disturbance or molestation from landlord, subject to the specific provisions of this Lease. The loss or reduction of Tenant's light, air or view will not be deemed a disturbance of Tenant's occupancy of the Premises nor will it reduce Tenant's obligations under this Lease or create any liability of Landlord to Tenant.

3.3 SURRENDER OF PREMISES.

A. **OBLIGATION UPON SURRENDER.** Upon any termination of this Lease or termination of Tenant's right to possession of the Premises, whether by lapse of time, cancellation or termination, forfeiture, or otherwise, Tenant shall immediately surrender possession of the Premises and all buildings and improvements on the same to Landlord in "broom clean" condition and good and tenantable repair, reasonable wear and damage from fire or other casualty or peril excepted, and shall surrender all keys and security codes for the Premises to landlord at the place then fixed for the payment of Minimum Rent and shall inform Landlord of all security codes, combinations of locks, safes and vaults, if any, in the Premises.

B. **RIGHT TO REMOVE.** At any time during the ten (1) days before the Termination Date of this Lease, Tenant, if not in default hereunder at such time, shall have the right to remove, at Tenant's sole cost and expense, and at the end of the Term or termination of Tenant's right to possession of the Premises, if directed to do so by Landlord, shall remove, at Tenant's sole cost and expense, from the Premises all furniture, furnishings, signs, and equipment then installed or in place in, on or about the Premises provided, however, Tenant shall make all repairs, at Tenant's sole cost and expense, to the Premises required because of such removal and to restore the Premises to good order, repair and condition all within such ten (1) day period. If any of such property shall remain on the Premises after the end of

the Term, at the option of landlord, such property shall be and become the property of Landlord without any claim therein of Tenant. Landlord may direct Tenant to remove and repair such property, in which case Tenant agrees to do so, at Tenant's sole cost and expense, and to reimburse Landlord as Additional Rent for any expense of removal in the event Tenant shall fail to remove such property if and when directed. Tenant hereby grants Landlord the absolute right to dispose of any property remaining on the Premises following Tenant's failure to remove same in any manner as Landlord determines in its sole discretion without liability therefor to Tenant and at Tenant's sole cost and expense.

3.4 HOLDING OVER. Any holding over after the expiration of the Term of this Lease or Tenant's right to possession of the Premises, without the consent of Landlord, shall be construed to be a tenancy from month to month, cancelable by either Landlord or Tenant upon thirty (30) days' written notice, and at Minimum Rent equal to two hundred percent (200%) of the total Minimum Rent as existed during the last year of the term hereof for each month or partial month of holding over and further upon all of the terms and conditions (including without limitation, the obligation to pay Additional Rent) as existed other than payment of Minimum Rent during the last year of the term hereof. Such holding over by Tenant, and landlord's collection of any Rent therefor, shall not serve as permission for Tenant's continued occupancy of the Premises nor serve to extend the Term. Tenant shall also indemnify, defend and hold Landlord harmless from and against all claims and damages, consequential as well as direct, sustained by reason of Tenant's holding over. The provisions of this Section 3.4 shall not be deemed to be a waiver of Landlord's right of reentry or right to regain possession by actions at law or in equity or any other rights under this Lease, and any receipt of payment of holdover Rent by Landlord shall not be deemed a consent by landlord to Tenant's remaining in possession or be construed as creating or renewing any lease term or right of tenancy except as elected by Landlord as set forth above.

ARTICLE IV – RENT AND OTHER TENANT CONTRIBUTIONS

4.1 MINIMUM RENT. Commencing on and as of the Rent Commencement Date, Tenant shall pay to Landlord the minimum annual rent (hereinafter referred to as "Minimum Rent") set forth in the Abstract of Lease, payable in advance in equal monthly installments on or before the first day of each calendar month, without prior demand therefor and without offset. The first payment date for Minimum Rent shall, if the Rent Commencement Date is other than the first day of a month, include Minimum Rent for the fractional month as a per diem basis (calculated on the basis of the number of days in that particular month); and thereafter the Minimum Rent shall be paid in equal monthly installments in advance on or before the first day of each calendar month during the Term of this Lease.

4.2 TENANT'S SHARE OF COMMON AREA AND MUNICIPAL CAMPUS EXPENSES.

A. **MONTHLY PAYMENT OF ESTIMATED CHARGE.** For each year of the Term hereof, Tenant shall pay to Landlord, as additional rent ("Additional Rent"), Tenant's proportionate share ("Proportionate Share") of: (i) all costs of operation and maintenance of the Common Areas ("Common Area Expenses"); (ii) all real estate taxes levied and assessed against the Municipal Campus including the Common Areas ("Real Estate Taxes"); (iii) all insurance coverage upon the Municipal Campus and its operations ("Insurance"); and (iv) Landlord's administrative fees ("Administrative Fee"). As and for Tenant's Proportionate Share, as hereinafter defined, set forth in the Abstract of Lease, such amount shall be payable as Additional Rent in equal monthly installments at the same times as Minimum Rent is payable hereunder, without demand and without any deduction or setoff whatsoever. Landlord may, at its sole option, adjust Tenant's monthly payments of estimated charges if Landlord, in its reasonable judgment,

determines the estimated charges are incorrect.

B. DEFINITIONS. For the purpose of this Section:

(1) "Tenant's Proportionate Share" shall be a percentage equal to the rentable square footage of the Premises divided by the total square footage of all rentable floor space in the Municipal Campus from time to time; provided, however, that Landlord may exclude from such rentable floor space in the Municipal Campus, at Landlord's option, any portions of the Municipal Campus: (i) not occupied and open for business during all or any portion of the subject year, (ii) leased to or used by other parties as major tenants (tenants occupying greater than ten percent (10%) of the Municipal Campus), storage areas, or premises in separate buildings, where such parties are not required to pay a full pro rata share of Common Area Expenses or Real Estate Taxes, as the case maybe, pursuant to a lease or other agreement with Landlord, and (iii) with respect to Real Estate Taxes, areas of the Municipal Campus for which separate real estate tax bills are received and which are the sole responsibility of separate parties pursuant to a lease or other agreement with Landlord; provided, Landlord shall also deduct from Common Area Expenses (after computing Landlord's Administrative Fee (as defined in clause (4) below)) or Real Estate Taxes, as the case may be, all amounts received from such excluded parties for Common Area Expenses or Real Estate Taxes; provided, Landlord shall also deduct from Real Estate Taxes all amounts received from such excluded parties for Real Estate Taxes.

(2) Common Area Expenses shall include all expenditures incurred by or on behalf of Landlord in operating, maintaining, repairing or replacing the Municipal Campus and Common Areas, including, without limitation, the following: exterior walls and other structural elements of the Municipal Campus; the cost of all of Landlord's gardening and landscaping; assessments; repairs; preventive maintenance; repainting including restriping or repaving of parking lot and access ways; repairing or replacing any streets, curbs or parking lots; roof repairs and replacement; updating and maintenance and replacement of directory signs; rental of signs and equipment; lighting; sanitary control, including cleaning, sweeping, removal of ice, snow, trash, rubbish, garbage and other refuse; repair or replacement of awnings; depreciation over a period not exceeding sixty (60) months of machinery, equipment and other assets used in the operation and maintenance of the Municipal Campus; repair or replacement of on-site water lines, sanitary sewer lines, storm water lines, gas lines and electrical lines and equipment serving the Municipal Campus; all costs, charges and expenses incurred by Landlord in connection with any change of any company providing utility services, including without limitation repair, installation and service costs associated therewith; the cost of police, fire protection, security and traffic control services; Landlord's management fees; all Landlord's insurance relating to the common facilities or the Municipal Campus as a whole or the operations thereon including, but not limited to, casualty insurance, flood insurance, rent loss insurance, fire insurance and extended coverage as well as general liability insurance, umbrella liability insurance, bodily injury, public liability, property damage liability, automobile insurance, sign insurance, and any other insurance carried by Landlord in limits selected by Landlord; reasonable reserves for anticipated expenditures; costs incurred by Landlord under any operating and easement agreements or other similar agreement of record; and the cost of all personnel required to supervise, implement and accomplish all of the foregoing. Notwithstanding the foregoing, the following shall not constitute Common Area Expenses: (a) Real Estate Taxes; (b) interest, points and fees on debt or amortization on or for any mortgage or similar security instrument (a "Security Instrument") encumbering the Municipal Campus, and all principal, escrow deposits and other sums paid on or in respect to any indebtedness (whether or not secured by a Security Instrument), and all costs incurred in connection with any financing, refinancing or syndication of the Municipal Campus; (c) costs of capital improvements and any other expenditures that, under generally accepted accounting principles ("GAAP"), should be capitalized, except that Common Area Expenses shall include the cost during the Term, as reasonably

amortized by Landlord in accordance with GAAP, of any capital improvement; (d) costs of improvements to, or alterations of, space leased to or available for lease to any tenant; (e) costs of repairing or restoring any portion of the Municipal Campus damaged by a fire or other casualty, except to the extent that such costs constitute expenses (as opposed to capital expenditures) under GAAP and do not exceed the amount of the deductible under the policy of casualty insurance maintained (or required to be maintained) by Landlord, or are not covered or paid for by insurance proceeds; (t) costs of repairs, alterations or replacements required as the result of the exercise of any right of eminent domain or conveyance in lieu thereof, except to the extent that such costs constitute expenses (as opposed to capital expenditures) under GAAP and are not part of the condemnation award payable to Landlord with respect thereto; (g) costs and expenses incurred in connection with leasing space in or procuring tenants for the Municipal Campus, including, without limitation, leasing commissions and advertising expenses, and legal and other professional fees; (h) court costs and legal fees incurred to enforce the obligations of tenants under leases of portions of the Municipal Campus, or resulting from the violation by Landlord of the terms and conditions of any lease; (i) costs of correcting defects in the initial construction of the Municipal Campus, provided that this shall not exclude the cost of normal repair and maintenance expected with respect to the construction materials and equipment installed in the Municipal Campus; (j) wages, salaries, compensation and benefits of any employees above the level of property manager; and (k) fines, interest, charges, penalties, damages and other costs incurred by Landlord by reason of any default (or claim of default) or late payment by it under any lease or other contract or instrument (regardless of whether or not the payment itself is allowed to be included in Common Area Expenses), including, without limitation, any legal and other professional fees paid or incurred in connection therewith;

(3) Real Estate Taxes shall include all taxes, assessments and other governmental charges, general and special, ordinary and extraordinary, of any kind and nature whatsoever, including, but not limited to, assessments for public improvements or benefits, which shall during the Term hereof be paid, assessed, levied, imposed upon or become due and payable and Landlord's reasonable expense in obtaining any refund or reduction of Real Estate Taxes, subject only to the following:

(a) Franchise, estate, inheritance, succession, capital levy, transfer, federal and state income and excess profit taxes imposed upon Landlord shall be excluded; and

(b) If at any time during the Term of this Lease and notwithstanding clause (3)(a) above, a tax or excise on rents or other tax, however described, is levied or assessed against Landlord on account of the rent expressly reserved hereunder, as a substitute in whole or in part for taxes assessed or imposed on land and buildings or on land or buildings, such tax or excise on rents or other tax shall be included within the definition of real estate taxes, but only to the extent of the amount thereof which is lawfully assessed or imposed as a direct result of Landlord's ownership of this Lease or of the Rent accruing under this Lease;

(4) Landlord's Administrative Fee shall be an amount which is not to exceed fifteen percent (15%) of the aggregate of the sum of items B(2) and (3) hereinabove.

C. ANNUAL STATEMENT AND ADJUSTMENT. After the end of each calendar year, and following receipt of billings for Real Estate Taxes and Insurance, Landlord shall supply Tenant with a summary of all costs and expenditures as enumerated above and a determination of Tenant's Proportionate Share thereof. In the event the amount billed to Tenant is less than its Proportionate Share, the same shall be paid as Additional Rent within ten (10) days after notice of such determination. In the event the amount billed to Tenant exceeds its Proportionate Share, then such excess shall be applied to the next Minimum Rent coming due, until fully exhausted (provided, that if such excess is determined after the Termination

Date, then, provided and subject to the condition that Tenant shall not be in default of this Lease, such excess shall be refunded to Tenant). Said summary shall also contain a determination by Landlord of the monthly sum to be paid by Tenant during the succeeding months of the lease year, if an adjustment is required, which determination shall be based in part on the expenses for the preceding year modified by any known increases in the cost of said services. Failure of Landlord to provide notice of under or overpayment shall not constitute a default by Landlord under this Lease and will not waive any of Landlord's rights to collect such payments or Tenant's obligations hereunder including, but not limited to, Tenant's obligations to pay its Proportionate Share of all costs and expenditures, but will extend each party's rights until the date notice is given.

D. **BOOKS AND RECORDS.** Landlord shall maintain complete and accurate books and records of all Common Area Expenses paid or incurred by Landlord and all payments of Common Area Expenses received from Tenant. Such books and records shall be kept at a location in Washington County, Utah known to Tenant, and Tenant or auditors selected by Tenant shall have the right, within ninety (90) days of the initial billing, with a minimum of ten (10) days' prior notice, to inspect and audit such books and records at any time during normal business hours, at Tenant's sole cost and expense. Unless Tenant objects to Landlord's billing, within ninety (90) days of the initial billing, Landlord's calculation of Common Area Expenses shall be final and binding on Tenant. If Tenant objects to Landlord's billing, the Landlord and Tenant shall, in good faith, attempt to resolve any such objections.

4.3 RENT PAYMENT PROCEDURES.

A. **PAYMENT LOCATION.** Tenant shall, without prior notice or demand and without any setoff or deduction whatsoever, pay all Minimum Rent, Additional Rent, and other charges and render all statements herein prescribed at the Landlord's address or other office specifically provided in the Abstract of Lease or to such other person or corporation, and at such other place as may be designated by Landlord in writing from time to time.

B. **TAXES ON RENT.** Tenant shall further pay to Landlord any and all excise, privilege, sales, rental and other taxes, levied or assessed by any governmental authority upon or measured by the Rent reserved to Landlord under the provisions of this Lease. Such tax shall be paid by Tenant whether or not it comprises a portion of any Real Estate Taxes or real property tax bills.

C. **INTEREST AND LATE CHARGES.** Tenant covenants and agrees that all sums to be paid under this Lease, if not paid when due, shall bear interest on the unpaid portion thereof at the per annum rate equal to the lesser of eighteen percent (18%) or the maximum rate permitted by law from the date when due but not in excess of the highest legal rates. Tenant further agrees that for each calendar month, that the Rent is not paid to Landlord within ten (10) days of the due date as provided herein above, Tenant shall promptly pay to Landlord a late fee equal to the greater of \$150.00 or ten (10%) percent of the monthly Rent. If Landlord shall pay any monies, or incur any expenses in correction of any violation of any covenant of Tenant herein set forth, the amounts so paid or incurred shall, at Landlord's option and on notice to Tenant, be considered Additional Rent payable by Tenant with the first installment of Minimum Rent thereafter to become due and payable, and may be collected or enforced as by law provided with respect to Rent. Tenant shall pay to Landlord Fifty and no/100 (\$50.00) dollars for each of Tenant's checks returned to Landlord unpaid by Tenant's bank.

4.4 TAXES AND ASSESSMENTS ON TENANT'S PROPERTY. Tenant shall be responsible for and shall pay before delinquency all taxes assessed against the leasehold interest or personal property of any

kind owned or placed in, upon or about the Premises by Tenant. Tenant hereby agrees to protect and hold harmless Landlord and the Premises from all liability for Tenant's share of any and all such taxes, assessments and charges together with any interest, penalties or other charges thereby imposed, and from any sale or other proceedings to enforce payment thereof, and to pay all such taxes, assessments and charges before same become a lien on the Premises. If any tax lien is threatened by any governmental entity, agency or authority, or in the event of the filing of a notice of any such lien, Tenant will promptly pay same and take steps immediately to have same removed. If the lien is not removed within twenty (20) days from the date of written notice from Landlord, Landlord shall have the right, at Landlord's option, to cause the same to be discharged by record of payment, deposit, bond or order of a court of competent jurisdiction or otherwise, or to pay any portion thereof and of the amounts so paid, including attorneys' fees and expenses connected therewith, together with interest on all of the foregoing at the per annum rate equal to the lesser of eighteen percent (18%) or the maximum rate permitted by law, shall be Additional Rent due from Tenant to Landlord and shall be paid to Landlord immediately upon rendition to Tenant of bill.

4.5 UTILITIES CONSUMED ON THE PREMISES. In addition to all payments of Minimum Rent and Additional Rent herein specified, Tenant shall be responsible for and shall pay for all utilities used, or consumed in or upon the Premises, and all sewer charges, as and when the charges therefor shall become due and payable. Commencing on the date Landlord notifies Tenant that the Premises are ready for occupancy, Tenant shall make all appropriate applications to the local utility companies and pay all required deposits for meters and service for all utilities commencing with the delivery of possession of the Premises as provided in Section 6.2. Landlord at its option may control the provider of electrical service to the Premises. If permitted by law, Landlord shall have the right at any time and from time to time during the Term to either contract for service from a different company or companies providing electricity service (each such company shall hereinafter be referred to as an "Alternate Service Provider") or continue to contract for service from the present provider of electric service ("Electric Service Provider"). Tenant shall cooperate with Landlord, the Electric Service Provider and any Alternate Service Provider at all times and, as reasonably necessary, shall allow Landlord, Electric Service Provider, and any Alternate Service Provider reasonable access to the Municipal Campus's electric lines, feeders, risers, wiring, and any other machinery within the Premises.

