RESOLUTION NO. 4237
(Lease of 211 Water Street and 219 B, C and D, Water Street, Henderson, NV)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HENDERSON, CLARK COUNTY, NEVADA, EXPRESSING ITS INTENT TO LEASE 211 WATER STREET AND 219 B, C AND D WATER STREET, BEING A PORTION OF ASSESSOR'S PARCEL NO. 179-18-710-229 AND 179-18-710-230 LOCATED IN THE SOUTH HALF (S ½) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION 18, TOWNSHIP 23 SOUTH, RANGE 63 EAST, M.D.M., CITY OF HENDERSON, CLARK COUNTY, NEVADA, TO JONE DONG LIM, DOING BUSINESS AS THE LOTUS RESTAURANT, PURSUANT TO THE PROVISIONS OF NRS 268.064.

WHEREAS, the City of Henderson ("City") is the owner of certain real property identified as 211 Water Street and 219 B, C and D Water Street, Henderson, Nevada, currently zoned Downtown Mixed-Use (DX) currently known as Assessor's Parcel Numbers (APN's) 179-18-710-229 and 179-18-710-230 (the "Property"); and

WHEREAS, the Property has been leased by Jone Dong Lim, doing business as The Lotus Restaurant ("The Lotus") since March 1, 2007; and

WHEREAS, the Property is located in the Downtown Redevelopment Area; and

WHEREAS, pursuant to the provisions of NRS 268.064, the City Council may lease building space or other real property without first offering the real property to the public, provided that the City Council must first adopt a Resolution that it is in the best interest of the City to lease the property; and

WHEREAS, the City has obtained an independent appraisal of the lease area that established the market rent for the leased space at $2,565.75 per month; and

WHEREAS, the Lotus desires to continue its occupation of the Property; and

WHEREAS, there is no proposed City use for the Property; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Henderson, Nevada, that:

SECTION 1. The City Council hereby finds that the lease of the space identified in the Notice of Lease attached hereto as Exhibit A, consisting of one (1) page, and depicted on the map attached hereto as Exhibit B, consisting of one (1) page, in the manner set forth in these Resolutions and such Notice of Lease, is in the best interest of the City.

SECTION 2. The lease of the space shall be subject to receipt and approval by City Council of a written Amended and Restated Lease Agreement between the City and The Lotus in accordance with the terms and conditions set forth in the draft Amended and Restated Lease Agreement, identified as Exhibit C, consisting of twenty-eight (28) pages, which is by reference incorporated herein and made a part of this Resolution.

SECTION 3. The public meeting at which City Council will consider and possibly approve the Amended and Restated Lease Agreement is December 6, 2016, at 6 p.m., or as soon after such time as practical, in the City Council Chambers, 240 Water Street, Henderson, Nevada, 89015.

SECTION 4. The City Clerk is hereby authorized and directed to post this Resolution in those designated public places within the City set forth in the Notice of Lease and to publish the Notice of Lease once, not less than 30 days prior to December 6, 2016, and once, at least 10 days before, but not more than 20 days prior to December 6, 2016.

SECTION 5. A copy of this Resolution and the Notice of Lease can be obtained in the Office of the City Clerk, 240 Water Street, Henderson, Nevada.

SECTION 6. This resolution is effective upon adoption unless stated otherwise in the notice.

PASSED, ADOPTED, AND APPROVED THIS 1ST DAY OF NOVEMBER, 2016, BY THE FOLLOWING ROLL-CALL VOTE OF COUNCIL.

Those voting aye:	Andy Hafen, Mayor Councilmembers: Sam Bateman John F. Marz Gerri Schroder
Those voting nay:	None
Those abstaining:	None
Those absent:	Debra March

Andy Hafen, Mayor

ATTEST:

Sabrina Mercadante, MMC, City Clerk

Exhibit A

NOTICE OF LEASE

NOTICE IS HEREBY GIVEN that the City of Henderson, Nevada, a municipal corporation ("City"), intends to lease space at 211 Water Street and 219 B, C and D Water Street, Henderson, Nevada 89015, consisting of approximately 3,421 square feet of leased building space and paved parking on real property identified as Assessor's Parcel Nos. 179-18-710-229 and 179-18-710-230 (the "Property") to Jone Dong Lim, doing business as The Lotus restaurant ("Tenant") pursuant to the provisions of NRS 268.064, subject to the following:

DATE, TIME AND PLACE OF PROPOSED LEASE

The Property is to be leased to Tenant for a term expiring March 1, 2018, with two 1-year renewal periods at a rate of $2,565.75 per month.

The public meeting at which City Council will consider and possibly accept and approve a binding Amended and Restated Lease Agreement between the City and Tenant is December 6, 2016, at 6 p.m., or as soon after such time as practical, in the City Council Chambers, 240 Water Street, Henderson, Nevada 89015.