Landlord shall in no way be liable or responsible for any loss, damage (direct, indirect or consequential), or expense that Tenant may sustain or incur by reason of any change, failure, interference, disruption, or defect in the supply or character of the electric energy furnished to the Premises, or if the quantity or character of the electric energy supplied by the Electric Service Provider or any Alternate Service Provider is no longer available or suitable for Tenant's requirements, and no such change, failure, defect, unavailability, or unsuitability shall constitute an actual or constructive eviction, in whole or in part, or entitle Tenant to any abatement or diminution of rent, or relieve Tenant from any of its obligations under the Lease.

In the event any utility or utility services (such as water or sewage disposal) are not separately metered or assessed to Tenant or are otherwise furnished to Tenant for which Landlord is billed directly or for which a lien could be filed against the Premises or any portion thereof, Tenant shall at Landlord's request pay the cost thereof as Additional Rent to Landlord (or any proration of such cost attributable to the Premises as determined by Landlord in Landlord's sole and absolute discretion) as and when the charges thereof become due and payable; otherwise, Tenant shall deliver original receipt bills to Landlord not less than thirty (30) days before the same are due and payable without interest or penalty together with full payment for same. In no event shall Landlord be liable for any interruption or failure in the supply of any utilities to the Premises.

4.6 INDEPENDENT COVENANTS. Tenant's covenants to make payments pursuant to this Lease

including, but not limited to, Minimum Rent and Additional Rent, are independent covenants and, except as expressly set forth in this Lease, are not subject to setoff, deduction, reduction, abatement or suspension of any kind during the Term including any extension thereof.

ARTICLE V – SECURITY

5.1 SECURITY DEPOSIT. When delivered to Landlord upon execution of this Lease, the Security Deposit shall remain on deposit with Landlord during the Term of this Lease and any extensions thereof as security for the payment of Rent and the full and faithful performance by Tenant of the covenants and conditions of this Lease. In the event of any default, the Security Deposit shall be retained by Landlord and may be applied toward damages arising from such default. Said deposit shall not be construed as liquidated damages. Upon yielding of the Premises at the termination of this Lease and in compliance with the terms and provisions of this Lease, and provided no default has occurred, the Security Deposit shall be returned to the Tenant. No interest shall be payable on the Security Deposit. Should Landlord convey its interest under this Lease, the Security Deposit, or the part or portion thereof not previously applied, shall be turned over to Landlord's grantees or assignees; and Tenant hereby releases Landlord from any liability with respect to the Security Deposit and Tenant agrees to look solely to such grantee or assignee for the return of the Security Deposit and this provision shall also apply to subsequent grantees or assignees. Should the entire Security Deposit, or any portion thereof, be appropriated and applied by Landlord for the payment of unpaid Minimum Rent, Additional Rent or other sums due and payable to Landlord by Tenant, then Tenant shall, upon written demand by Landlord, remit to Landlord a sufficient amount in cash to restore the Security Deposit to the original sum deposited, and Tenant's failure to do so shall constitute a breach of this Lease for nonpayment of Rent.

5.2 SECURITY AGREEMENT AND CONTRACTUAL LIEN. As additional security for Tenant's covenants and obligations under this Lease, Tenant hereby grants to Landlord a security interest and contractual lien (which contractual lien is independent of any statutory lien provided by law) in Tenant's furniture, fixtures, equipment and inventory, together with all accessions thereto. Landlord shall have the right to file or record any appropriate financing statements to perfect its lien on such furniture, fixtures, equipment and inventory. If requested by Landlord for clarification purposes, Tenant shall provide a security agreement separate and apart from this Lease. Upon the occurrence of any event of default as defined in this Lease, Landlord shall have all rights with respect to the above-named collateral granted a secured party pursuant to the Uniform Commercial Code or other applicable statutes. Except by the written consent of the Landlord, Tenant shall not execute or deliver any security interest in any furnishings, trade fixtures, equipment, machinery, or other property placed upon the Premises at any time other than that granted Landlord herein.

5.3 SECURITY IN ADDITION TO OTHER REMEDIES. The security given Landlord in this Article shall not limit, replace or obviate the remedies of Landlord upon a default by Tenant as described at Article XI below.

ARTICLE VI - CONSTRUCTION, ALTERATIONS, MAINTENANCE AND REPAIRS

6.1 CONDITION OF THE PREMISES. Except for any initial construction set forth on Exhibit C and Landlord's duty to repair as provided in Section 6.3, Tenant hereby accepts the Premises "as is" without any representation, warranty or expectation as to the condition of the Premises. It is agreed that by accepting possession of the Premises, Tenant acknowledges (i) Landlord's full completion of Landlord's Work as set forth in Exhibit C attached hereto and made a part hereof, (ii) Landlord's construction and delivery of the

Premises to Tenant in the condition called for hereunder, and (iii) that the Premises were in good and satisfactory condition as of the time of such taking.

6.2 INITIAL CONSTRUCTION BY LANDLORD. The responsibility for performance and payment for the initial construction of improvements on and in connection with the Premises, if any, is set forth in Exhibit C attached hereto and made a part hereof. Landlord shall use commercially reasonable efforts to substantially complete such construction in a timely manner, provided that in the event such substantial construction is delayed or hindered by strikes, casualties, fires, injunctions, inability to secure materials, restraints of law, actions of the elements, or any other causes beyond the reasonable control of Landlord, or by any acts or omissions of Tenant, then the construction period shall be extended to the extent of such delays.

Tenant, its agents, servants and contractors, prior to the delivery of possession of the Premises, shall have the right to enter upon the Premises, for the purpose of taking measurements or making Tenant's improvements therein, but for no other purposes; provided, however, that such entry shall not interfere with or obstruct the progress of the work being done by Landlord and further provided Tenant has first delivered evidence of liability insurance in amounts as are required by the terms of this Lease.

6.3 LANDLORD'S DUTY TO REPAIR. Landlord shall, subject to Tenant's reimbursement as provided in Section 4.2, maintain in good repair the exterior walls and roof of the Premises and the sidewalks and parking lots located on the Municipal Campus. Tenant agrees that it will not permit or authorize any person to go onto the roof of the Premises without the prior written consent of Landlord. Landlord shall not be required to make any repairs to the exterior walls, roof, and sidewalks unless and until Tenant has notified Landlord in writing of the need of such repairs and Landlord shall have had a reasonable period of time thereafter to commence and complete said repairs. Landlord may at its sole discretion arrange for a maintenance contract of all roof structures, the cost of which shall be Tenant's responsibility as to Tenant's Proportionate Share thereof. Tenant shall pay, as Additional Rent to Landlord, its Proportionate Share of the cost of said repairs and maintenance incurred by Landlord.

6.4 TENANT'S ALTERATIONS AND IMPROVEMENTS TO PREMISES. Tenant shall not make or cause to be made any alterations, additions or improvements to the Premises, or install or cause to be installed any interior signs, floor covering, exterior lighting, plumbing fixtures, shades or awnings, radio or television antennae, loudspeakers, sound amplifiers or similar devices, or make any changes to the exterior of the building without first obtaining Landlord's written approval and consent. Tenant shall present to the Landlord plans and specifications for such work at the time approval is sought. Such approval shall not be deemed Landlord's requirement that such work be done or that Landlord is a party to any contract for such work. No additions, alterations, changes or improvements shall be made which will weaken the structural strength, lessen the value of, or change the architectural appearance of any building or other construction. Landlord may condition its approval of any additions or alterations by Tenant on the requirement that Tenant or its contractor secure and bear the cost of a labor and materials payment bond for the amount of the proposed construction reflecting Landlord as an obligee. All building materials and fixtures installed by Tenant shall be new or completely reconditioned. At Landlord's sole option, Tenant, at its sole cost and expense, shall, in connection with completion of its work, deliver copy of invoices lien waivers from the general contractors, all subcontractors and suppliers and a date down of the Landlord's title policy, insuring no construction related exceptions including, but not limited to mechanic's liens, resulting from work completed by or on behalf of Tenant. Prior to commencement of any work, Tenant shall provide certificates of insurance for worker's compensation and liability insurance relating to such work in all amounts as are required by Landlord and naming Landlord, Landlord's mortgagee and such other parties as are designated by Landlord, as additional insured parties. All alterations, improvements, additions and fixtures made or installed by Tenant as aforesaid shall remain upon the Premises at the expiration or earlier termination of this Lease and

shall become the property of Landlord, unless Landlord shall, prior to the expiration or termination of this Lease, have given written notice to Tenant to remove the same, in which event Tenant shall remove the same and restore the Premises to the same good order and condition in which it was at the commencement of this Lease. Should Tenant fail so to do, Landlord may do so, collecting, at Landlord's option, the cost and expense thereof from the Tenant as Additional Rent, together with a fee of Five Hundred and Noll 00 Dollars (\$500.00) for the administrative costs thereof.

6.5 SIGNS. Tenant shall not place, alter, exhibit, inscribe, point, or affix any sign, awning, canopy, advertisement, notice or other lettering on any part of the outside of the Premises or of the building of which the Premises is a part, or inside the Premises if visible from the outside, and Tenant further agrees to maintain such sign, awning, canopy, decoration, advertising matter, lettering, etc., as maybe approved in good condition and repair at all times, and repair all damage to the Premises that is caused by the installation, maintenance or removal of such signs, lettering, etc. All signs shall comply with the sign criteria provided by Landlord in Exhibit D. All Tenant signs shall, at Tenant's cost, comply with applicable laws, codes, ordinances, rules and regulations set forth in the Springdale Town Code. If directed by Landlord, Tenant, at its sole cost, shall remove all signs upon the termination of the Lease and will repair all damage caused by such removal.

6.6 FURNITURE, TRADE FIXTURES AND EQUIPMENT. Tenant shall not cut or drill into, or secure any trade fixture, apparatus or equipment of any kind to any part of the Premises without first obtaining the written consent of Landlord. All furnishings, trade fixtures, equipment, and machines installed by Tenant in the Premises shall be new or completely reconditioned and remain the property of Tenant subject to Landlord's security interest as defined in Section 5.2 above and shall be removable by Tenant subject to Landlord's security interest as defined in Section 5.2 above at the expiration or earlier termination of this Lease or any renewal or extension thereof, provided that in the event of such removal Tenant shall promptly restore the Premises to their original order and condition. Any such equipment not removed at or prior to such termination shall, at Landlord's option, be and become the property of Landlord. If any personal property is leased or otherwise owned by a third party, Tenant shall provide Landlord with the identity of the owner in sufficient detail for Landlord to be able to communicate with such owner.

6.7 INITIAL INSTALLATION AND IMPROVEMENTS BY TENANT. Tenant, prior to commencing any work in, at or upon the Premises, shall submit to Landlord for Landlord's prior written approval: (i) complete architectural, electrical and mechanical plans and specifications covering all work which Tenant proposes to do in the Premises, including the installation of any fixtures therein, whether such work is to be done by Tenant or by others, (ii) sworn statements from Tenant and its general contractor, including the names, addresses and copies of contracts for all contractors and materials suppliers; (iii) all necessary permits evidencing compliance with all applicable governmental rules, regulations and requirements and payment of all impact, usage or other fees; (iv) certificates of insurance in form and amounts required by Landlord, naming Landlord, Landlord's mortgagee and such other parties, as designated by Landlord, as additional insureds; and (v) all other documents and information as Landlord may reasonably request in connection with such work. All plans and specifications shall be prepared in such detail as is required by the applicable governmental jurisdiction in which the Municipal Campus is located and, if such applicable governmental jurisdiction does not require submittal of such plans and specifications, then in such detail as Landlord reasonably requires and Tenant agrees not to commence work upon any portion of the Premises until Landlord has approved such plans and specifications in writing. Landlord agrees to act with reasonable promptness with respect to the approval or non-approval of such plans and specifications. Any changes in said plans or specifications must be similarly approved, in writing, by Landlord.

Upon receiving possession of the Premises from Landlord, Tenant, at its sole expense, shall with due diligence proceed to commence work on these initial improvements and alterations to the Premises and to

install such furnishings, trade fixtures and equipment and to perform such other work as shall be necessary or appropriate in order to prepare the Premises for the opening of business. In the event that Tenant does not open the Premises for the conduct of its business on or before the Tenant Opening Date, such shall be considered to be a Tenant default and will be governed by the provisions of Section 11.1 (5). Landlord, in addition to all other remedies hereunder as provided in Section 11.2, shall also have the right to terminate this Lease by giving Tenant notice of such termination, whereupon this Lease shall be terminated unless within seven (7) days of the giving of said written notice of termination, Tenant shall have opened the Premises for the conduct of its business.

All of Tenant's work and installations shall be done in a first-class, workmanlike manner using qualified labor and high-quality material and in compliance with all laws, rules, regulations and orders of all governmental authorities having jurisdiction thereof and free of liens and claims for liens. Tenant's work shall be conducted so as not to interfere with other work in progress in the Premises or the Municipal Campus or with other tenants' business and, in the performance of Tenant's work, Tenant shall engage and employ only such labor as will not cause any conflict or controversy with any labor organization representing trades performing work for Landlord or others in the Municipal Campus, or any part thereof, including the Premises. At Landlord's sole option, Tenant at its sole cost and expense, shall, in connection with the completion of its work, deliver a general contractor's affidavit, copies of invoices, lien waivers from the general contractor, all subcontractors and supplies and a date down of Landlord's title policy, insuring no construction related exceptions including, but not limited to mechanic's liens, or lien exceptions resulting from work completed by or on behalf of Tenant,

Tenant shall, at Tenant's own expense, promptly remove from the Premises and the Municipal Campus area all trash and debris which may accumulate in connection with Tenant's work in the Premises. Tenant, prior to delivery of possession, shall with the prior consent of Landlord be permitted to install fixtures and equipment. Any work done by Tenant prior to delivery of possession of the Premises shall be done in a manner as will not interfere with the progress of the work by Landlord of completing construction and Landlord shall have no liability or responsibility for loss of; or any damage to fixtures, equipment or other property of Tenant so installed or placed on the Premises.

Tenant will obtain, at its sole cost, a certificate of occupancy or similar approval and deliver a copy thereof to Landlord upon completion of Tenant's work.

6.8 MECHANIC'S LIENS. If Tenant makes any alterations or improvements in the Premises, Tenant must pay for same when made. Nothing in the Lease shall be construed to authorize Tenant or anyone dealing with or under Tenant, to charge the rents of the Premises, or the property of which the Premises form a part, or the interest of Landlord in the estate of the Premises, or any person under and through whom Landlord has acquired its interest in the estate of the Premises, with a mechanic's lien or encumbrance of any kind, and under no circumstances shall Tenant be construed to be the agent, employee or representative of Landlord in the making of any such alterations or improvements to the Premises. If a mechanic's or materialmen's lien is threatened by any contractor or supplier, or in the event of the filing of a notice of any such lien, Tenant will promptly pay same and take steps immediately to have same removed. If the lien is not removed within ten (10) days from the date of written notice from Landlord, Landlord shall have the right at Landlord's option to cause the same to be discharged by record of payment, deposit, bond or order of a court of competent jurisdiction or otherwise, or to pay any portion thereof and of the amounts so paid, including attorneys' fees and expenses connected therewith, together with interest on all of the foregoing at the per annum rate equal to the lesser of eighteen percent (18%) or the maximum rate permitted by law, shall be Additional Rent due from Tenant to Landlord and shall be paid to Landlord immediately upon rendition to Tenant of bill. Tenant will indemnify, defend and hold harmless Landlord from and against all loss, claims, damages, costs or expenses

suffered by Landlord by reason of any repairs, installations or improvements made by Tenant. Tenant will provide insurance certificates from all contractors performing Tenant's work in form and substance as is required by Tenant under this Lease.

No mechanics' or materialmen's liens or mortgages, deeds of trust, or other liens of any character whatsoever created or suffered by Tenant shall in any way, or to any extent, affect the interest or rights of Landlord in any buildings or other improvements on the Premises, or attach to or affect Landlord's title to or rights in the Premises including, but not limited to, Landlord's reversionary interest or other estate or interest of Landlord in the Premises.

6.9 TENANT'S DUTY TO REPAIR AND MAINTAIN PREMISES. Tenant, at its sole cost and expense, shall keep and maintain in good order, condition and repair (including any such replacement, periodic painting, and restoration as is required for that purpose) the Premises and every part thereof and any and all appurtenances hereto located, including, but without limitation, the exterior and interior portion of all doors, door checks, windows, plate glass, store front, all plumbing and sewage facilities within the Premises including free flow up to the main sewer line, fixtures, heating and air conditioning and electrical systems (whether or not located in the Premises), sprinkler systems, walls, floors and ceilings (including (i) any damage to the walls, floors, ceilings or the other areas of the Premises or (ii) any mold or mildew condition on the walls, floors, ceilings or the other areas of the Premises, caused by or resulting from moisture on or about the Premises), motors applicable to the Premises, and all alterations, improvements and installations made by Tenant under the terms of this Lease and any exhibits thereto, as herein provided; any repairs required to be made in the Premises due to burglary of the Premises or other illegal acts on the Premises or any damage to the Premises caused by a strike involving the Tenant or its employees.

Tenant shall maintain and bear the expense of the light fixtures and bulbs, any sprinkler system, air-conditioning units and filters, janitorial services, interior pest control, and the like. In the event that any governmental regulations or insurance company insuring the Municipal Campus or the Premises, from time to time, shall require modifications including, but not limited to, emergency lighting to be installed in the Premises, the installation and the maintenance of the same, including providing of battery power, shall be the responsibility of Tenant. Tenant will not cause or permit accumulation of any debris or extraneous matter on the roof of the Premises and will be responsible for any damage caused to the roof by any acts of the Tenant, its agents, servants, employees or contractors of any type or nature.

At all times during the Term, Tenant, at its sole cost and expense, shall maintain a maintenance contract in effect with a licensed competent contractor for the consistent periodic (which shall be at least quarterly, or more frequently if required by any manufacturer's warranty) inspection and maintenance of all heating, ventilation and air conditioning ("HVAC") systems located on or for the use of the Premises. If the permitted use of the Premises is as a restaurant or other prepared food provider, Tenant, at its sole cost and expense, shall maintain in effect at all times during the term of the Lease (or so long as the use of the Premises includes a restaurant or other food provider) a grease trap maintenance contract for the consistent and periodic inspection and maintenance of all grease traps located on or which service the Premises. All HVAC and grease trap maintenance contracts will be entered into with responsible, experienced providers. Tenant is obligated to provide copies of all such maintenance contracts to Landlord on an annual basis.

If Tenant refuses or neglects to commence and to complete repairs or maintenance required herein promptly and adequately, Landlord may, but shall not be required to, make and complete said repairs and Tenant shall be liable for the cost thereof to Landlord as Additional Rent. Except to the extent otherwise expressly provided in Section 6.3 above, or Sections 9.1 or 9.2 below, Landlord shall not be obligated to repair, replace, maintain or alter the Premises, and Tenant waives all laws in contravention thereof.

ARTICLE VII - USE OF PREMISES

7.1 TENANT'S USE OF THE PREMISES. Tenant shall use and occupy the Premises only for those permitted uses reflected in Section 1.7 of the Abstract of Lease and for no other purpose without Landlord's prior written consent. If any conflict shall develop between Tenant and any other tenant of the Municipal Campus regarding any provisions in this Lease or in leases to other tenants in the Municipal Campus, Landlord shall be the sole arbitrator of such conflict. Landlord's decision shall be binding on Tenant and Landlord shall incur no liability to Tenant as a result of any such determination made by Landlord hereunder. If Landlord permits a deviation from any provision of this Lease, the permission, to be effective, must be in writing and Landlord in its sole discretion may withhold or revoke such permission. Failure of Landlord to enforce any provision in this Lease or in leases to any other tenant in the Municipal Campus shall be at Landlord's sole discretion and Landlord shall incur no liability to Tenant as a result of any determination made by Landlord. Furthermore, if Tenant's use of the Premises or any improvement constructed by Tenant in, at or upon the Premises or the Municipal Campus causes the imposition of any impact fees against any portion of the Municipal Campus, then Tenant shall pay such fees prior to delinquency.

Notwithstanding anything contained in this Lease to the contrary, neither Tenant nor any person, firm, or corporation directly or indirectly affiliated with Tenant nor Tenant's franchisers, subsidiaries, parents, partners or shareholders (in a closely held corporation) shall conduct or operate, within the Restricted Area during the Term, any commercial establishment for the same or a similar use as the permitted use described in Section 1.7 of the Abstract of Lease. Nothing contained in this Lease is intended to (or shall) limit or restrict the Landlord and its affiliates, successors and/or assigns or any other tenant and their successors and/or assigns from engaging in one or more types of retail businesses. Tenant will at all times be the operator and manager of the Premises. Any attempt to use a management contract, concession agreement or any other arrangement whereby the operation of the business of the Premises will be other than by Tenant shall constitute a violation of this Lease.

7.2 USE OF COMMON AREAS. All facilities furnished by Landlord in the Municipal Campus and designated for the general use, in common, of occupants of the Municipal Campus, including Tenant hereunder, their officers, agents, employees and customers, including, but not limited to, parking areas, streets, sidewalks, canopies, roadways, loading platforms, washrooms, shelters, ramps, landscaped areas and other similar facilities, shall at all times be subject to the exclusive control and management of Landlord. Landlord shall have the right from time to time to change the area, level, location and arrangement of such parking areas and other facilities above referred to; and make all rules and regulations pertaining to and necessary for the proper operation and maintenance of the common facilities. Tenant hereunder and any other subtenants and licensees shall comply with all rules and regulations made by Landlord pertaining to the operation and maintenance of said common facilities, including, but not limited to, such reasonable requirements pertaining to sanitation, handling of trash and debris, loading and unloading of trucks and other vehicles, and safety and security against fires, theft, vandalism, personal injury and other hazards. The parking area shall be limited to parking for customers and employees of tenants of the Municipal Campus, Landlord and any other parties permitted by Landlord from time to time, and Tenant and its employees may not park in any portion of the parking area, except that portion thereof, if any, designated or which may hereafter be designated as "Employees' Parking Area" Landlord retains the right to grant exclusive parking rights to portions of the Municipal Campus to other tenants of the Municipal Campus. Landlord shall have the exclusive right at any and all times to close any portion of the common areas for the purpose of making repairs, changes or additions thereto and may change the size, area or arrangement of the parking areas or the lighting thereof within of adjacent to the existing areas and may enter into agreements with adjacent owners for cross-easements for parking, ingress or egress.

7.3 CONDUCT OF TENANT'S OPERATIONS.

A. Tenant shall, at all times during the Term, conduct its business in the Premises a minimum time period from **10:00 A.M. to 9:00 P.M. on Mondays through Saturdays and from 11:00 A.M. to 5:00 P.M. on Sundays** (except for state and federal designated holidays), and shall continuously and uninterruptedly occupy the Premises and operate throughout the Term for the use permitted by this Lease in an efficient, professional and first-class manner and maintaining a full staff of trained, experienced and qualified employees. Tenant shall be liable to Landlord for any and all suits, damages, liabilities, losses (including loss or diminution of rents or profits), costs and expenses (including, without limitation, court costs and reasonable attorneys' fees) paid, suffered or incurred by Landlord as a result of Tenant's failure to comply with its obligations under this subsection A. Nothing contained in this subsection A is intended to or shall restrict or limit any other remedies available under this Lease, at law and in equity for Tenant's failure to comply with its obligations hereunder.

B. At all times throughout the Term, and without limitation of Tenant's other obligations set forth in this Lease, Tenant shall:

(1) comply with any and all requirements of any of the constituted public authorities, and with the terms of any State or Federal law, statute or local ordinance or regulation applicable to Tenant for its use, safety, cleanliness or occupation of the Premises including, but not limited to, the requirements of the Americans with Disabilities Act and requirements of any insurer of the Municipal Campus or the Premises, and shall defend and hold Landlord harmless from penalties, liens, costs, expenses or damages resulting from Tenant's failure to do so.

(2) Give to Landlord prompt written notice of any accident, fire damage or environmental condition occurring on or to the Premises or of any leaks, moisture buildup on or about the Premises.

(3) Load and unload goods at such times in the areas and through such entrance as maybe designated for such purposes by Landlord. Such trailers or trucks shall not be permitted to remain parked overnight in any area of the Municipal Campus, whether loaded or unloaded.

(4) Comply with all reasonable rules and regulations of Landlord in effect at the time of the execution of this Lease or at any time or times, and from time to time, promulgated by Landlord, which Landlord in its sole discretion shall deem necessary in connection with the Premises, the building of which the Premises are a part, or the Municipal Campus. Landlord agrees that it shall not enforce any such rules and regulations in an arbitrary and capricious manner.

(5) Tenant shall maintain complete and attractive display windows in the Premises. Tenant shall keep all display windows clean and shall keep the same illuminated during normal business hours and at such other times as Landlord may from time to time reasonably require.

(6) Tenant shall not commit or permit any waste upon the Premises nor shall Tenant perform any act or carry on any practice which may injure the Premises, any other space in the Municipal Campus or any other tenant or occupant of the Municipal Campus, or cause any offensive odor, noise or vibration, or constitute a nuisance or menace to any other occupant or other persons in the Municipal Campus, and in no event shall any offensive noises be emitted from the Premises.

(7) Tenant shall keep trash and refuse in covered trash receptacles authorized by Landlord,

which trash receptacles shall be kept within the Premises at all times, and in no event stored outside of the Premises. Tenant shall cause such trash and refuse to be removed from the Premises in the manner, at such times, and in such areas as Landlord may designate for such purpose. If Landlord provides for trash removal by a contractor, Tenant shall use such contractor for its trash removal and pay when due all charges assessed in connection with such trash removal at the rates established therefor. Tenant shall ensure that no trash, garbage and refuse accumulate.

(8) Tenant will at its expense (a) keep the inside and outside of all glass in the doors and windows of the Premises clean; (b) keep all the walls and interior and exterior store surfaces of the Premises clean, dry and free from mold and mildew; (c) replace promptly any cracked or broken glass of the Premises with glass of like kind and quality; (d) maintain the Premises in a clean, orderly and sanitary condition and free of insect, rodents, vermin and other pests; (e) keep all mechanical apparatus free of vibration and noise which may be transmitted beyond the Premises; and (f) conduct its business in all respects in a manner consistent with the quality and standards of operation of the Municipal Campus and in a dignified manner and in accordance with high standards of store operation.

(9) In regard to the use and occupancy of the Premises and the Common Areas of the Municipal Campus, Tenant will not: (i) place or maintain any trash, debris, refuse or other articles in any vestibule or entry of the Premises, on the footwalks or corridors adjacent thereto or elsewhere on the exterior of the Premises; (ii) use or permit the use of any objectionable advertising medium such as, without limitation, loudspeakers, public address systems, sound amplifiers, or the reception of radio, television or other media broadcasts which is in any manner audible or visible outside of the Premises; (iii) permit undue accumulations of or burn garbage, trash, rubbish or other debris within or without the Premises; (iv) cause or permit objectionable odors in Landlord's reasonable opinion to emanate or to be dispelled from the Premises; (v) cause water to accumulate, pool or cause leaks into adjacent premises, (vi) solicit business in any area of the Municipal Campus outside the Premises; (vii) distribute handbills or other matter in any area of the Municipal Campus outside the Premises; (viii) receive or ship articles of any kind outside the designated loading areas for the Premises; (ix) use any plaza, exterior areas, corridor, sidewalk, or any other area of the Municipal Campus adjacent to or near the Premises for the sale or display of any merchandise or for any other business use, occupation or undertaking; (x) conduct or permit to be conducted any auction, sidewalk sale, distress sale, fire sale, going out-of-business sale, or the like; (xi) use or permit the use of any portion of the Premises for any unlawful purpose; (xii) place a load upon any floor that exceeds the floor load that the floor was designed to carry; or (xiii) deface, damage or demolish any sign, light standard or fixtures, landscaping material or other improvement or property in any areas of the Municipal Campus outside the Premises.

(10) Tenant shall not do, or suffer to be done, any act, matter or thing objectionable to the fire insurance companies whereby the fire insurance or any other insurance now in force or hereafter to be placed on the Premises or any part thereof, or on the building of which the Premises may be a part, shall become void or suspended, or whereby the same shall be rated as a more hazardous risk than at the date when Tenant receives possession hereunder. In case of a breach of this covenant, in addition to all other remedies of Landlord hereunder, Tenant agrees to pay to Landlord as Additional Rent any and all increase or increases of premiums on insurance carried by Landlord on the Premises, the Municipal Campus or any part thereof, caused in any way by the occupancy of Tenant.

7.4 RIGHTS RESERVED BY LANDLORD. All of the following rights are reserved by Landlord, each of which Landlord may (but without obligation to) exercise without notice or liability to Tenant. The exercise of such rights by Landlord shall not be deemed an eviction, disturbance or disruption of Tenant's use or possession of the Premises.

A. EASEMENTS. Landlord expressly reserves all rights in and with respect to the land hereby leased not inconsistent with Tenant's use of the Premises as provided in the Lease, including (without in any way limiting the generality of the foregoing) the rights of Landlord to establish common areas and grant parking easements to others and to enter upon the Premises and to grant, in Landlord's sole discretion, easements to others (even before the establishment of common areas) for the purpose of installing, using, maintaining, renewing and replacing such overhead or underground water, gas, sewer and other pipe lines, and telephone, electric, and power lines, cables and conduits.

B. INSPECTION, REPAIR, AND INSTALLATION. Landlord reserves the right to, at all reasonable times, by itself or its duly authorized agents, employees and contractors to go upon and inspect the Premises and every part thereof, to enforce or carry out the provisions of this Lease, at its option to make repairs, alterations and additions to the Premises or the building of which the Premises are a part, to perform any defaulted obligation of Tenant or for any other proper purposes. Landlord also reserves the right to install or place upon, or affix to the roof and exterior walls of the Premises, equipment, signs, displays, antenna, cables and any other object or structure of any kind, provided the same shall not materially impair the structural integrity of the building or interfere with Tenant's occupancy.

C. PRESENTATION FOR SALE OR LEASE. Landlord hereby reserves the right during normal business hours to enter the Premises and to exhibit the same for purposes of sale, lease or mortgage, and, during the last twelve (12) months of the term of this Lease, to exhibit the same to any prospective Tenant, and to display a "For Sale" sign at any time, and also after notice from either party of their intention to terminate this Lease, or at any time within twelve (12) months prior to the expiration of this Lease, a "For Rent" sign, a "For Sale" sign, or both, as Landlord shall require, except on doors leading into the Premises.

7.5 HAZARDOUS MATERIALS.

A. HAZARDOUS MATERIALS. Tenant shall comply with all environmental laws relating to Hazardous Materials (as hereinafter defined) affecting the Premises, the Municipal Campus and the improvements thereon, and the business conducted thereon by Tenant, or any activity or condition on or in the Premises. As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, and which is stored, used, disposed of or released in violation of any law, rule, regulation or order of any local governmental authority, the state in which the Premises is located or the United States Government. Without limiting the generality of the foregoing, Tenant shall not cause or permit any Hazardous Material to be brought upon, kept, or used in or about the Premises or the Municipal Campus by itself or its agents, employees, contractors or invitees without the prior written consent of Landlord. If Tenant breaches the obligations stated in the preceding sentence, or if the presence of Hazardous Material on the Premises caused or permitted by Tenant results in contamination of the Premises, the Municipal Campus or any adjacent property, then Tenant shall indemnify, defend and hold Landlord harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses, including, without limitation, diminution in value of the Premises, the Municipal Campus, and/or adjacent property, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Premises, the Municipal Campus and/or adjacent property, damages arising from any adverse impact on occupying or marketing of the Premises, the Municipal Campus, and/or adjacent property, and sums paid in settlement of claims, attorneys' fees, consultant fees, and expert fees which arise during or after the term or extended term of this Lease as a result of such contamination. This indemnification includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work

required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil or ground water on or under the Premises, the Municipal Campus, and/or adjacent property. Without limiting the foregoing, if the presence of any Hazardous Material on the Premises or Municipal Campus caused or permitted by Tenant results in any contamination of the Premises, the Municipal Campus, and/or adjacent property, Tenant shall promptly take all actions at its sole expense as are necessary to return the Premises, the Municipal Campus, and/or adjacent property to the condition existing prior to the introduction of any such Hazardous Material to the Premises, the Municipal Campus, and/or adjacent property; provided that Landlord's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions are in accordance with all applicable laws and governmental requirements and would not potentially have any material adverse long-term or short-term effect on the Premises, the Municipal Campus, and/or adjacent property.

B. INSPECTION. Landlord shall have the right, but not the duty, to inspect the Premises at any time to determine whether Tenant is complying with the requirements of this Section 7.5. If Tenant is not in compliance with the requirements of this Section 7.5, Landlord shall have the right, but not the obligation, to immediately enter upon the Premises to remedy any condition which is in violation of the terms of this Lease or caused by Tenant's failure to comply with the requirements of this Lease. Landlord shall use reasonable efforts to minimize interference with Tenant's business as a result of any such entry by Landlord. The provisions of this Section 7.5 shall survive the expiration or earlier termination of this Lease and Tenant's surrender of the Premises to Landlord.