Resolution No. ____ and this Notice of Lease shall be posted at the Henderson Multigenerational Center, 250 S. Green Valley Parkway; City Hall, 240 Water Street, 1st Floor Lobbies; Whitney Ranch Recreational Center, 1575 Galleria Drive; and Fire Station No. 86, 1996 E. Galleria Drive. Any interested party may obtain copies of the resolution and notice in the Office of the City Clerk, 240 Water Street, Henderson, Nevada.

THIS NOTICE IS GIVEN pursuant to and subject to Section 2.320 of the Charter of the City of Henderson, Nevada and NRS 268.064.

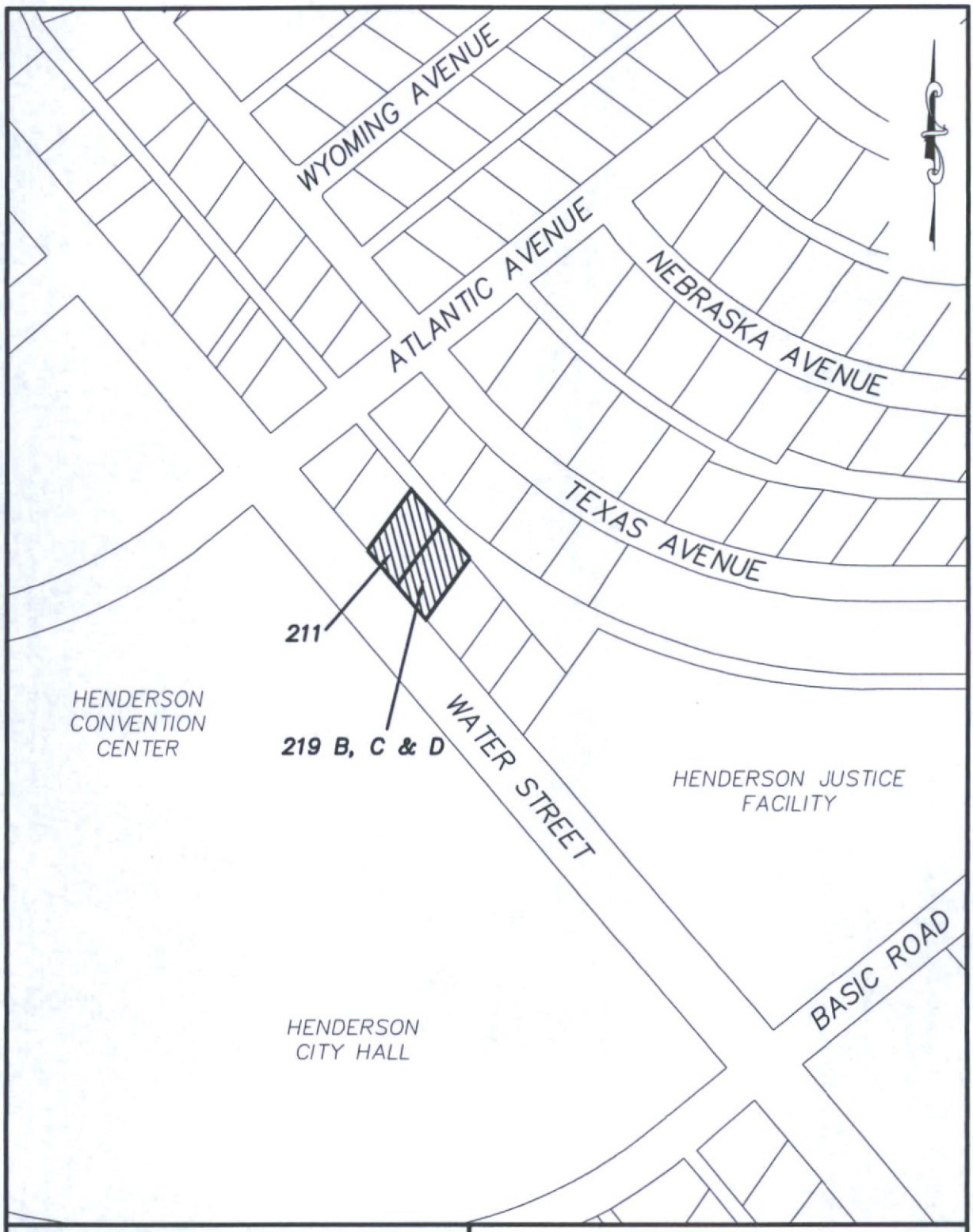
For more information, contact the City Clerk's Office at 240 Water Street, P.O. Box 95050, Henderson, Nevada 89009-5050.

DATED this ____ day of November, 2016.

_____

SABRINA MERCADANTE, MMC, CITY CLERK

EXHIBIT B



CITY OF HENDERSON–SURVEY DIVISION 240 WATER STREET HENDERSON, NV 89015 702–267–1307	211 & 219 B, C & D WATER STREET LEASE

Exhibit C
FORM OF LEASE
(see attached)

AMENDED AND RESTATED LEASE AGREEMENT

THIS AMENDED AND RESTATED LEASE AGREEMENT (this "**Lease**") is made effective as of March 1, 2015 (the "**Effective Date**") by and between the City of Henderson, a Nevada municipal corporation ("**Landlord**"), and Jone Dong Lim, an individual doing business as "The Lotus" ("**Tenant**").

RECITALS

WHEREAS, Landlord and Tenant are parties to that certain Commercial Lease, dated January 16, 2007 as amended by that certain First Amendment to Commercial Lease, dated February 27, 2012 (as so amended, the "**Original Lease**"), whereby Tenant has been leasing from Landlord the Premises (as defined below); and

WHEREAS, Landlord and Tenant have agreed to enter into this Lease for Tenant's continued occupation of the Premises pursuant to the terms and conditions hereof.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree that the foregoing recitals are true and accurate and hereby agree as follows:

Basic Lease Provisions

The words, figures and definitions set forth in the following Paragraphs are part of this Lease wherever appropriate reference is made thereto, unless modified elsewhere in this Lease.

A. **Landlord's Address For Rent**:

City of Henderson
Finance Department
P.O. Box 95007
Henderson, Nevada 89009-5007

B. **Landlord's Address For Notices**:

Real Estate Portfolio Manager
City of Henderson
P.O. Box 95050, MS 512
Henderson, Nevada 89009-5050

C. **Minimum Rent**: From and after the Effective Date, Two Thousand Five Hundred Sixty-Five dollars and 75/100ths ($2,565.75) per month.

D. **Option(s) to Extend**: Two (2) options to extend (each, an **"Option**) for one (1) year each (each, an **"Option Period"**).

E. **Permitted Use**: Subject to the limitations of Article 7, those uses approved under the current zoning of Downtown Core Commercial with Redevelopment Overlay.

F. **Original Term:** The period that commenced on March 1, 2015 and expires on the third (3rd) anniversary of the Effective Date.

G. **Property**: The real property, together with all buildings and improvements located thereon, with an address of 211 South Water Street, Henderson, Nevada (Clark County Assessor's Parcel Number 179-18-710-229) (the **"Exclusive Parking Area"**) and 219 South Water Street, Henderson, Nevada (Clark County Assessor's Parcel Number 179-18-710-230) (the "**Building Parcel**").

H. **Premises**: The following portions of the Property: (i) the Exclusive Parking Area, as shown on **Exhibit A** to this Lease, (ii) Units B, C and D of the building located on the Building Parcel (the **"Building"**), which Units collectively contain approximately three thousand four hundred twenty-one (3,421) square feet of building area (the **"Floor Area of the Premises"**) and are shown on **Exhibit A** to this Lease, and (iii) the common area located on the Building Parcel as shown on **Exhibit B** to this Lease.

I. **Tenant's Address For Notices And Telephone Number**:
Jone Dong Lim
The Lotus
219 Water Street
Henderson, Nevada 89015
[Telephone: (___) ___-____
Facsimile: (___) ___-____

J. **Term of this Lease, Lease Term or Term**: means the Original Term plus any Option Period(s).

ARTICLE 1 - AMENDMENT AND RESTATEMENT; PREMISES

1.1 Amendment and Restatement. Landlord and Tenant hereby agree that the Original Lease is hereby amended and restated in its entirety, and that, from and after the Effective Date, all of the terms and conditions contained in this Lease shall replace the terms and conditions of the Original Lease. Further, the parties acknowledge and agree that no security deposit was ever received by Landlord under the Original Lease and therefor Landlord has no liability with respect to the return of any such security deposit.

1.2 Lease of Premises. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises. Tenant hereby acknowledges that the Premises are encumbered by and are subject to the terms and conditions of all covenants, conditions, restrictions, easements, encumbrances and other matters of record. Tenant agrees that it will not violate the terms and conditions of any such recorded matters.

1.3 Tenant's Acceptance of Premises. Landlord has made no representation or warranty concerning the fitness for use or suitability for purpose of the Premises or the Building, all of which are expressly disclaimed, and Tenant has accepted the Premises "AS IS." Without limiting the foregoing, Tenant shall bear the risk of the suitability of the Premises for Tenant's intended use from both an economic and technical engineering basis and with respect to Tenant's ability to obtain and maintain any and all governmental licenses, permits, approvals or other relief required or deemed necessary or appropriate by Tenant for its use of the Premises. Tenant shall notify Landlord of the application for and receipt of any governmental and insurance approvals and shall provide Landlord with true and correct copies thereof. Neither this Lease, nor the lease of Landlord-owned property, constitutes an endorsement or approval of any development plans or a commitment or guarantee for any utilities or services. Provision of these services is administered pursuant to Title 13 and 19 of the Henderson Municipal Code and the Henderson Downtown Master Plan. Tenant understands that the Premises are subject to requirements for development pursuant to the Henderson Municipal Code and the Henderson Downtown Master Plan.

ARTICLE 2 - TERM

2.1 Term of Lease. This Lease shall be effective and the Term of this Lease shall be for the initial period set forth in Paragraph F, unless sooner terminated as herein provided.