ARTICLE VIII – LIABILITY INSURANCE AND INDEMNIFICATION

8.1 ALLOCATION OF RISKS AND INSURANCE.

A. OPERATION OF MUNICIPAL CAMPUS AND COMMON FACILITIES. Landlord bears the risk of and may insure, as practical or required by a lender of Landlord, the operation of the Municipal Campus as a whole or the common facilities. Such insurance may include, but is not limited to, general liability, umbrella liability, bodily injury, public liability, property damage liability, automobile insurance, sign insurance and the like in limits selected by Landlord. Tenant shall pay to Landlord its Proportionate Share of such insurance as provided in Section 4.3 above.

B. PREMISES AND MUNICIPAL CAMPUS. Landlord bears the risk of and shall keep the buildings of the Municipal Campus and any improvements forming at any time a part of the Common Areas insured against loss or damage by fire, with extended coverage and vandalism and malicious mischief endorsement or their equivalents, in such insurance companies as Landlord shall select and in amounts not less than eighty percent (80%) of the replacement cost of the building and structures insured with loss payable thereunder to Landlord and to any authorized encumbrances of Landlord (with standard mortgagee loss payable clause) in accordance with their respective interests. Landlord reserves the right to place other coverage as may be required by mortgagee or as determined necessary by Landlord, similar to other commercial buildings in the area. Landlord may also maintain rent insurance equal to at least one year's Rent. If the Lease is canceled for any reason or if Tenant has committed an event of default which has not been cured, all insurance proceeds shall be paid and retained by Landlord, subject to the rights of any authorized encumbrances of Landlord. Tenant shall pay to Landlord its Proportionate Share of such Insurance as provided in Section 4.3 above. Tenant agrees not to keep upon the Premises any articles or goods which may be prohibited by the standard form of fire insurance policy. It is agreed between the parties that in the event the insurance rates applicable to fire and extended coverage insurance covering the within Premises shall be increased by reason of any use of the Premises made by the Tenant, then Tenant shall pay to Landlord such increase in Insurance as shall be occasioned by said use.

C. PROPERTY OF TENANT. Tenant agrees that all property owned by it in, on, or about the Premises shall be at the sole risk and hazard of the Tenant. Landlord shall not, regardless of fault, be liable or responsible for any loss of or damage to Tenant, or anyone claiming under or through Tenant, or otherwise, whether caused by or resulting from a peril required to be insured hereunder, or from water, steam, gas, leakage, plumbing, electricity or electrical apparatus, pipe or apparatus of any kind, the elements or other similar or dissimilar causes, and whether or not originating in the Premises or elsewhere.

D. OPERATIONS OF TENANT. All operations conducted by Tenant shall be at Tenant's sole risk. In addition, Tenant shall procure insurance for its operations as specified in the Abstract of Lease and as follows:

(1) Liability Insurance: Tenant shall keep in force and at its own expense Commercial General Liability (CGL) insurance, which shall be on a primary and non-contributory basis, naming as Additional Insured parties, Landlord, Landlord's property management company and any mortgagees designated by Landlord, with coverage for premises/operations, personal and advertising injury, products/completed operations and contractual liability with single limits of liability of not less than \$1,000,000 for bodily injury and property damage per Occurrence, \$2,000,000 for bodily injury and property damage for General Aggregate, and Fire Legal Liability insurance in amounts sufficient to cover the replacement costs of the Premises and loss of use thereof.

(2) Plate Glass Insurance: Tenant shall keep and maintain in force during the Term hereof, plate glass insurance upon windows and doors in the Premises.

(3) Physical Damage Insurance including, but not limited to, fire, sprinkler leakage, vandalism and all other risks of direct physical loss as insured against under special broad form coverage endorsement for the full replacement cost of all additions, improvements (including leasehold improvements) and alterations to the Premises and providing that Landlord and any other parties designated by Landlord from time to time are loss payees or additional insureds as their interests may appear, and covering all furniture, trade fixtures, equipment, machinery, movable partitions, wall and floor coverings, inventory, merchandise and all other items of Tenant's property on the Premises and any alterations to the Premises made by Tenant. Such insurance shall be written on an "all risks" of physical loss or damage basis, for the full replacement cost value of the covered items and in amounts that meet any coinsurance clause of the policies of insurance and with deductibles no greater than \$10,000. In the event of a loss, the proceeds of such insurance shall be used for the repair or replacement of the property insured.

(4) Worker's Compensation Insurance covering all employees, agents and contractors of Tenant performing work in, on, or with respect to the Premises, in amounts not less than those required by applicable law.

(5) Employer's liability insurance covering all employees, agents and contractors of Tenant performing work in, on or with respect to the Premises, in amounts not less than \$500,000 for each accident and \$500,000 for diseases. \$500,000 for disease - Each Employee, and \$500,000 for Disease-Policy Limit.

(6) Extra expense and business interruption insurance including loss of rents for periods and with limits not less than twelve (12) months of Minimum Rent and Additional Rent, naming Landlord as loss payee.

(7) Automobile Insurance on a primary and non-contributory basis covering all owned, non-owned and hired automobiles with limits of liability of not less than \$1,000,000 for bodily injury to any one person, and \$1,000,000 for property damage for each accident.

(8) Umbrella or Excess Liability coverage in amounts not less than \$5,000,000 in excess of the CGL insurance required in D (1) hereinabove.

(9) Any such other types, coverages and amounts of insurance (including increases to the foregoing) as may be required from time to time by landlords of real estate properties similar to the Municipal Campus (in size, age, tenant mix, etc.) in the metropolitan area where the Premises is located.

E. **REQUIREMENTS OF ALL POLICIES.** All insurance policies required of Tenant in this Lease shall name as insured both Landlord and Tenant (and upon request, any other party named by Landlord) and shall contain a waiver of any right of subrogation against Landlord and other named insured designated by Landlord. Said policies shall be in Class "A" companies authorized to write such coverage in the state in which the Premises are located and shall be acceptable to Landlord and/or its lender (which shall be named as an additional insured if requested in writing). Tenant will further deposit the policy or policies of such insurance or certificates thereof (on Accord forms) with Landlord with evidence of payment of premium at all times commencing with the date Tenant first enters upon the Premises for any purpose. Each policy shall provide against cancellation without thirty (30) days prior written notice to the named insureds. The deductibles on all such insurance will be in amounts acceptable to Landlord. Tenant will pay all deductible amounts under all such insurance policies.

F. **FAILURE TO PROCURE INSURANCE.** In the event Tenant shall fail to procure insurance required under this Article and fail to maintain the same in force continuously during the Term, Landlord shall be entitled to procure the same and Tenant shall immediately reimburse Landlord for such premium expense.

G. **WAIVER OF SUBROGATION.** Without limiting the generality of any other waivers of claims contained in this Lease, Landlord and Tenant hereby waive any and all claims and rights of recovery against the other and their respective officers, directors, employees, agents and representatives for any loss or damage to their respective properties or interests (including business interruption and rent loss), to the extent such loss or damage is insured against, or required to be insured against pursuant to the terms of this Lease, by Landlord or Tenant (as applicable) pursuant to this Article VIII, regardless of fault or negligence and regardless of the amount of insurance proceeds actually collected or collectible under any insurance policies in effect, and Landlord and Tenant each represent and warrant to the other that all such policies permit such waiver and contain, and will contain, enforceable waiver of subrogation endorsements. Nothing contained herein shall serve as a waiver for any deductible or self-insured risk. In addition, Landlord and Tenant agree that in the event of any loss or damage to their respective properties or interests (including business interruptions or loss), the party suffering the loss shall resort to its insurance coverage prior to asserting any claim or demand against the party causing the loss.

8.2 INDEMNIFICATION AND WAIVER OF CLAIMS.

A. **INDEMNIFICATION.** Subject to Landlord's waiver contained in Section 8.1G above, Tenant shall indemnify and defend Landlord and hold it harmless from and against any and all claims, actions, damages, liability and expense including, without limitation, court costs and reasonable attorneys' fees suffered, paid or incurred by Landlord (1) in connection with loss of life, personal injury and/or damage to or theft or misappropriation or loss of property occurring in or about, or arising from or out of, the Premises and adjacent sidewalks and loading platforms or areas or occasioned wholly or in part by any act or omission of Tenant, its agents, contractors, invitees, customers or employees unless such claim,

action, damage, liability or expense is the result of the intentional and willful misconduct or the gross negligence of Landlord, or (2) as a result of any breach or default on the part of Tenant in the performance of any covenant or agreement on the part of Tenant to be performed under this Lease. Subject to the waivers contained in Section 8.1G above and subsection B below, Landlord shall indemnify and defend Tenant and hold it harmless from and against any and all claims, actions, damages, liability and expense including, without limitation, court costs and reasonable attorneys' fees suffered, paid or incurred by Tenant in connection with loss of life, personal injury and/or damage to or theft or misappropriation or loss of property occurring in or about, or arising from or out of, the Municipal Campus (other than the Premises) caused by the intentional and willful misconduct or gross negligence of Landlord, its agents or employees.

B. **WAIVER OF CLAIMS.** Landlord and Landlord's agents, employees and contractors shall not be liable for, and Tenant hereby releases all claims for, damage or injury to person and property or theft or loss of use of property and loss of business sustained by Tenant or any person claiming through Tenant resulting from any theft, fire, accident, occurrence, injury or condition in or upon the Premises or building of which they shall be a part, including, but not limited to, such claims for damage resulting from: (i) any defect in or failure of plumbing, heating or air conditioning equipment, sprinkler, electric wiring or installation thereof, water pipes, stairs, railings or walks; (ii) any equipment or appurtenances becoming out of repair; (iii) the bursting, leaking or running of any tank, washstand, water closet, waste pipe, drain, sprinkler or any other pipe or tank in, upon or about such building or Premises; (iv) the backing up or overflow of any sewer pipe drain, retention pond, storm water drainage or downspout; (v) the escape of gas, steam or hot water; (vi) water, snow or ice being upon or coming through the roof or any other place upon or near such building or Premises or otherwise; (vii) the falling of any fixture, plaster or stucco; (viii) broken glass; and (ix) any act or omission of co-tenants or other occupants of said building or of adjoining or contiguous property or buildings including their employees, licensees and invitees. In the event the Premises or its contents are damaged or destroyed by fire or other insured casualty, the rights, if any, of either party hereto against the other with respect to such damage or destruction are waived, and all policies of fire and/or extended coverage or other insurance covering the Premises or its contents shall contain a clause or endorsement providing in substance that the insurance shall not be prejudiced if the insureds have waived the right of recovery from any person or persons prior to the date and time of loss or damage, if any.

ARTICLE IX – LOSS, DESTRUCTION OR TAKING OF PREMISES OR MUNICIPAL CAMPUS

9.1 FIRE OR OTHER CASUALTY. Tenant shall give to Landlord prompt written notice of any accident, fire or damage occurring on or to the Premises. Thereupon, Landlord's obligation concerning the repair or reconstruction of the Premises (hereinafter defined) will be as follows:

A. **PARTIAL DESTRUCTION OF PREMISES.** If the Premises shall be damaged by the elements or other casualty or by fire, not due to Tenant's intentional acts or negligence, which do not thereby render the Premises untenable in whole or in part, then Landlord shall promptly after receipt of insurance proceeds cause such damage to be repaired, and the Rent shall not be abated. If by reason of any such occurrence, the Premises shall be rendered untenable only in part, Landlord shall promptly after receipt of insurance proceeds cause the damage to be repaired and the Rent meanwhile shall be abated proportionately as to the portion of the Premises and only for the time such Premises are rendered untenable due to damage. Notwithstanding the foregoing, in the event Landlord proceeds to have any damage restored as aforesaid, Tenant agrees that promptly after completion of such repairs by Landlord, it will proceed with reasonable diligence and at its sole cost and expense to rebuild, repair and restore its signs, fixtures, equipment and to construct and install leasehold improvements of the same type and character as in

existence prior to such casualty and to promptly reopen for business in the same manner as required at the commencement of the Term. In no event shall Landlord be obligated to repair or restore any special equipment or improvements installed by Tenant, it being understood that Landlord's restoration obligations shall be limited to restoration of the Premises

B. **SUBSTANTIAL DESTRUCTION OF PREMISES.** If the Premises shall be rendered wholly untenable by reason of such occurrence (i.e., destruction of 25% or more), and Tenant actually shall not be operating in any portion of the Premises, then Landlord shall promptly after receipt of insurance proceeds cause such damage to be repaired, and the Rent shall meanwhile be abated in whole, provided, however, that Landlord shall have the right, to be exercised by notice in writing delivered to Tenant within sixty (60) days from and after said occurrence, to elect not to reconstruct the destroyed Premises, and in such event this Lease and the tenancy hereby created shall cease as of the date of the said occurrence, the Rent to be adjusted as of such date. If Landlord shall not have completed such repairs within one (1) year after the occurrence of such fire or other casualty, then Tenant shall have the right to terminate this Lease by delivering notice thereof to Landlord prior to such completion. Notwithstanding the foregoing, in the event Landlord proceeds to have any damage restored as aforesaid, Tenant agrees that promptly after completion of such repairs by Landlord, it will proceed with reasonable diligence and at its sole cost and expense to rebuild, repair and restore its signs, fixtures, equipment and to construct and install leasehold improvements of the same type and character as in existence prior to such casualty and to promptly reopen for business in the same manner as required at the commencement of the Term. In no event shall Landlord be obligated to repair or restore any special equipment or improvements installed by Tenant, it being understood that Landlord's restoration obligations shall be limited to restoration of the Premises.

C. **DESTRUCTION OF MUNICIPAL CAMPUS.** If the Municipal Campus shall be damaged by the elements or other casualty or by fire, not due to Tenant's intentional acts or negligence and which damage does not render the Premises untenable in whole or in part, Landlord shall promptly after receipt of insurance proceeds cause such damage to be repaired and the Rent shall not be abated. If the Municipal Campus or any premises (other than the Premises) located thereon suffers damage or destruction of a substantial nature (i.e., destruction of 10% or more of the Municipal Campus), which damage or destruction does not render the Premises untenable in whole or in part, Landlord shall after receipt of insurance proceeds cause such damage to be repaired and the Rent shall not be abated; provided, however, that Landlord shall have the right to be exercised by notice in writing to be delivered to Tenant within sixty (60) days from and after such occurrence to elect not to reconstruct the destroyed portion of the Municipal Campus, and in such event this Lease and the tenancy hereby created shall cease as of the date of the occurrence, the Rent to be adjusted as of such date.

D. Notwithstanding the foregoing provisions of this Section 9.1, provided Landlord terminates the leases of all other similarly situated tenants in the Municipal Campus, Landlord may terminate this Lease with no further liability to Tenant whatsoever in the event that following any fire or other casualty of any part of the Municipal Campus, any party holding a mortgage, trust deed or similar lien on Landlord's interest in the Municipal Campus elects to require the application of the insurance proceeds to reduce the indebtedness secured by such mortgage, trust deed or similar lien.

9.2 CONDEMNATION.

A. **AWARD.** If title to all or any portion of the Premises is taken by a public or quasi-public authority under any statute or by right of eminent domain of any governmental body, whether such loss or damage results from condemnation of part or all of the Premises or any portion of the parking area or service entrances and exits, Tenant shall not be entitled to participate or receive any part of the damages or award

except where said award shall provide for moving or other reimbursable expenses for the Tenant under applicable statute in which event the latter sum shall be received by Tenant, and except that portion of any award allocated to the taking of Tenant's trade fixtures, equipment and personal property, or to a loss of busyness by Tenant. None of the awards or payments to Landlord shall be subject to any diminution or apportionment on behalf of Tenant or otherwise.

B. SUBSTANTIAL OR MATERIAL TAKING OF PREMISES. Should any power of eminent domain be exercised after Tenant is in possession, such exercise shall not void or impair this Lease unless the amount of the Premises so taken is such as to substantially and materially impair the usefulness of the Premises for the purpose for which the same are hereby demised, in which event either party may cancel this Lease by notice to the other within sixty (60) days after possession is taken, and the Rent herein provided shall abate as of the date possession is taken by the condemning authority.

C. PARTIAL TAKING OF PREMISES. If a portion of the Premises shall be taken as herein provided for public improvements or otherwise under the exercise of the right of eminent domain and the Premises shall continue to be reasonably suitable for the use which is herein authorized, then the Rent herein provided shall be reduced from the date of such taking in direct proportion to the reduction in usefulness of the Premises and the Lease shall continue in full force and effect.

D. If a portion of the Municipal Campus shall be taken as herein provided for public improvements or otherwise under the exercise of the right of eminent domain, such exercise shall not void or impair the Lease unless the amount of the Municipal Campus so taken, in Landlord's sole and absolute discretion, is such to substantially or materially impair the usefulness of the Municipal Campus, in which event Landlord may cancel this Lease by notice to Tenant within sixty (60) days after possession is taken, the Rent to be adjusted as of such date.