2.2 Option to Extend. Subject to the terms and conditions set forth below, Tenant shall have the Option to extend the Lease Term for the Option Period(s). Tenant shall exercise an Option only by written notice (**"Option Notice"**) to Landlord identifying the Option being exercised, provided that the Option may not be exercised any later than three (3) months nor earlier than six (6) months prior to the expiration of the Original Term or then Option Period, if any. If Tenant fails to timely exercise the Option in the manner herein specified, then such Option and any unexercised Option shall immediately and automatically terminate and be of no further force or effect. Time is of the essence with respect to the exercise of the Options. The first Option Period shall commence on expiration of the Initial Term, and any succeeding Option Period shall commence upon expiration of the then-current Option Period. The Minimum Rent for each Option Period shall be the Minimum Rent as set forth in Paragraph C above. In the event Tenant properly exercises an Option as provided herein, all of the terms and conditions of this Lease shall apply during the applicable Option Period, including, but not limited to, Tenant's obligation to pay Additional Rent and other charges and expenses provided for in this Lease, except that (i) the Option exercised by Tenant in order to extend the Lease Term shall terminate and be of no further force and effect and may not be exercised again by Tenant, and (ii) no concession previously granted Tenant by Landlord shall be due or payable to Tenant during or with respect to such Option Period. At Landlord's request, prior to the commencement of any Option Period, Tenant shall execute, acknowledge and deliver to Landlord an amendment to this Lease evidencing Tenant's exercise of such Option and setting forth the commencement and expiration dates of the Option Period and term thereof and the Minimum Rent payable during such Option Period. The Options herein granted to Tenant are personal to Tenant and are not assignable, whether or not Landlord's consent is required hereunder with respect to any assignment or sublease of this Lease and whether or not Landlord gives its consent to a requested consent to assign or sublease. In the event that, upon the exercise of an Option or upon expiration of the Original Term or any Option Period, Tenant is in default under Article 17 below, any exercised Option shall, at Landlord's option, be of no force or effect.

ARTICLE 3 - RENT

3.1 Minimum Rent. From and after the Effective Date, Tenant shall pay Minimum Rent to Landlord at the address set forth in Paragraph A, or upon written notice from Landlord, to Landlord's assignee, or such other place, as Landlord may from time-to-time designate in writing to Tenant, without prior demand, deduction or set off, as set forth in this Article 3. Tenant shall pay to Landlord Minimum Rent on the Effective Date and thereafter on the first day of each calendar month during the Lease Term. If the Effective Date occurs on a day other than the first day of a calendar month, Minimum Rent for the first and last partial months shall be prorated on the basis of the number of actual days in such month.

3.2 Additional Rent. All monetary obligations of Tenant under this Lease that are in addition to Minimum Rent, including but not limited to the obligation to pay Common Area Repair Expenses (as defined below) and any amounts incurred and/or expended by Landlord to cure a breach of Tenant hereunder, shall be deemed **"Additional Rent."** Minimum Rent and Additional Rent are sometimes collectively referred to herein as **"Rent."**

3.3 Manner of Payment. Rent required to be paid pursuant to the provisions of this Lease shall be paid in lawful currency of the United States of America. All payments of Rent shall be to Landlord's Rent Address set forth in Paragraph A. If at any time Tenant pays Rent by check, and if such check should for any reason fail to clear the bank and is returned unpaid to Landlord twice in any twelve (12) month period, then for the next twelve (12) calendar months, at Landlord's option, Tenant shall pay Rent by cashier's or certified check, or by Automatic Clearing House payment. In the event that during any subsequent twelve (12) month calendar period two (2) or more of Tenant's checks should for any reason fail to clear the bank and are returned unpaid to Landlord, at Landlord's option, Tenant shall thereafter pay Rent by cashier's or certified check.

ARTICLE 4 - TAXES AND UTILITIES

4.1 Real Property Taxes. In the event that Real Property Taxes are ever assessed on the Premises, Tenant shall pay Tenant's Pro Rata Share (as defined below) of Real Property Taxes to Landlord within ten (10) days of Landlord's request therefor accompanied by supporting documentation. The term **"Real Property Taxes"** includes, without limitation: (i) any form of tax or assessment, fee, license fee, license tax, business license fee, commercial rental tax, levy, charge, assessment, penalty or tax imposed by any federal, state, county or city authority having jurisdiction or any political subdivision thereof or any district, including, without limitation, special district for any improvement,

maintenance, school, street, storm drain, sidewalk, community facility, traffic lights, parking facilities, park and ride, drainage, lighting or landscape, which are imposed on the Premises; (ii) any tax on Landlord's right to receive, or the receipt of, Rent or income from the Premises or against Landlord's business of leasing the Premises and any tax based on the size of the Premises; (iii) any tax, bond or charge for police or fire protection, street, sidewalk and road maintenance, refuse collection or other services provided to the Premises by any governmental agency; (iv) any tax imposed upon this transaction or based upon a reassessment of the Premises due to improvements to the Premises, including tenant improvements, or a change in the fee ownership of the Property or the transfer of all or part of Landlord's interest in the Property; (v) any charge or fee (whether or not constituting tax receipts to a governmental agency) replacing, in whole or in part, any tax now or previously included within the definition of Real Property Tax, including for services formerly provided without charge to property owners or occupants or to increase tax increments to governmental agencies; and (vi) any vehicle parking or trip tax. Real Property Taxes does not, however, include Landlord's federal, state or city income, franchise, inheritance or estate taxes. Real Property Taxes for the first and last years of the Lease Term shall be prorated and apportioned between Landlord and Tenant to coincide with the commencement and expiration dates of the Lease Term. **"Tenant's Pro Rata Share"** is calculated by dividing the Floor Area of the Premises by the floor area of the Building which is leased and occupied by tenants.

4.2 Personal Property Taxes; Business Taxes. Tenant shall be liable for and shall pay before delinquency (and, upon request by Landlord, Tenant shall furnish Landlord with satisfactory written evidence of the payment thereof) all taxes and assessments of whatever kind or nature, and penalties and interest thereon, if any (collectively, **"Personal Property Taxes"**), levied against Tenant's furniture, trade fixtures, equipment, merchandise or inventory (collectively, **"Tenant's Personal Property"**) of whatever kind and to whomever belonging, situated or installed in and upon the Premises, whether or not affixed to the Premises. Further, Tenant shall pay prior to delinquency all special taxes and assessments or license fees levied, assessed or imposed by law or ordinance, by reason of Tenant's use of the Premises. For the purpose of determining the amount of any such taxes or assessments, figures supplied by the taxing authority as to the amount thereof shall be conclusive.

4.3 Utilities; Tenant Responsible For Payments. During the Term of this Lease, Tenant shall either: (i) within thirty (30) days following receipt of an invoice from Landlord, reimburse Landlord if Landlord has paid the bill; or (ii) pay directly to the vendor and/or utility company, before delinquency, at its sole cost, all charges for trash removal, alarm monitoring, water, gas, heat, electricity, telephone service, internet, fiber optics, any and all usage, service, hook up, connection, availability and/or standby fees, sewer service and sewer rental, charged or attributable to the Premises, and all other services or utilities used in connection with the Premises. Nothing contained in this Lease shall limit Landlord in any way from granting or using easements on, across, over and under the Property for the purpose of providing utility services. Landlord shall not be liable to Tenant in damages or otherwise if any utilities or services set forth in this Section 4.3 are interrupted or terminated, nor shall any such termination relieve Tenant of any of its obligations under this Lease.

ARTICLE 5 - ALTERATIONS

5.1 Alterations. Except for ordinary interior decorating which does not require a building permit, Tenant shall not make any installations, additions, demolitions, alterations or improvements or perform any Construction (as defined below) (collectively, **"Alterations"**) in or to the interior or exterior, including storefront and roof, of the Premises without the prior written consent of Landlord, which consent may be given or withheld in Landlord's sole and absolute discretion. Tenant shall deliver to Landlord a set of working drawings, including detailed plans and specifications showing the proposed Alterations. If Landlord consents to such Alterations, Tenant shall give Landlord not less than fifteen (15) days' advance written notice prior to making any Alterations. Landlord shall have the right to post notices of non-responsibility at the Premises at and before anytime Tenant is about to make alterations to the Premises. All Alterations shall be performed by a Landlord- approved contractor and pursuant to building permits, if required, copies of which shall be provided to Landlord prior to commencement of any Alterations, and shall be performed in strict compliance with all Applicable Laws (as defined below). All plans and specifications for Alterations shall strictly conform to all applicable local, state and federal statutes, regulations, rules, codes, including building codes, ordinances and other requirements of governmental authorities now or hereafter in effect, and laws and regulations relating to Hazardous Materials (as defined below), seismic conditions, health, life-safety systems and the accessibility or usability of the Premises by disabled persons (**"Applicable Law(s)"**). Tenant shall be responsible for the cost of any Applicable Law alterations to the Common Area required as a result of any Alterations. In addition, prior to the commencement of any Alterations, Tenant shall provide to Landlord certificates evidencing "Builder's All Risk" insurance coverage in an amount reasonably

determined by Landlord. Within sixty (60) days following completion of construction of the Alterations, Tenant shall deliver to Landlord one set of "as built" drawings. All Alterations shall become part of the Premises upon installation thereof without obligation on the part of Landlord to compensate Tenant for same. Upon the expiration or termination of this Lease, Landlord may require Tenant to remove any or all Alterations and other tenant improvements, whether installed by Landlord or Tenant, and to repair any damage occurring in connection with such removal at Tenant's sole expense. As a condition to Landlord's consent to the making of any Alterations, Landlord may require that Tenant deliver to Landlord one hundred percent (100%) performance and payment bonds.