ARTICLE X - ASSIGNMENT, SUBLETTING, MORTGAGING AND SUBORDINATION

10.1 ASSIGNMENT AND SUBLETTING BY TENANT. Tenant may not and shall not assign this Lease, in whole or in part, nor sublet all or any part of the Premises, nor license concessions or lease departments therein, nor pledge or encumber by mortgage or other instruments any interest in this Lease (each individually and collectively referred to in this Section as a "Transfer") without first obtaining the consent of Landlord, which consent Landlord may withhold in its sole and absolute discretion. This prohibition includes, without limitation, any subletting or assignment which would otherwise occur by operation of law, merger, consolidation, reorganization, transfer or other change of Tenant's corporate, partnership or proprietary structure. Consent by Landlord to any transfer shall not constitute a waiver of the requirement for such consent to any subsequent Transfer. The acceptance of any Rent by Landlord from any alleged assignee or subtenant shall not constitute approval of the assignment or sublease of this Lease by the Landlord, and the consent by Landlord to one assignment or subletting of the Premises shall not constitute a waiver of Landlord's rights hereunder. Tenant shall pay to Landlord a Transfer Fee of \$2,000.00 for such written consent. In the event of any such assignment, subletting, licensing or granting of a concession made with the prior written consent of the Landlord as aforesaid, Tenant will nevertheless remain primarily liable for the performance of all the terms, conditions, and covenants of this Lease. Any Transfer shall be by agreement in a form and content acceptable to Landlord, and shall specify and require that each Transferee of this Lease by acceptance of any Transfer shall assume, be bound by, and be obligated to perform the terms and conditions of its sublessor and assignor under this Lease. A condition of such Transfer is the agreement of the parties that Landlord shall receive the full and complete Rent payment of the Transferee even though such payments may be in excess of the original Rent between Landlord and Tenant. It is the intent and understanding of the parties to this Lease that Tenant shall not receive any monetary benefit, in excess of the

actual Rent obligation of Tenant, as agreed between the original Tenant and Landlord, through a Transfer to a third party. In the event of default of Tenant, Landlord at Landlord's sole option may succeed to the position of Tenant as to any subtenant or licensee of Tenant.

10.2 ASSIGNMENT AND MORTGAGING BY LANDLORD.

A. **TRANSFER BY LANDLORD.** The owner of the Premises shall only remain liable for the Landlord's obligations pursuant to the terms and limitations set forth in this Lease during its ownership of the Premises. So long as all sums held on Tenant's behalf in trust or escrow by Landlord are paid over to any purchaser of the Premises, Landlord and the owner of the Premises shall be and are hereby relieved of all covenants and obligations of Landlord hereunder after the date of sale of said Premises, and it shall be construed without further agreement between the parties that the purchaser has assumed and agreed to carry out any and all covenants and obligations of Landlord hereunder from the date of such sale.

B. **SUBORDINATION.** This Lease is subordinate to any and all leases, mortgages or deeds of trust hereinafter placed upon the Municipal Campus, now or in the future, or any part thereof, and to all future modifications, consolidations, replacements, extensions and renewals of, and all amendments and supplements to said leases, mortgages or deeds of trust. Notwithstanding such subordination, as aforesaid, this Lease, except as otherwise hereinafter provided including, but not limited to, an event of default by Tenant, shall not terminate or be divested by foreclosure or other default proceedings under said leases, mortgages, deeds of trust, or obligations secured thereby, and Tenant shall attorn to and recognize the landlord, mortgagee, trustee, beneficiary or the purchaser at the foreclosure sale in the event of such foreclosure or other default proceeding, as Landlord for the balance of the Term of this Lease, subject to all of the terms and provisions hereof. The provisions of this paragraph shall be self-operative, but Tenant acknowledges and agrees that as a material consideration inducing Landlord to enter into this Lease, Tenant shall acknowledge same by executing and delivering to Landlord, on demand at any time or times, any and all instruments in order to subordinate this Lease and Tenant's rights hereunder, as aforesaid. Notwithstanding the foregoing, any such mortgagee, beneficiary, purchaser or lessor may elect to give the rights and interests of Tenant under this Lease (excluding rights in and to insurance proceeds and condemnation awards) priority over the lien of its mortgage or deed of trust or the estate of its lease, as the case may be. In the event of such election and upon the mortgagee, beneficiary or lessor notifying Tenant of such election, the rights and interests of Tenant shall be deemed superior to and to have priority over the lien of said mortgage or deed of trust or the estate of such lease, as the case may be, whether this Lease is dated prior to or subsequent to the date of such mortgage, deed of trust or lease. In such event, Tenant shall execute and deliver whatever instruments may be required by such mortgagee, beneficiary or lessor to confirm such superiority on the form customarily used by such party. In the event of any act or omission by Landlord which would give Tenant the right to damages from Landlord or the right to terminate this Lease, Tenant will not sue for such damages nor exercise any such right to terminate until (i) it shall have given written notice of the act or omission to Landlord and to the holder(s) of the indebtedness or other obligations secured by any mortgage or deed of trust affecting the Premises or of any ground or underlying lease, if the name and address of such holder(s) have been furnished to Tenant, and (ii) a reasonable period of time, in light both of the time required to effect a remedy and of the impact of the act or omission on Tenant's business operations at the Premises, for remedying the act or omission has elapsed following the giving of the notice (which shall in no event be deemed any less than thirty (30) days), during which time Landlord and such holder(s), or either of them, and their agents or employees, will be entitled to enter upon the Premises and do therein whatever may be necessary to remedy the act or omission.

C. **ESTOPPEL AND SUBORDINATION DOCUMENTS.** Tenant acknowledges and agrees that as a material consideration inducing Landlord to enter into this Lease, Tenant agrees to execute, acknowledge and deliver any and all documents required to effectuate the provisions of this Section within

seven (7) days after request thereof by Landlord. In the event that upon any sale, assignment, lease, mortgage or hypothecation of the Premises and/or the land thereunder by Landlord, a statement shall be required by Tenant, Tenant agrees to deliver and cause Guarantor to deliver in recordable form an Estoppel Certificate (if such be the case) that this Lease and Guaranty, as applicable, is in full force and effect and there are no defenses or offsets or Landlord defaults thereto, or stating those claimed by Tenant, the dates to which Rent or other sums have been paid in advance, and any other such certifications of Lease terms as may reasonably be required and such specific subordination agreement on Lender's form as may reasonably be required by Lender, it being intended that any such statements delivered pursuant to this Section may be relied upon by any prospective purchaser, mortgagee, assignee or beneficiary. Tenant hereby grants Landlord a power of attorney to execute any document in the name of Tenant in the event Tenant fails to execute, acknowledge and deliver any document required to effectuate the provisions of this Section within seven (7) days after request therefor by Landlord.

D. FINANCIAL STATEMENTS AND SALES FIGURES. Tenant acknowledges and agrees that as a material consideration inducing Landlord to enter into this Lease, Tenant shall, upon request from Landlord, provide a copy of Tenant's latest available financial statements and year-to-date income figures, certified by Tenant as being true and correct. Tenant agrees to provide such statements within ten (10) days of Landlord's reasonable request. In addition, within sixty (60) days after Tenant's year end, and fifteen (15) days after each calendar quarter, Tenant shall deliver to Landlord monthly income figures, certified by Tenant as being true and correct, for the prior year and/or quarter, as the case may be.

E. LENDER APPROVAL. If Landlord deems it necessary or appropriate it may submit this Lease to its mortgagee for approval. In such event this lease and all of Landlord's covenants and obligations hereunder are expressly contingent upon a formal, written approval by such mortgagee. Landlord shall inform Tenant not later than ten (10) business days after Landlord's execution of the Lease whether or not the mortgagee has approved or disapproved the Lease. If the mortgagee disapproves the Lease it shall be deemed void and of no further force or effect.

ARTICLE XI - DEFAULT AND REMEDIES FOR DEFAULT

11.1 TENANT EVENTS OF DEFAULT. The occurrence of any of the following shall constitute an event of default by Tenant hereunder:

A. The filing of a petition by or against Tenant or any Guarantor for adjudication as a bankrupt or insolvent, or for its reorganization or for the appointment of a receiver or trustee of Tenant's property; an assignment by Tenant for the benefit of creditors or the taking of possession of the property of Tenant by any governmental officer or agency pursuant to statutory authority for the dissolution or liquidation of Tenant.

B. Failure of Tenant to pay when due any installment of Rent hereunder or any other sum herein required to be paid by Tenant, and the continuance of such nonpayment for five (5) calendar days after such installment is due. Landlord shall have no obligation to give Tenant any written notice of Tenant's failure to pay when due any installment of Rent or any other sum herein required to be paid by Tenant, other than as may be required by law for Landlord to pursue its statutory remedies for unlawful detainer.

C. Abandonment, vacation or misuse of the Premises by Tenant.

D. Tenant fails to observe or perform any of the covenants with respect to a Transfer.

E. Tenant's failure to perform any covenant or condition of this Lease or than the payment of Rent or any other sum herein required to be paid by Tenant, within ten (10) days after written notice and demand from Landlord.

F. If Tenant fails more than twice within any twelve (12) month period to observe or perform any covenant, condition or agreement of this Lease, including without limitation the payment of Rent, regardless of whether such defaults shall have been cured by Tenant, the third default shall at the election of Landlord, in its sole and absolute discretion, be deemed a non-curable event of default.

G. The death of Tenant or any guarantor of Tenant's obligations; or the commencement of steps or proceedings toward the dissolution, winding up, or other termination of the existence of Tenant or of any guarantor of Tenant's obligations, or toward the liquidation of either of their respective assets.

H. Evidence of the inability of Tenant or of any guarantor of Tenant's Lease obligations to pay its debts as they become due. Such evidence shall include, but shall not be limited to either of the following: (a) an admission in writing by Tenant or any such guarantor of its inability to pay its debts when due; or (b) if one or more judgments are docketed against Tenant or any such guarantor and is not paid, bonded or other discharged within fifteen (15) days.

I. The occurrence of any other event described elsewhere in the Lease or any amendment thereto, regardless of whether such event is described as an event of default.

11.2 REMEDIES OF LANDLORD FOR DEFAULT BY TENANT. Upon the occurrence of an event of default, Landlord shall have the right, then or at any time thereafter, and while such event of default shall continue, and in addition to and not in lieu of any other remedies, relief or rights available to Landlord at law or equity or contained in this Lease, to do any of the following:

A. Landlord by itself or its authorized agents may cure the default and charge Tenant for the costs of such cure, which charge shall be due and payable as Rent under this Lease immediately upon written notice to Tenant.

B. Landlord may enforce every provision of the Lease in accordance with its terms including, but not limited to enforcement of the payment of Rent provisions by a suit or suits in equity or at law. In furtherance thereof, Landlord shall have the right to obtain reports on Tenant's (and any other party responsible for Tenant's performance) credit worthiness from the three (3) major credit reporting agencies or any other credit agency customarily used by Landlord, and Tenant hereby consents thereto.

C. Landlord may (a) exercise its rights as secured party under its security agreement with Tenant as provided in Section 5.2 above; (b) apply all or part of the Security Deposit to the default of Tenant; or (c) exercise its rights under the Guaranty.

D. Landlord shall have the right to terminate the Tenant's right of possession of the Premises without terminating this Lease and, therefore, to reenter the Premises to assume and take possession of the whole or any part thereof, and to remove all persons or personal property by direct or summary action, or in a different type of suit or proceeding, by force or otherwise, without being deemed liable of trespass or other actionable wrong by reason thereof, and without being liable for the damages therefor or in connection therewith, and, after demand made therefor, Tenant or anyone in possession claiming under Tenant shall be deemed guilty of unlawful detainer and subject to such summary judgment or other action as may be provided by law. Additionally, Landlord may with or without terminating the Lease relet the Premises as the agent for and in the name of the Tenant, at any rental readily acceptable, applying the proceeds first to reimburse Landlord for all costs of enforcement of this Lease including attorneys' fees

and court costs, if any, second, to costs to re-rent the Premises including, but not limited to, tenant improvement costs and leasing commissions, third, to reimburse Landlord for Landlord's entire cost and expense in preparing the Premises for Tenant's occupancy, fourth, to the payment of such Rent as same comes due, and fifth, toward the fulfillment of the other covenants and agreements of tenant herein contained. Tenant shall not be entitled to any residual amount remaining after payment of all of the foregoing sums. Tenant hereby agrees that if Landlord shall recover or take possession of said Premises as aforesaid, and be unable to relet and rent the same so as to realize a sum equal to the Minimum Rent and Additional Rent hereby provided, Tenant shall pay to Landlord any loss or difference of Minimum Rent and Additional Rent for the remainder of the Term. Landlord may, but is not required to, assign this Lease to Guarantor, if any, in the name of and on behalf of Tenant or may enter into a new lease with Guarantor on the same terms as this Lease or upon different Terms. Tenant acknowledges that Landlord has been granted Tenant's power of attorney coupled with an interest in order to effectuate Landlord's rights hereunder in the event that Tenant fails or refuses to do so within five (5) days of notice from Landlord.

E. Landlord, irrespective of the date on which its right of reentry shall have accrued or be exercised, shall have the right, whether for rent or possession or otherwise, to terminate this Lease and the tenancy hereby created. Except to the extent required by applicable law, Landlord is under no affirmative duty to maximize the rent collected from any replacement tenant or otherwise mitigate Landlord's damages and Tenant waives any legal or equitable right or defense that Landlord must mitigate its damages. This right to terminate is exercisable by a written notice to Tenant, which written notice may be part of a notice of default previously delivered to Tenant, and, as such, may be conditioned upon Tenant's failure to cure the default and the event of default. The termination may be made effective as of the event of default, or thereafter, and, if not otherwise specified, will be deemed to be effective immediately. Upon such termination, Landlord shall be entitled to and may take immediate possession of the Premises, any other notice or demand being hereby waived. Such termination does not, however, release Tenant from liability for Rent then overdue or remaining under the Lease but shall, if permitted by the laws of the state where the Premises are located, operate to accelerate the entire balance of the Term Rent and additional charges due over the entire lease Term, which shall become immediately due and payable by Tenant, along with all overdue Rent and charges.

If Landlord terminates this Lease as provided above, Landlord shall be entitled to recover from Tenant all damages and other sums which Landlord is entitled to recover under any provision of this Lease or at law or in equity or otherwise, including, but not limited to, all of the accrued Minimum Rent and Additional Rent for the period up to and including such Termination Date, as well as all other additional sums payable by Tenant or for which Tenant is liable or in respect of which Tenant has agreed to indemnify Landlord under any of the provisions of this Lease which may be then owing and unpaid and all costs and expenses, including without limitation, court costs and reasonable attorneys' fees incurred by Landlord in the enforcement of its rights and remedies hereunder and, in addition, any damages provable by Landlord as a matter of law including, without limitation, an amount equal to the then present value (using a discount rate of five percent (5%)) of the excess of the Minimum Rent and Additional Rent provided to be paid for the remainder of the Term over the fair market rental value of the Premises (determined at the date of termination of this Lease by Landlord in Landlord's reasonable discretion) after deduction of all anticipated expenses of reletting. In the alternative, Landlord shall have the right, at Landlord's option, from time to time, to recover from Tenant, and Tenant shall remain liable for all Minimum Rent, Additional Rent and other amounts due and owing under this Lease, plus (x) damages equal to all other sums which would have accrued under this Lease after the date of termination had it not been terminated, such damages to be due and payable as such sums would have become due, less (y) such amounts as Landlord may receive from reletting, if any, after first paying all costs of such reletting, including, without limitation, brokerage commissions and the costs of

reasonable repairs, alterations, additions and redecoration, and the expenses of re-entry. The net amounts of rent from any re-letting collected remaining after such expenses shall operate only as an off-setting credit against the amount due hereafter with any excess or residue belonging to Landlord solely. Should the fair market rental value of the Premises after deduction of all anticipated expenses of reletting exceed the Minimum Rent and Additional Rent provided to be paid by Tenant for the remainder of the Term, Landlord shall not be obligated to pay to Tenant any part of such excess or to credit any part of such excess against any other sums or damages for which Tenant may be liable to Landlord.

F. Tenant shall reimburse and pay to Landlord all costs and expenses of Landlord in connection with Landlord's enforcement of its rights and remedies hereunder, including court costs and reasonable attorneys' fees all of which shall be deemed Additional Rent.

G. Tenant shall reimburse and pay to Landlord all costs and expenses of Landlord in connection with Landlord's preparation of the Premises for Tenant's occupancy including, but not limited to, Landlord's Work all of which shall be deemed Additional Rent.

H. Landlord shall have the right to pursue any and all other rights and remedies available at law and in equity.

I. To the extent required by applicable law, Landlord shall use commercially reasonable efforts to mitigate the damages it suffers as a result of Tenant's default under this Lease; provided, however, that Tenant agrees that (i) Landlord will have satisfied its obligation to mitigate damages if Landlord endeavors, in good faith, to re-lease the Premises, (ii) Landlord will not be required to give preference to the Premises over other vacant space in the Municipal Campus or any other property owned or controlled by Landlord or any affiliates thereof, (iii) Landlord may reject any prospective tenant who, in Landlord's reasonable discretion, is disreputable, whose business does not enhance the Municipal Campus, who does not have sufficient business experience, or who lacks the financial ability to perform the tenant's obligations under Landlord's then current form Lease, (iv) under no circumstances shall Landlord be required or obligated to relet or attempt to relet the Premises for any period of time beyond the then applicable Termination Date, and (v) Landlord may reject any offer to lease the Premises at a rate which is less than the rate being charged for comparable space in the Municipal Campus or on terms that are less favorable than those contained in this Lease or which (in Landlord's reasonable discretion) is not in the best interests of the Municipal Campus.