5.2 Liens. Tenant shall at all times indemnify, defend (with counsel selected by Landlord), protect and hold Landlord, Landlord's affiliates and their respective officers, directors, shareholders, agents and employees, the Premises, the Property and Landlord's interest therein, free and harmless from any costs, damages, liability, claims, liens, demands, encumbrances or litigation, including actual attorneys' fees and costs, including those incurred in preparation for trial and appeal, arising directly or indirectly out of any work performed, material furnished, or obligations incurred by Tenant in connection with the Premises (collectively, **"Construction"**), and shall pay or cause to be paid for all Construction which will or may result in a lien on the Premises or the Property or Landlord's reversionary estate therein, and will keep the Premises and Tenant's leasehold estate free and clear of all mechanic's liens and materialmen's liens. Should any claim or lien be filed against the fee interest in the Property, the Premises or Tenant's leasehold estate, or any action or proceeding be instituted affecting the title to the Premises or the Property, Tenant shall deliver to Landlord written notice thereof within five (5) business days from the date Tenant obtains knowledge thereof. The foregoing indemnification obligations shall survive the expiration or earlier termination of this Lease.

5.3 Contest Of Liens. If Tenant desires to contest any claim of lien, it shall within five (5) calendar days after the filing of the lien, furnish Landlord with cash security in the amount of one and one half (1-1/2) times the claim of lien, plus estimated costs and interest, or furnish Landlord with a surety bond of a responsible licensed Nevada corporate surety in the amount and manner sufficient to release the Property and the Premises from the charge of the lien. Nothing contained herein shall prevent Landlord, at the cost and for the account of Tenant, from obtaining and filing, at Tenant's expense, a bond conditioned upon the discharge of such lien, in the event Tenant fails or refuses to furnish the same within said five (5) calendar day period, in which event Tenant shall reimburse Landlord for the premium on such bond plus Interest (as defined below) upon demand.

5.4 Satisfaction Of Liens. Immediately upon entry of final judgment in any action in which Tenant contests any such claim of lien, if such final judgment shall establish the validity of the claim secured by the lien, or any part thereof, and within five (5) calendar days after the filing of any lien for record which Tenant does not in good faith contest, Tenant shall fully pay and discharge such judgment or lien, as the case may be, and Tenant shall reimburse Landlord upon demand for any and all loss, damage and expense, including without limitation actual attorneys' fees, which Landlord may suffer or be put to by reason thereof plus Interest.

5.5 UCC Filings. Tenant agrees that it shall not make any filing or recording under the Uniform Commercial Code with regard to fixtures at the Premises or any other filing or recording that would appear in any real or personal property records in Nevada or otherwise.

5.6 Specific Lien Provisions. Pursuant to Section 108.234 of the Nevada Revised Statutes (as amended or supplemented from time to time, **"NRS"**), Landlord hereby informs Tenant that Tenant must comply with the requirements of NRS § 108.2403 and NRS § 108.2407. Tenant shall take all actions necessary under laws of the State to ensure that no liens encumbering Landlord's interest in the Premises, the Property and/or the Building arise as a result of any Construction, which actions shall include, without limitation, the recording of a notice of posted security in the office of the Official Records of Clark County, Nevada, in accordance with NRS § 108.2403(1)(a), and either (i) establish a construction disbursement account pursuant to NRS § 108.2403(1)(b)(1), or (ii) furnish and record, in accordance with NRS § 108.2403(1)(b)(2), a surety bond for the prime contract for Construction at the Premises that meets the requirements of NRS § 108.2415. Tenant shall notify Landlord of the name and address of Tenant's prime contractor who will be performing any Construction as soon as it is known. Tenant shall notify Landlord immediately upon the signing of any contract with the prime contractor for Construction, Alterations or repair of any portion of the Premises or any improvements to the Premises. Tenant may not enter the Premises to begin Construction or Alterations until Tenant has delivered evidence satisfactory to Landlord that Tenant has complied with the terms of this Section 5.6. Failure by Tenant to comply with the terms of this Section 5.6 shall permit Landlord to declare an Event of Default and to terminate this

Lease. Further, Landlord shall have the right to post and maintain any notices of non-responsibility. In the event this Lease is terminated pursuant to the foregoing, neither Party hereunder shall have any liability to the other under this Lease except for then-outstanding obligations and obligations that expressly survive the early termination or expiration of this Lease.

ARTICLE 6 - COMMON AREA

6.1 Common Area. The term **"Common Area(s)"** shall mean all areas, now or later made available for the common use of tenants of the Building and patrons thereof, including the common hallway and men's and women's restroom in the Building depicted on **Exhibit B** attached hereto and incorporated herein by this reference. Subject to all of the provisions of this Lease, during the Lease Term, Tenant and its customers and employees shall have a nonexclusive license to use the Common Area. No fence, rope, wall, structure, division, rail or any other obstruction shall be placed, kept, permitted or maintained upon the Common Area or any part thereof by Tenant, nor shall the sale, display, advertising, promotion, or storage of merchandise or any item used in Tenant's business or any business activities of any kind be conducted in the Common Area by Tenant without Landlord's prior written consent, which may be withheld in Landlord's sole discretion.