11.3 NON-WAIVER OF REMEDIES.

A. It is expressly agreed that neither the taking of possession of the Premises nor the institution of any proceedings by way of unlawful detainer, ejection, dispossessory, eviction, quiet title, or otherwise, to secure possession of said Premises, nor the reentry by Landlord with or without the institution of such proceedings, nor the issuance of a writ of possession, nor the reletting or subletting of said Premises, shall operate to relieve Tenant of its obligations to pay Rent and other amounts due hereunder, or operate to terminate this Lease in whole or in part, nor of itself constitute an exercise of Landlord's option to do so, but only by the giving of the written notice specifically specifying termination shall such termination be effected.

B. Acts of maintenance or preservation or efforts to relet the Premises, or the appointment of a receiver upon the initiation of the Landlord to protect the Landlord's interest under this Lease, shall not constitute a termination of the Lease.

C. Waiver by Landlord of any default, breach or failure of Tenant under this Lease shall not be construed as a waiver of any subsequent or different default, breach or failure. In case of a breach by Tenant of any of the covenants or undertakings of Tenant, Landlord nevertheless may accept from Tenant any full or partial payments hereunder without in any way waiving Landlord's right to exercise the remedies hereinbefore provided for by reason of any other breach or lapse which was in existence at the time such payment or payments were accepted by Landlord. Following any default by Tenant, Landlord may apply any payment to any Rent then owing, or damages, cost and fees in the manner it chooses in its sole discretion.

D. The specific remedies to which Landlord may resort under the terms of this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which they may be lawfully entitled in case of any breach or threatened breach by either of them or of any provisions of this Lease.

11.4 DEFAULTS BY LANDLORD. If Landlord fails to perform any of Landlord's obligations under this Lease, which failure continues for more than thirty (30) days after Tenant's delivery of written notice to Landlord specifying such failure, or if such failure is of a nature to require more than thirty (30) days for remedy and continues beyond the time reasonably necessary to cure (and Landlord has not undertaken procedures to cure the failure within such thirty (30) day period and diligently pursued such efforts to complete such cure), Tenant may, in addition to any other remedy available at law or in equity, after a second written notice to Landlord and Landlord's failure to cure within ten (10) business days after receipt of such second written notice, at its option, incur any expense necessary to perform the obligation of Landlord specified in such notice and invoice Landlord for the cost thereof. In no event shall Tenant withhold, deduct or offset any expense or claim from the payment of Rent.

ARTICLE XII - GENERAL PROVISIONS

12.1 BROKERS. Tenant warrants that it has employed no broker who has or may have a legitimate claim to a commission arising of Tenant's acceptance of this Lease. Any obligations or potential obligations for commission to any brokers who have a claim arising out of the actions of Tenant are the sole obligation of Tenant. Should a claim be made upon Landlord or the Premises by any brokers who in Landlord's discretion Landlord determines to have legitimate claim for commission arising out of this transaction, whether such claim is ultimately upheld or not, Landlord may, but shall not be obligated to, discharge the claim either by paying the amount claimed to be due or by any other means. Tenant shall reimburse and pay to Landlord on demand any amount so paid by Landlord and all costs and expenses, including reasonable attorneys' fees incurred by Landlord in connection therewith, together with interest thereon at the per annum rate equal to the lesser of eighteen percent (18%) or the maximum rate permitted by law from the respective date of Landlord's notice to Tenant of the making of the payment or of the incurring of the cost and expense, including such attorneys' fees. Any commission or other compensation due brokers employed by Landlord shall be the sole responsibility of Landlord.

12.2 NO PARTNERSHIP. Notwithstanding any other express or implied provision of this Lease, it is understood that Landlord does not in any way claim to be or propose a partnership or joint venture with Tenant in the conduct of Tenant's business.

12.3 SUCCESSORS AND ASSIGNS. All rights, obligations and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several and respective heirs, executors, administrators, successors, sublessees and assigns of said parties, subject to the provisions of Article X and except to the extent otherwise provided in this Lease, provided, however, that the liability of

Landlord hereunder and any successor in interest and title to the Premises shall be limited to his or its interest in the Municipal Campus, and no other assets of the Landlord other than his or its interest in the Municipal Campus shall be affected by reason of any liability which said Landlord or successor in interest may have under this Lease. If there shall be more than one Tenant, they shall all be bound jointly and severally by the terms, covenants and agreements herein and the word "Tenant" shall be deemed and taken to mean each and every person or party mentioned as a Tenant herein, be the same one or more; and if there shall be more than one Tenant, any notice required or permitted by the terms of this Lease may be given by or to any one thereof and shall have the same force and effect as if given by or to all thereof.

12.4 NOTICES. Wherever in this Lease it shall be required or permitted that notice or demand be given or served by either party to this Lease to or on the other, such notice or demand shall not be deemed to have been duly given or served unless made in writing and either personally delivered or forwarded by Certified Mail, Return Receipt Requested, postage prepaid, nationally-recognized overnight courier service or personal delivery to the address for each party provided in the Abstract of Lease. Such addresses may be changed from time to time by either party by serving notices as above provided. While Tenant is in possession of the Premises, notices to the tenant may also be delivered or forwarded by Certified Mail to the Premises. Notice shall be deemed given when delivered (or upon refusal of acceptance of delivery), if given by personal delivery, otherwise one (1) business day following delivery to a nationally recognized overnight courier service or three (3) business days following deposit in the United States mail.

12.5 SCOPE AND INTERPRETATION OF THIS AGREEMENT.

A. **ENTIRE AGREEMENT.** This Lease shall be considered to be the only agreement between the parties hereto pertaining to the Premises. It is understood that there are no oral agreements between the parties hereto affecting this Lease, and this Lease supersedes and cancels any and all previous negotiations, arrangements, brochures, letters of intent, agreements and understandings, written or oral, if any, between the parties hereto or displayed by Landlord to Tenant with respect to the subject matter thereof, and none shall be used to interpret or construe this Lease. All negotiations and oral agreements acceptable to Landlord and Tenant have been merged into and are included in this Lease.

B. **ARTICLE HEADINGS AND CAPTIONS.** The headings or captions of Articles in this Lease are for convenience and reference only and they in no way define, limit, or describe the scope or intent of this Lease or the provisions of such Articles.

C. **GENDER AND INTERPRETATION OF TERMS AND PROVISIONS.** As used in this Lease and whenever required by the context thereof, each number, either singular or plural, shall include all numbers, and each gender shall include all genders. Landlord and Tenant, as used in this Lease, or in any other instrument referred to in or made a part of this Lease, shall likewise include both singular and plural. All covenants herein contained on the part of Tenant shall be joint and several.

D. **TIME OF ESSENCE.** Time is hereby expressly declared to be of the essence of this Lease and of each and every covenant, term, condition and provision hereof.

E. **IMPARTIAL CONSTRUCTION.** The language in all parts of this Lease shall be in all cases construed as a whole according to its fair meaning and not strictly for nor against either Landlord or Tenant.

F. **GOVERNING LAW.** The laws of the State of Utah shall govern the validity and enforceability of this Lease. Jurisdiction and venue shall be deemed valid and appropriate in state or

federal courts located in Washington County, Utah, which is where the Municipal Campus is located.

G. PARTIAL INVALIDITY. If any term, covenant or condition of this Lease or the application thereof to any person or circumstance shall to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each term, covenant or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

H. AMENDMENT. Oral agreements that modify or are in conflict with any of the terms of this Lease shall be without force and effect. All amendments must be in writing executed by the parties or their respective successors in interest.

I. TENANT'S CONFLICTS. Tenant hereby covenants, warrants and represents that by executing this Lease and by the operation of the Premises under this Lease, it is not violating, has not violated and will not be violating any restrictive covenant or agreement contained in any other lease or contract affecting Tenant or any affiliate, associate or any other person or entity with whom or with which Tenant is related or connected financially or otherwise. Tenant hereby covenants and agrees to indemnify, defend and save harmless Landlord, any future owner of the fee or any part thereof, and any mortgagee thereof against and from all liabilities, obligations, damages, penalties, claims, costs and expenses, including attorneys' fees, paid, suffered or incurred by them or any of them as a result of any breach of the foregoing covenant. Tenant's liability under this covenant extends to the acts and omissions of any subtenant, and any agent, servant, employee or licensee of any subtenant of Tenant.

J. LANDLORD, OWNER OR OWNER'S BENEFICIARY OR BENEFICIARIES THEREOF. Wherever in this Lease Landlord is granted a right of consent or approval, a right of inspection, a right to add improvements to the Municipal Campus, a right to designate repairs, maintenance or improvements required to be made by Tenant or changes in any plans submitted by Tenant or any other act which involved the exercise of discretion on the part of the Landlord hereunder, such right or exercise of discretion may be exercised by Landlord, owner or owner's beneficiary or beneficiaries thereof. Any obligation set forth in this Lease of the Landlord, or any obligation of Tenant which Landlord is given the right to perform on Tenant's behalf, shall be conclusively deemed to have been performed by Landlord's beneficiary or beneficiaries thereof. Any obligation of Tenant contained in this Lease to indemnify, defend or hold Landlord harmless (or Landlord and any other party), or to maintain and pay for insurance for the benefit of Landlord (or Landlord and any other party), or to waive any claim. against Landlord (or Landlord and any other party) is hereby extended so that such obligations shall run in favor of Landlord, Landlord's beneficiary or beneficiaries thereof. Wherever in this Lease it is acknowledged or stated that Landlord has made no representation or warranties or promises with respect to any matter, such provisions shall be deemed to acknowledge or state that neither Landlord nor Landlord's beneficiary or beneficiaries thereof, nor employee of Landlord has made such representations or warranties or promises. All rights to enforce any provision of this Lease on the part of Landlord or any rights to exercise any remedies of Landlord, either specifically provided for herein or at law or equity, may be exercised by Landlord, Landlord's beneficiary or beneficiaries thereof, in their own name, alone or in conjunction with Landlord or any of the foregoing parties.

K. EXECUTION OF LEASE BY LANDLORD. The submission of this document for examination and negotiation does not constitute an offer to lease, or a reservation of, or option for, the Premises and this document becomes effective and binding only upon the execution and delivery hereby by Landlord and Tenant. The execution of this Lease by Tenant shall be deemed an offer by Tenant to lease the Premises from Landlord upon the terms and conditions contained in the Lease, which offer may be accepted by Landlord only by the execution of this Lease by Landlord. All negotiations, considerations,

representations and understandings between Landlord and Tenant are incorporated herein and may be modified or altered only by agreement in writing between Landlord and Tenant, and no act or omission of any employee or agent of Landlord or of Landlord's broker shall alter, change, or modify any of the provisions hereof.

L. **JURY WAIVER.** Landlord and Tenant waive their right to trial by jury in any action, proceeding, or counterclaim brought by either of them against the other, or with respect to any issue or defense raised therein, including the right to an advisory jury (except for personal injury and property damage), on any matters whatsoever arising out of, or in any way connected with this lease, the relationship of Landlord and Tenant, Tenant's use and occupancy of the premises including summary proceeding and possession actions, any emergency statutory or other statutory remedy.

M. **RENTS FROM REAL PROPERTY.** Landlord and Tenant hereby agree that it is their intent that all Rent and other charges payable to the Landlord under this Lease shall qualify as "rents from real property" within the meaning of Section 856(d) of the Internal Revenue Code, as amended, (the "Code") and the Department of the U.S. Treasury Regulations promulgated thereunder (the "Regulations"). Should the Code or the Regulations, or interpretations thereof by the Internal Revenue Service contained in revenue rulings or other similar public pronouncements, be changed so that any Rent no longer so qualifies as "rent from real property" for purposes of Section 856(d) of the Code and Regulations, or any successor provision thereto, then the parties agree to execute such further instrument as may reasonably be required by the Landlord in order to give effect to the foregoing provisions of this Section.

N. **INDEPENDENT COVENANTS.** The covenants of Tenant to pay Rent and any and all other amounts payable by Tenant pursuant to the terms of this Lease are independent covenants, and Tenant shall not have the right to hold back, offset, or fail to pay any such amounts for default by Landlord or any other reason whatsoever.

12.6 RADON GAS. Radon gas is a naturally occurring radioactive gas that when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Additional information regarding radon and radon testing may be obtained from your county public health unit.

12.7 ATTORNEYS' FEES. In the case of the failure of either party to perform and comply with any of the covenants and conditions hereof within the time herein specified, whether suit be brought or not, the party so failing to perform and comply hereby agrees to pay to the other party hereto all costs, charges, and expenses of such collection or other enforcement of rights in any suit or otherwise, including its reasonable attorneys' fees. The prevailing party in any litigation arising out of this Lease, including any appellate proceedings and bankruptcy proceedings, shall be entitled to the award of its reasonable attorneys' fees and costs.

12.8 LEASE NOT RECORDABLE. Under no circumstances shall this Lease be recorded and if Tenant records this Lease in violation of the terms hereof, in addition to any other remedy available to Landlord upon Tenant's default, Landlord shall have the option to terminate this Lease by recording a notice to such effect. If a memorandum or short form of lease is recorded, then, on the termination of this Lease, Tenant shall execute, acknowledge and deliver to Landlord an instrument in writing releasing and quit-claiming to Landlord all right, title and interest of Tenant in and to the Premises and/or the Municipal Campus by reason of this Lease or otherwise.

12.9 CONFIDENTIALITY. Tenant shall not disclose and shall maintain confidential the terms of the

Lease; notwithstanding, however, Tenant may disclose the terms or provide a copy of the Lease to Tenant's legal or tax advisers, provided such legal or tax advisers agree in a writing provided to Landlord not to disclose and maintain confidential the terms of the Lease; and notwithstanding, however, Tenant may disclose the terms or provide a copy of the Lease in response to or as a part of a valid legal process (i.e., issuance of a subpoena) after prior written notice to Landlord of the notice of the legal process as soon as practicable following its issuance to Tenant.

12.10 ACCORD AND SATISFACTION. Landlord is entitled to accept, receive and cash or deposit any payment made by Tenant for any reason or purpose, or in any amount whatsoever and apply the same at Landlord's option to any obligation of Tenant and the same shall not constitute payment of any amount owed except that to which Landlord has applied the same. No endorsement or statement on any check or letter of Tenant shall be deemed an accord and satisfaction or otherwise recognized for any purpose whatsoever. The acceptance of any such check or payment shall be without prejudice to Landlord's right to recover any and all amounts owed by Tenant hereunder and Landlord's right to pursue any other available remedy and shall not be deemed to constitute a waiver of any of Landlord's rights hereunder.

12.11 NO WAIVER. No waiver of any provision of this Lease shall be implied by any failure of Landlord or Tenant to enforce any remedy on account of the violation of such provision, even if such violation be continued or repeated subsequently, and no express waiver shall affect any provision other than the one specified in such waiver and that one only for the time and in the manner specifically stated. No receipt of monies by Landlord from Tenant after the termination of this Lease shall in any way alter the length of the Term or of Tenant's right of possession hereunder or after the giving of any notice shall reinstate, continue or extend the Term hereof or create a new tenancy or affect any notice given Tenant prior to the receipt of such monies, it being agreed that after the service of notice or the commencement of a suit for possession of the Premises or after final judgment for possession of the Premises Landlord may receive and collect any Rent due and the payment of said Rent shall not waive, affect or nullify said notice, suit or judgment. Acceptance by Landlord of less than the entire amount due and owing by Tenant shall not constitute a waiver by Landlord of its rights to further collection.

12.12 COUNTERPARTS. This Lease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

12.13 EXHIBITS AND SCHEDULES. All exhibits and schedules attached to this Lease are hereby incorporated by reference.

TENANT:

LANDLORD:

By: _____

By: _____

Name: _____

Name: _____

Its: _____

Its: _____

Dated: _____

Dated: _____

EXHIBIT A-1

**SITE PLAN OF MUNICIPAL CAMPUS
AND DEPICTION OF LOCATION OF PREMISES**

This site plan is presented solely for the purpose of identifying the approximate location and size of the Premises. Building sizes, site dimensions, access and parking areas, existing tenant locations and identities are subject to change at Landlord's discretion, except as otherwise expressly restricted in the text of the Lease.

[insert map or plat of site plan]

EXHIBIT A-2

LEGAL DESCRIPTION OF MUNICIPAL CAMPUS

[insert legal description of property]

EXHIBIT B

MINIMUM RENT

INITIAL TERM: Three (3) years

<u>Years</u>	<u>Monthly Rent</u>	<u>Annual Rent</u>	<u>Annual PSF</u>
1	\$1,950	\$23,400	\$2.50
2	\$1,950	\$23,400	\$2.50
3	\$1,950	\$23,400	\$2.50

[insert amount of rent above for each year of term]

EXHIBIT C-1

LANDLORD'S WORK

Tenant accepts the Premises in its current "as is" condition. Landlord has made no representations or warranties as to the condition of the Premises.