6.2 Parking. Subject to the provisions of this Lease and regulations promulgated from time-to-time by Landlord, Tenant acknowledges that: (i) subject to Section 6.1 above and this Section, designated vehicle parking sections on the Building Parcel are for the benefit and use of the public, including the guests of the Premises and Tenant's employees, guests and customers and other tenants in the Building; and (ii) Landlord and the Landlord Parties (as defined below) have not and do not make any representations or warranties of any nature whatsoever, now or in the future, with respect to the availability or adequacy of vehicle parking spaces on the Building Parcel or the Exclusive Parking Area. Tenant has personally inspected the Premises and has satisfied itself that parking on the Building Parcel and the Exclusive Parking Area is adequate for Tenant's purposes.

6.3 Common Area Maintenance and Repair. Tenant shall, at Tenant's sole expense, maintain the Common Areas in good, clean, sanitary and safe order, free of debris. If Tenant refuses or neglects to so maintain the Common Areas, or any part thereof, in a manner reasonably satisfactory to Landlord, Landlord shall have the right, but not the obligation, on giving Tenant reasonable advance written notice of its election to do so, to perform such maintenance on behalf of and for the account of Tenant. Tenant shall within thirty (30) days after written request, reimburse Landlord for costs incurred by Landlord, plus an administrative fee of fifteen percent (15%) of such costs incurred by Landlord. Except as required of Tenant pursuant to this Section, Landlord shall keep the Common Areas in good repair, including any replacement required for such purpose; provided, however, that Tenant shall within thirty (30) days after written request, reimburse Landlord for Tenant's Pro Rata Share of the costs incurred by Landlord in connection with such repairs (the "**Common Area Repair Expenses**").

6.4 Operation of Common Area. Landlord shall have the sole and exclusive control of the Common Area, and the right to determine the nature, size and extent of the Common Area from time-to-time which, in its opinion, are deemed desirable for the Property, and to make changes to the Common Area. Landlord's rights shall include, but not be limited to, the right to (i) restrain the use of the Common Area by unauthorized persons; (ii) temporarily close any portion of the Common Area for repairs, improvements or alterations, to discourage noncustomer use, to prevent dedication or an easement by prescription or for any other reason deemed sufficient in Landlord's reasonable judgment; and (iii) renovate, upgrade or change the shape and size of the Common Area or add, eliminate or change the location of improvements to the Common Area including, without limitation, parking areas, roadways and curb cuts, and to construct buildings on the Common Area ("**Remodeled Center**"). Tenant acknowledges that such construction, modification, reduction or expansion of the Property or any part thereof if and when it may occur, will involve barricading, materials storage, noise, dust, vibration, scaffolding, demolition, structural alterations, the presence of workmen and equipment, rearrangement of Common Areas and lighting facilities, redirection of vehicular and pedestrian traffic, and other inconveniences typically associated with construction. Landlord and its authorized employees, contractors, architects and engineers shall have the right to enter the Premises for purposes of inspecting, surveying and working therein and shall have the right to use a portion of the Premises to accommodate any structures, columns, mains, conduits, shafts, footings, piers, pipes and other facilities required for the Remodeled Center. Tenant shall not be entitled to any damages for any interference or interruption of Tenant's business upon the Premises, and during the course of construction, Tenant shall continue to pay Minimum Rent and Additional Rent.

ARTICLE 7 - TENANT'S CONDUCT OF ITS BUSINESS

7.1 Rules and Regulations. Tenant shall not use the Premises or Common Area, or any part thereof, in violation of rules and regulations which are promulgated by Landlord and delivered to Tenant from time-to-time governing the Common Area and the Premises, provided that they are not inconsistent with any express provisions of this Lease.

7.2 Compliance with Law; Permits. Tenant, at Tenant's sole expense, shall comply with all Applicable Laws pertaining to the use or condition of the Premises and the conduct of Tenant's business. Tenant shall give to Landlord immediate written notice upon Tenant's becoming aware that the use or condition of the Premises is in violation of any Applicable Laws. The judgment of any court of competent jurisdiction or the admission of Tenant in any action or proceeding against Tenant, whether Landlord is a party thereto or not, of any such Applicable Laws violation relating to such use or condition shall be conclusive of that fact as between Landlord and Tenant. Without limiting the foregoing, Tenant shall, at its sole expense, obtain and maintain all permits, approvals, licenses, and other governmental requirements to operate the Premises for the Permitted Use required by any Applicable Laws of any governmental authority with jurisdiction over the operations of Tenant or Landlord, including, without limitation, all health, building, alcoholic beverage or liquor licenses or permits.