[If applicable, omit the preceding clause and itemize any work to be completed by Landlord]

EXHIBIT C-2

TENANT'S WORK

All work required to complete and place the Premises in finished condition to allow Tenant to open for business is to be done by the Tenant, at the Tenant's expense (including all impact fees), and in accordance with this Exhibit and the Lease to which this Exhibit is attached.

1. Tenant's Work. Includes, but is not limited to, the following:
 - 1.1 All plumbing, including waterlines, floor drains and sinks other than plumbing described in Exhibit C-1.
 - 1.2 All floor finishes and coverings over existing floor.
 - 1.3 Painting and decorating.
 - 1.4 All trade fixtures and furnishings.
 - 1.5 All tenant signs in accordance with Exhibit D.
 - 1.6 All additions, deletions or modifications to existing conditions or to Landlord's work (proposed or in place) as described in Exhibit C-1.
 - 1.7 Temporary services and facilities during construction shall be the responsibility of the Tenant from the date Tenant commences Tenant's work, including costs or charges for any utility or other services to the Premises.

2. Changes and Alterations. Landlord reserves the right to require changes in Tenant's work when necessary by reason of code requirements, or building facility necessity, or directives of governmental authorities having jurisdiction over the Premises, or directives of Landlord's insurance underwriters.

3. General Provisions. All work done by Tenant shall be governed in all respects by, and be subject to, the following:
 - 3.1 Tenant agrees not to commence Tenant's work until Tenant has secured Landlord's written approval of all contractors to be used in performing Tenant's work and of the plans and specifications required to be submitted by Tenant to Landlord. Landlord agrees to notify Tenant within a reasonable time in advance of the day when Tenant must commence Tenant's work and Tenant agrees that Landlord may require Tenant to commence work, subject to such notice to commence Tenant's work before Landlord's work has been fully completed, provided that the Premises are completed to the extent that it is practical for Tenant to commence Tenant's work. Tenant's work shall be coordinated with the work being done by the Landlord to such a degree that such work will not interfere with or delay the completion of work by Landlord. The technical review of Tenant's plans and specifications for purpose of securing Landlord's approval, shall be performed by the Landlord's project architect on an hourly fee basis, plus reimbursable expenses, in accordance with the terms of agreement between the Landlord and the architect, and the Tenant shall reimburse the Landlord for all such fees and expenses.

 - 3.2 Tenant's work shall be performed in a first-class workmanlike manner and shall be in good and usable condition at the date of completion thereof. Tenant shall require any party performing any such work to guarantee the same to be free from any and all defects in workmanship and materials for one (1) year from the date of completion thereof. Tenant shall also require any such party to be responsible for the replacement or repair without additional charge of any and all work done or furnished by or through such part which shall become defective within one (1) year after substantial completion of the work. The correction of such work shall include, without change, all expenses and damages in connection with such removal, replacement or repair of any part of the work which may be damaged or disturbed

thereby. All warranties or guarantees as to materials or workmanship on or with respect to Tenant's work shall be contained in the contract or subcontract which shall be so written that such guarantees or warranties shall inure to the benefit of both Landlord and Tenant, as their respective interests appear, and can be directly enforced by either. Tenant covenants and agrees to give Landlord any assignment or other assurances necessary to effect the same.

- 3.3 Landlord shall have the right (but shall not be obligated) to perform by its own contractor or subcontractor, on behalf of and for the account of Tenant, any of Tenant's work which Landlord determines should be so performed. Generally, such work shall be work which affects any structural or roofing components or the general utility systems of the Premises. If Landlord so determines, it shall so notify Tenant prior to the commencement of such work. Tenant shall promptly, on demand, reimburse Landlord for all costs of planning and performing such work when and as incurred by Landlord, and for all permits in connection therewith.
- 3.4 Compliance with Laws: All Tenant's work shall conform to applicable statutes, ordinances, regulations, codes and the requirements of Landlord's fire underwriter. Tenant shall obtain and convey to Landlord copies of all permits, certifications and approvals indicating compliance.
- 3.5 Approvals: No approvals by Landlord shall be deemed valid unless the same shall be in writing signed by the Landlord.
- 3.6 Drawing Submittal: The Tenant shall, before it commences Tenant's work, furnish Landlord with one (1) set of reproducible plans and specifications for all its architectural, mechanical and electrical systems. Such plans shall include the data for all electrical and cooling loads, in form approved by Landlord.
- 3.7 Tenant's plans and specifications shall be prepared by an architect or professional engineer licensed in the state of Utah and shall bear the signature and seal thereof.

EXHIBIT D

SIGN CRITERIA

Basic Criteria Governing Signs:

Tenant signs must be kept clean and in good operating condition. It is recommended that each tenant develop a maintenance program to assure that its sign(s) will always appear inviting to customers and enhance the overall appearance of the Premises.

I. APPROVALS

1. Tenant must submit its sign(s) to Landlord for review and approval prior to the filing of an application for a sign permit(s).
2. Tenant shall be responsible for the costs of obtaining all permit(s) for its sign(s), and for the costs of manufacturing and installing its sign(s).
3. In addition to obtaining the approval of Landlord, Tenant must ensure that all of its signs are in conformance with applicable provisions of the Springdale Town Code.
4. All sign vendors and contractors must be approved by Landlord, and approved sign vendors and contractors must submit required insurance to Landlord prior to commencing any sign work at the Premises.

II. MANUFACTURING

1. All wiring, transformers, ballasts and other necessary equipment shall be concealed.
2. All work shall be done in a workmanlike manner and approved by Landlord.
3. Tenant, at its sole cost and expense, and to Landlord's satisfaction and approval, shall repair any damage to the fascia.
4. Upon vacating its leased premises, Tenant shall remove its sign(s) and restore the fascia to its original condition. This shall be done at Tenant's sole cost and expense, and to the satisfaction and approval of Landlord.

EXHIBIT E

GUARANTY

THIS GUARANTY (this "Guaranty") dated as of the _____ day of _____ 20____, by _____ and _____, jointly and severally (individually and collectively, the "Guarantor"), having an address at [insert address] to _____ (the "Landlord"), having an address _____.

WITNESSETH:

Contemporaneously herewith, Landlord, as lessor, is entering into a certain lease (the "Lease") for real property located in the Town of Springdale, County of Washington, and State of Utah, which property is more particularly described in Exhibit A-2 thereto with SOUTHWEST UTAH COMMUNITY HEALTH CENTER, INC., doing business as "Family Healthcare" ("Tenant"), as lessee. Guarantor will receive a substantial economic benefit from the Lease and is executing this agreement as an inducement to Landlord to enter into the Lease. Landlord would not have executed the Lease with Tenant without Guarantor executing this Guaranty.

NOW THEREFORE, in consideration of the premises, Guarantor agrees as follows:

1. Guarantor hereby absolutely, unconditionally and irrevocably guarantees to the Landlord (a) the full and punctual performance and observance by Tenant of all of the terms, conditions, covenants and obligations to be performed and observed by Tenant under the Lease and any month-to-month tenancy created as a result of Tenant holding over after the expiration or termination of the Lease including, without limitation, the payment as and when due, whether by acceleration or otherwise, of all Minimum Rent and Additional Rent (both as defined in the Lease) and any other sums payable by Tenant under the Lease, and (b) payment of all Enforcement Costs (as defined in Section 5 below). This is a guaranty of payment and performance, and not of collection, and Landlord shall not be obligated to enforce or exhaust its remedies against Tenant before proceeding to enforce this Guaranty. Landlord may, at Landlord's option, join Guarantor in any action or proceeding commenced by Landlord against Tenant in connection with or based upon the Lease or any term, covenant or condition thereof; and recovery may be had against Guarantor in such action or proceeding or in any independent action or proceeding against Guarantor without Landlord (i) asserting, prosecuting, or exhausting any remedy or claim against Tenant or (ii) commencing any proceeding to enforce or realize upon any collateral or other security (including, without limitation, any security deposit or other guaranties) which may be given to secure Tenant's obligations under the Lease, or to obtain any judgment, decree or foreclosure sale with respect thereto. Any suit or proceeding brought against Guarantor to collect the amount of any deficiency in payments due from Tenant under the Lease for any month or months shall not prejudice in any way the rights of Landlord to collect any such deficiency for any subsequent month or months in any similar suit or proceeding. Additionally, the maintenance of any action or proceeding by Landlord to recover any sum or sums that may be or become due under the Lease or to secure the performance of any of the other terms, covenants and conditions of the Lease shall not preclude Landlord from demanding and receiving the payment of such sums and the performance of such other terms, covenants and conditions from Guarantor, or from thereafter instituting and maintaining subsequent actions or proceedings for any subsequent default or defaults of Tenant under the Lease. Guarantor does hereby agree that, without affecting the liability of Guarantor under this Guaranty and without notice

to Guarantor, Landlord may (i) grant to Tenant additional time for the payment of rent and any other sums due under the Lease or for the performance of any other terms, covenants and conditions contained in the Lease, or (ii) avail itself of or exercise any or all of the rights and remedies against Tenant provided by law, in equity, or by the Lease, and may proceed either against Tenant alone or jointly against Tenant and Guarantor or against Guarantor alone without first proceeding or exhausting any remedy or claim against Tenant,

2. Guarantor hereby assents to all of the provisions of the Lease and waives demand, protest, notice of any indulgences or extensions granted to Tenant, any requirement of diligence or promptness on the part of Landlord in the enforcement of the Lease and any notice thereof, and any other notice whereby to charge Guarantor. Guarantor shall be furnished with a copy of any notice of or relating to default under or termination of the Lease which is served upon Tenant.

3. (a) This Guaranty shall be a continuing guarantee and the liability of Guarantor hereunder shall in no way be affected, modified, diminished, impaired or terminated for any reason whatsoever, including, without limitation, by reason of any of the following, whether or not notice thereof is given to Guarantor: (i) any one or more sublettings of all or any portion of the Premises or any one or more assignments or other transfers of Tenant's interest in the Lease (ii) any consent, approval, waiver or other action, inaction or omission under or concerning the Lease, (iii) any modification, renewals, extensions or amendments of the Lease, (iv) any dealing or transactions or matter or thing occurring between Landlord and Tenant, (v) any bankruptcy, insolvency, reorganization, arrangement, assignment for the benefit of creditors, receivership or trusteeship affecting Tenant or its successors or assigns, (vi) the release or discharge of Tenant from the performance or observance of any of the terms, covenants or conditions of law, by reason of any of the events described in the foregoing clause (v) hereof, or otherwise, (vii) any change in relationship between Guarantor and Tenant, (viii) the default or failure of Guarantor to perform any of its obligations set forth in this Guaranty, (ix) any action which Landlord may take or fail to take against Tenant by reason of any waiver of, or failure to enforce, any of the rights or remedies reserved to Landlord in the Lease, or otherwise, (x) any failure or refusal of Landlord to re-let the Premises or any part or parts thereof in the event that Landlord shall obtain possession of the Premises after Tenant's insolvency or default, (xi) any failure to collect rent thereof under any such reletting, (xii) any alterations, repairs, replacements and/or decoration in the Premises as Landlord, in Landlord's sole judgment, considers advisable and necessary for the purpose of re-letting the Premises, and (xiii) any other circumstance or condition that may result in a discharge, limitation or reduction of liability of a surety or guarantor. Not later than seven (7) days after the request of Landlord, Guarantor will execute an estoppel certificate in a form requested by Landlord (A) confirming Guarantor's obligations under this Guaranty, (B) acknowledging that this Guaranty has not been modified (or, if so, identifying all modifications) and is in full force and effect, and (C) confirming that Guarantor has no claims or defenses under this Guaranty or otherwise with respect to the full performance and satisfaction of all of the terms, provisions, agreements and obligations of this Guaranty. A failure to issue an estoppel certificate in the requested form shall constitute a default by Tenant under the Lease. Such estoppel certificate will be certified to Landlord and such other parties as are designated by Landlord.

(b) Guarantor hereby waives notice of the acceptance of this Guaranty and presentment and demand for payment, notice of nonpayment, notice of dishonor, protest, notice of protest, nonperformance, nonobservance and any other notice or demand to which Guarantor might otherwise be entitled. Guarantor hereby waives trial by jury of any and all issues arising in any action or proceeding between the parties, upon, under or in connection with this Guaranty or of any of its provisions, directly or indirectly, or any and all negotiations in connection therewith. Guarantor's obligations hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason, and shall not be subject

to, and Guarantor hereby irrevocably waives, any defense or set-off, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality or unenforceability of any of Tenant's obligations under the Lease or of any of Guarantor's obligations hereunder, or otherwise.

4. The obligations guaranteed by Guarantor pursuant to this Agreement include all terms, conditions, covenants and obligations to be performed and observed by Tenant during and/or with respect to the initial Term of the Lease, which is the period beginning on the "Commencement Date" and ending on the Termination Date as set forth in Section 1.3 of the Abstract of Lease and Section 3.1 of the Lease, the Extended Term, if any, and any month-to-month tenancy created after the expiration or termination of the Lease. This is a continuing guaranty and Guarantor's obligations hereunder shall survive the expiration of the initial Term and/or any expiration or termination of the Lease and shall continue until all obligations of Guarantor hereunder have been paid and satisfied in full. In the event that the Lease is modified, renewed or extended, or the Premises expanded or contracted, in any respect by agreement between Landlord and Tenant pursuant to an option granted in the Lease, or in the event that Tenant holds over beyond the Term of the Lease, or otherwise, then the obligations hereunder of Guarantor shall extend to the full and faithful performance and observance of all of the covenants, terms and conditions of the Lease and of any such modification, renewal, extension, expansion, contraction and/or hold over. Guarantor shall, from time to time within five (5) days after the request of Landlord, deliver to Landlord a notification and reaffirmation of all of Guarantor's covenants, liabilities and agreements contained in this Guaranty provided the failure of Guarantor to issue such notification and reaffirmation to Landlord shall not reduce or eliminate Guarantor's obligations hereunder. Guarantor intends that Guarantor shall remain liable hereunder as a principal until the full, final and unavoidable performance of all of liabilities and obligations hereunder, notwithstanding any fact, act, event or occurrence which might otherwise operate as a legal or equitable discharge of a surety or guarantor.

5. In addition to the amounts specified pursuant to Paragraph 1 hereof, Guarantor shall pay to Landlord any and all costs incurred by Landlord in enforcing this Guaranty, including court costs and reasonable attorneys' fees and costs (collectively, "Enforcement Costs").

6. This Agreement shall inure to the benefit of and may be enforced by Landlord and its successors and assigns and any assignee of Landlord's interest in the Lease (including Landlord's mortgagee), and shall be binding upon Guarantor and its successors and assigns. No assignment by Guarantor shall affect or reduce its obligations hereunder, and all such obligations shall continue as though no such assignment had been made.

7. This Agreement may not be changed or terminated orally, but only by a written instrument signed by the party against whom enforcement of any change or termination is sought.

8. Any notice required hereunder to be sent to Guarantor shall be sufficiently given by mailing by certified or registered mail, postage prepaid, to Guarantor at the address of Guarantor as stated above.

9. If Landlord shall be obligated by any bankruptcy, insolvency or other legal proceedings to repay to Guarantor or to Tenant, or to any trustee, receiver or other representative of any of them, any amounts previously paid by Guarantor pursuant to this Guaranty, this Guaranty shall be deemed reinstated to the extent of that repayment made by Landlord as though such original amount was never paid. Landlord shall not be required to litigate or otherwise dispute its obligation to make such repayments if, in good faith and on the advice of counsel, Landlord believes that such obligation exists. Nothing herein contained is intended or shall be construed to give to Guarantor any right of subrogation under the Lease or any right to participate in any way therein or in Landlord's right, title and interest in the Lease. Notwithstanding any payments made

under this Guaranty, all rights of subrogation and participation are expressly waived and released by Guarantor.

10. No delay on the part of Landlord in exercising any right, power or privilege under this Guaranty, nor any failure to exercise the same, shall operate as a waiver of, or otherwise affect, any right, power or privilege of Landlord under this Guaranty, nor shall any single or partial exercise thereof preclude the further exercise of, or the exercise of any other, right, power or privilege of Landlord under this Guaranty.

11. The validity and enforcement of this Guaranty shall be governed by and construed in accordance with the internal laws of the State of Utah, and such laws shall apply in any action or proceeding arising out of or under this Guaranty.

12. All remedies afforded to Landlord by reason of this Guaranty are separate and cumulative remedies and it is agreed that no one remedy, whether exercised by Landlord or not, shall be deemed to be exclusion of any other remedy available to Landlord and shall not limit or prejudice any other legal or equitable remedy which Landlord may have.

13. If any provision of this Guaranty or the application thereof to any person or circumstance shall to any extent be held void, unenforceable or invalid, then the remainder of this Guaranty or the application of such provision to persons or circumstances other than those as to which it is held void, unenforceable or invalid, shall not be affected thereby and each provision of this Guaranty shall be valid and enforceable to the fullest extent permitted by law.

14. Guarantor hereby irrevocably:

(a) submits to the jurisdiction of the state courts of the State of Utah and to the jurisdiction of the United States District Court for the District of Utah for the purposes of each and every suit, action or other proceeding arising out of or based upon this Guaranty or the subject matter hereof brought by landlord, it being expressly understood and agreed that this consent to jurisdiction shall be self-operative and no further instrument or action, other than service of process in one of the manners specified in this Guaranty or as otherwise permitted by law, shall be necessary in order to confer jurisdiction upon Guarantor in any such court; and

(b) waives, and agrees not to assert, by way of motion, as a defense, or otherwise, in any such suit, action or proceeding brought in any such court, any claim that Guarantor is not subject personally to the jurisdiction of the above named courts, that Guarantor's property is exempt or immune from attachment or execution, that the suit, action or proceeding is brought in an inconvenient forum, that the venue of the suit, action or proceeding is improper or that this Guaranty or the subject matter hereof may not be enforced in or by such court, and further agrees to waive, to the fullest extent permitted under applicable law, the benefit of any defense that would hinder, fetter or delay the levy, execution or collection of any amount to which Landlord or its successors or assigns are entitled pursuant to the final judgment of any court having jurisdiction; and

(c) consents to service of process by certified or registered mail at Guarantor's address as set forth herein, or in any other manner permitted by law, service in the foregoing manner to be deemed, in every respect, effective service of process upon Guarantor and be taken and held to be valid personal service upon, and personal delivery to, Guarantor. Guarantor agrees that Guarantor's submission to jurisdiction and consent to service of process by mail is made for the express benefit of Landlord.

The headings of sections or paragraphs in this Guaranty are for convenience only and shall not be construed in any way to limit or define the content, scope or intent of the provisions hereof. As used in this Guaranty, the singular shall include the plural, and masculine, feminine and neuter pronouns shall be fully interchangeable where the context so requires. If this Guaranty is executed by more than one person or entity, then references to "Guarantor" herein shall be deemed to refer to each such person or entity, and the liability of each such person or entity shall be joint and several, and the release by Landlord of any of them shall not release or affect in any manner the obligations of any other of them, and this Guaranty shall not be revoked, discharged or impaired as to any such persons or entities by reason of the death or incapacity or insolvency of any other of them. All payments to be made hereunder shall be made in currency and coin of the United States of America which is legal tender for public and private debts at the time of payment. This Guaranty constitutes the entire agreement between Guarantor and Landlord with respect to the subject matter hereof and supersedes all prior such agreements and understandings, both written and oral. If this Guaranty is executed in several counterparts, each of those counterparts shall be deemed an original, and all of them together shall constitute one and the same instrument.

IN WITNESS WHEREOF, Guarantor has duly executed this Agreement on this _____ day of _____ 20____.

By: _____
(name)

(print name)

(Social Security Number)

By: _____
(name)

(print name)

(Social Security Number)

STATE OF UTAH)
 : ss
COUNTY OF WASHINGTON)

I the undersigned a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that _____ known to me be the same person whose name is subscribed to on the foregoing Guaranty as his/her free and voluntary act and deed for the uses and purposes therein set forth.

DATED this _____ day of _____ 20_____.

Notary Public

STATE OF UTAH)
 : ss
COUNTY OF WASHINGTON)

I the undersigned a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that _____ known to me be the same person whose name is subscribed to on the foregoing Guaranty as his/her free and voluntary act and deed for the uses and purposes therein set forth.

DATED this _____ day of _____ 20_____.

Notary Public

JOHNSON APPRAISAL, INC.

REAL ESTATE APPRAISERS
782 S. RIVER ROAD, #104
ST. GEORGE, UTAH 84790

DANIEL JOHNSON, MAI, SRA
RYAN JOHNSON
CRAIG JOHNSON

TELEPHONE
(435) 674-2191

October 4, 2023

Rick Wixom
Town Manager
Town of Springdale
118 Lion Boulevard
Springdale, Utah 84767

Dear Mr. Wixom:

As requested, I have completed an investigation and market rent study of the Zion Canyon Clinic, located at 120 Lion Boulevard, Springdale, Utah. The purpose of this appraisal is to provide an opinion of a current market lease rate for the office space in the above referenced building. The intended use of the report is for lease negotiations and asset management decisions.

This report is subject to the Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute and the 2020-2021 Edition of the Uniform Standards of Professional Appraisal Practice (USPAP) of the Appraisal Foundation. The expiration date for the 2020-2021 USPAP Edition has been extended until December 31, 2023.

The 6,970 square foot portion of the site is currently improved with a 780 square foot modular building designed for medical office use. It was built in 1984 and has been updated and remodeled over the past 39 years. It is a modular building on a concrete perimeter foundation. The interior of the building is divided into a waiting room, reception area, lounge and storage room, x-ray room, one exam room, one exam area, and one restroom. It is also improved with an 80 square foot storage shed. The site improvements consist of landscaping, concrete curbing, and asphalt paving. The subject improvements are located on a 42.86 acre parcel that has been identified as Parcel No. S-128-B-1-NP. The subject property is currently zoned for public utility use. The subject property has been operating as a medical office building since 1984. The current use is considered its highest and best use as improved.

Exposure time is the amount of time in retrospect necessary to achieve a sale by the appraisal date and is based on immediate past market trends from applicable market data. The fair market value of the property is an estimate assuming an exposure time of six months to one year prior to the hypothetical consummation of a sale based on the effective date of the appraisal.

A survey of properties in Springdale and other competitive areas of Washington County was conducted. The lease rate information from these competitive properties was utilized to estimate a market lease rate for the subject property. Information pertaining to these market lease rentals has been retained in my workfile.

This use of this Restricted Appraisal Report is specifically restricted to the client and the intended user, which is the Town of Springdale.

October 4, 2023
Rick Wixom
Page 2

The estimated monthly market lease rate includes the existing improvements and the underlying site area that service the improvements. The estimated effective monthly market lease rate is \$2.50 per square foot, with an effective date of August 31, 2023. This rate equates to a \$1,950 monthly lease rate, or \$23,400 annually.

The estimated monthly market lease amount is based on a triple net lease premise. In the Dictionary of Real Estate Appraisal, Seventh Edition, published by the Appraisal Institute, page 131, a triple net lease or net net net lease is defined as:

An alternative term for a type of net lease. In some markets, a net net net lease is defined as a lease in which the tenant assumes all expenses (fixed and variable) of operating a property except that the landlord is responsible structural maintenance, building reserves, and management.

This Restricted Appraisal Report contains the conclusions only. Supporting documentation has been retained in my workfile.

According to public record information, the building is currently owned by Zion Canyon Medical Clinic. The underlying site is currently owned by Springdale Town. According to the Washington County Assessor, the subject improvements and 6,970 square feet of the underlying site are identified as Parcel No. S-PTAX-40-NP. Based on information obtained from the Washington County Recorder's Office and the Washington County Multiple Listing Service, no sales, listings, or transfers have occurred in the past three years.

This appraisal is also made subject to the Certification and Assumptions and Limiting Conditions, which are contained on the following pages. This report is not subject to any extraordinary assumptions or hypothetical conditions.

Sincerely,



Daniel Johnson, MAI, SRA
Utah State Certified General Appraiser
License No. 5452150-CG00
Expires July 31, 2025

CERTIFICATION

I certify that, to the best of my knowledge and belief:

The statements of fact contained in this report are true and correct.

The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions. I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved. I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.

My engagement in this assignment was not contingent upon developing or reporting predetermined results. My compensation for completing this assignment is not contingent upon the development or reporting of predetermined values or directions in value that favor the cause of the client, the amount of the value opinions, the attainment of stipulated results, or the occurrence of subsequent events directly related to the intended use of this appraisal.

On August 31, 2023, I prepared an appraisal of the subject property's improvements. I have performed no other services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of the assignment.

My state certifications have not been revoked, suspended, canceled, or restricted. I have the appropriate knowledge and experience to complete this assignment competently.

My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute and the 2020-2022 Edition of the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation.

The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

As of the date of this report, I have completed the continuing education program for Designated Members of the Appraisal Institute.

On August 31, 2023, I conducted a personal inspection of the property that is the subject of this report.

Ryan Johnson provided significant real property appraisal assistance to the person signing this certification.

Sincerely,



Daniel Johnson, MAI, SRA
Utah State Certified General Appraiser
License No. 5452150-CG00
Expires July 31, 2025

ASSUMPTIONS AND LIMITING CONDITIONS

Legal Matters

No responsibility is assumed for an opinion of legal nature, including ownership of the property or the condition of title. Information related to ownership and the legal description were obtained from public records and is considered reliable. The appraiser assumes that the title is marketable and not encumbered by adverse easements and restrictions.

Unapparent Conditions

The appraiser assumes that there are no hidden or unapparent conditions of the property which would render it more or less valuable.

The appraiser assumes no responsibility for studies or analysis which would be required to conclude the presence or absence of such substances or for the loss as a result of the presence of such substances. If desired, the client is urged to retain an expert in the field. The value estimate is based on the premise that the subject property is not so affected.

No opinion is expressed as to the value of subsurface oil, gas, or mineral rights, or whether the property is subject to surface entry for the exploration or removal of such materials.

Information and Data

Information, estimates, and opinions furnished to the appraiser and contained in the report, were obtained from sources considered reliable and believed to be true and correct. However, no responsibility for accuracy of such items furnished to the appraiser can be assumed.

All mortgages, liens, encumbrances, and servitudes have been disregarded unless so specified in the appraisal report. The property is appraised as though under responsible ownership and competent management.

Zoning and Licenses

It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless a nonconforming use has been stated, defined, and considered in the valuation. It is assumed that the subject property complies with all applicable federal, state, and local environmental regulations and laws unless noncompliance is stated, defined, and considered in the valuation.

It is assumed that the information relating to the location of or existence of public utilities obtained from inquiry from the appropriate utility authority, or has been ascertained from visual evidence, is correct. No warranty has been made regarding the exact location or capacities of public utility systems.

It is assumed that all required licenses, consents, or other legislative or administrative authority from local, state, or national governmental, private entity, organization have been, or can be, obtained or renewed for any use on which the value estimate contained in this report is based.

General Limiting Conditions

This report is intended to comply with the reporting requirements set forth under Standard Rule 2-2(b) of the 2020-2022 Edition of the Uniform Standards of Professional Appraisal Practice for a Restricted Appraisal Report. The information contained in this report is specific to the needs of the client and for the intended use stated in this report. The appraiser is not responsible for unauthorized use of this report.

Possession of the report does not carry with it the right of publication. Out-of-context quoting from or partial reprinting of this appraisal report is not authorized. Neither all nor any part of this report shall be disseminated to the general public without the prior written consent of the appraiser.

The date of value, to which the conclusions and opinions expressed in the report apply, is set forth in the Letter of Transmittal. Further, the dollar amount of the value opinion rendered in this report is based upon the purchasing power of the U.S. Dollar existing on that date.

Disclosure of the contents of this report is governed by the Bylaws and Regulations of the Appraisal Institute. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser or the firm with which he is connected, or any reference to the Appraisal Institute or to the appraisal designations) shall be disseminated to the public through advertising media, public relations media, news media, sales media, or any other public means of communication without prior written consent and approval of the appraiser.

No environmental or concurrency impact studies were either requested or made in conjunction with this appraisal report. The appraiser reserves the right to alter, amend, revise, or rescind the value opinion based upon any subsequent environmental or concurrency impact studies, research, or investigation.

The appraiser reserves the right to make such adjustments to the analyses, opinions, and conclusions set forth in this report as may be required by consideration of additional data or more reliable data that may become available.

ADDENDA

**DANIEL JOHNSON, MAI, SRA
PROFESSIONAL QUALIFICATIONS**

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DESIGNATIONS

Appraisal Institute

MAI - Certificate No. 8231

SRA - Certificate No. 1958

CCIM Institute

CCIM - Certified Commercial Investment Member

CERTIFICATIONS

State of Arizona - Department of Financial Institutions

Certified General Real Estate Appraiser

Certificate No. CGA-1003209 (Expires on July 31, 2025)

State of Nevada - Department of Business and Industry - Real Estate Division

Certified General Appraiser

Certificate No. A.0001198-CG (Expires on August 31, 2025)

State of Utah - Department of Commerce - Division of Real Estate

Certified General Appraiser

License No. 5452150-CG00 (Expires on July 31, 2025)

DEGREES

University of Redlands

B.S. - Business Administration and Management

QUALIFIED EXPERT WITNESS

United States Bankruptcy Court - District of Utah

Utah State Tax Commission

3rd District Court - Salt Lake County

5th District Court - Washington County

6th District Court - Kane County

EMPLOYMENT

1993 to Present

1984 to 1993

1979 to 1984

1977 to 1979

President - Johnson Appraisal, Inc. (Utah)

President - Johnson Appraisal, Inc. (California)

Independent Fee Appraiser

Staff Appraiser - American Savings and Loan

DANIEL JOHNSON, MAI, SRA
PROFESSIONAL QUALIFICATIONS

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APPRAISAL EDUCATION - APPRAISAL INSTITUTE

Courses	<u>Year</u>
Basic Valuation Procedures	1987
Capitalization Theory and Techniques, Parts A and B	1987
Case Studies in Real Estate Valuation	1987
Valuation Analysis and Report Writing	1988
Litigation Valuation	1990
Uniform Standards of Professional Practice	1991
Condemnation Appraising: Advanced Topics and Applications	2001
Computer-Enhanced Cash Flow Modeling	2005
Fundamentals of Separating Real Property, Personal Property, and Intangibles	2012
Uniform Appraisal Standards for Federal Land Acquisitions (Yellow Book)	2017
National Uniform Standards of Professional Appraisal Practice Update Course	2019

Seminars	<u>Year</u>
Easement Valuation	1990
Feasibility Analysis and Highest and Best Use - Commercial	1994
Appraisal of Retail Properties	1995
Affordable Housing Valuation	1997
Small Hotel/Motel Valuation	1997
Appraisal of Historic Properties	1997
Data Confirmation and Verification Methods	1997
Valuation of Detrimental Conditions in Real Estate	1998
Appraising Convenience Stores	2005
Self-Storage Economics and Appraisal	2006
Appraising Distressed Commercial Real Estate	2009
Introduction to Conservation Easement Valuation	2010
Advanced Spreadsheet Modeling for Valuation Applications	2011
Supporting Capitalization Rates	2011
Subdivision Valuation	2013
Appraisal of Medical Office Buildings	2019
Comparative Analysis	2019
Real Estate Finance, Statistics, and Valuation Modeling	2019

TYPES OF PROPERTY APPRAISED

Apartment	Golf Course	Quick-Service Restaurant
Assisted Living	Hotel	Ranch
Automotive Service	Manufacturing	Residential Subdivision
Bed and Breakfast	Medical Office Building	Restaurant
Bowling Center	Mobile Home Park	Retail Store
Branch Bank	Motel	Self-Storage Units
Car Wash	Office Condominium	Shopping Center
Commercial Subdivision	Professional Office Building	Single Family Residence
Convenience Store	Private School	Vacant Acreage

DANIEL JOHNSON, MAI, SRA
PROFESSIONAL QUALIFICATIONS

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PARTIAL LISTING OF APPRAISAL CLIENTS

Corporations

Hospital Corporation of America
Intermountain Healthcare
McDonald's Corporation
Pepsi-Cola Co.
Rocky Mountain Power

The Nature Conservancy
The Trust for Public Land
Virgin River Land Preservation Association, Inc.
Wal-Mart Stores, Inc.
Washington County Water Conservancy District

Financial Institutions

Altabank
America First Credit Union
Bank of America
Bank One
Bank of Utah
Cache Valley Bank
First Community Bank
Goldenwest Credit Union
Hillcrest Bank
Home Federal Bank
JP Morgan Chase Bank
Key Bank

Mountain America Credit Union
National Bank of Arizona
Nevada State Bank
Northwest Savings Bank
Premier Commercial Bank
State Bank of Southern Utah
The Bank of Las Vegas
U.S. Bank
UFirst Credit Union
Utah Independent Bank
Wells Fargo Bank
Zions First National Bank

Governmental Agencies

Ash Creek Special Services District
Bureau of Indian Affairs (BIA)
Bureau of Land Management (BLM)
City of Hurricane
City of Kanab
City of Mesquite
City of Parowan
City of St. George
City of Santa Clara
City of Washington
Garfield County
Kane County
Iron County
National Park Service

School and Institutional Trust Lands (SITLA)
Sevier County
Small Business Administration (SBA)
Town of Ivins
Town of Rockville
Town of Springdale
Town of Toquerville
Town of Virgin
U.S. General Services Administration (GSA)
U.S. Postal Service
Utah Tech University
Washington County
Washington County Assessor
Washington County School District