7.3 Deliveries. Tenant shall: (i) cause the loading or unloading of trucks or similar delivery vehicles on the Property to be done only in the loading and service areas which shall be designated by Landlord and, to the extent feasible, such deliveries shall be made during off-peak traffic periods; (ii) not obstruct the sidewalks, adjoining street or Common Areas; and (ii) perform or cause to be performed the loading and unloading of trucks, delivery and service vehicles in conformance with all Applicable Laws, and only during such hours and days and in accordance with procedures that are established by Landlord from time to time and communicated to Tenant.

7.4 Tenant's Employees. Tenant shall, at all times, be responsible for the actions of its employees in connection with its obligations under this Lease. Tenant shall use its best efforts to assist and cooperate with any (i) third-party audit, (ii) any criminal investigation or investigation by a regulatory agency, or (iii) internal investigation by Landlord involving any of Tenant's employees.

7.5 Anti-Terrorism Law. Tenant represents and warrants to Landlord that (i) Tenant is not acting, directly or indirectly, for or on behalf of any person, group, entity, or nation, named by any Executive Order or the United States Treasury Department as a "terrorist", "Specially Designated National and Blocked Person", or other banned or blocked person, group, or nation (collectively, **"Banned Persons"**) pursuant to any anti-terrorism law; (ii) Tenant is not engaged in this Lease transaction, or instigating or facilitating this Lease, directly or indirectly on behalf of any Banned Person; (iii) Tenant currently does not appear, and throughout the Lease Term, Tenant shall not appear, on any list of Banned Persons; (iv) no anti-terrorism law prohibits Landlord from doing business with Tenant; (v) Tenant shall not, during the Lease Term, violate any anti-terrorism laws; and (vi) Tenant shall not, during the Lease Term, do business with any party, individual, or entity that has violated or will violate any anti-terrorism laws. For purposes of this Lease, "**anti-terrorism laws**" shall mean Executive Order 13224 and related regulations promulgated and enforced by the Office of Foreign Assets Control, the Money Laundering Control Act, the United States PATRIOT Act, or any similar law, order, rule or regulation enacted in the future. Tenant shall defend (with attorneys approved in writing by Landlord), protect, indemnify and hold Landlord harmless from and against any and all claims, causes of action, liabilities, damages, costs and expenses (including, without limitation, attorneys' fees), arising from or related to a breach of the foregoing representations and warranties. The foregoing indemnity obligations of Tenant shall survive the early termination or expiration of this Lease.

7.6 Security. Tenant shall have the sole responsibility of providing security within the Premises and the persons therein. Under no circumstances shall Landlord be liable to Tenant or to any other person by reason of any theft, burglary, robbery, assault, trespass, unauthorized entry, vandalism, or any other act of any third person occurring in or about the Premises, and Tenant shall indemnify, defend and hold Landlord harmless from and against any and all losses, liabilities, judgments, costs and expenses (including but not limited to reasonable attorneys' fees and other costs of investigation, defense and appeal) which Landlord may suffer by reason of any claim asserted by any person arising out of, or related to, any of the foregoing. Nothing contained herein shall be deemed to create any liability upon Landlord for any damage to motor vehicles of customers or employees or for loss of property from within such motor vehicles. The indemnification in this Section shall survive the expiration or earlier termination of this Lease.

ARTICLE 8 - REPAIRS AND MAINTENANCE

8.1 Landlord's Right of Access. At all reasonable times (except in the event of an emergency, in which case Landlord shall proceed as is practicable under the circumstances), Landlord, and its authorized agents and representatives, shall be entitled to enter the Premises for the purpose of: (i) showing the same to prospective purchasers, lenders and tenants; (ii) serving and posting thereon such notices as Landlord may deem necessary or appropriate for protection of Landlord, its interests or the Premises, including notices of non-responsibility; (iii) inspecting the Premises or any portion thereof and conducting testing, monitoring, sampling and/or analyses for Hazardous Materials; and (iv) making necessary or desirable repairs, renovations or improvements to or expansion of the Premises or the Property and performing any work therein which Landlord may elect or be required to make hereunder, or which may be necessary to comply with any Applicable Laws, or which Landlord may deem necessary or appropriate to prevent waste, loss, damage of or deterioration to the Premises or for the purpose of installations within or maintenance of Common Areas or other portions of the Property which are readily accessible from within the Premises. Notwithstanding the foregoing, Tenant shall be responsible for any work which may be necessary to comply with any Applicable Laws if such necessity arises from the particular use conducted by Tenant at the Premises, or any Alterations performed by Tenant. Landlord reserves the right to use, from time-to-time, the exterior walls, floor, roof and plenum in, above and below the Premises, the Common Area, the Property and/or the Building for any purpose. Landlord shall not in any event be liable for inconvenience, annoyance, disturbance, loss of business or quiet enjoyment, or other damage or loss to Tenant by reason of making any such repairs or performing any such work upon the Premises or on account of bringing materials, supplies and equipment into, upon or through the Premises during the course thereof, and the obligations of Tenant under this Lease shall not thereby be affected in any manner whatsoever.

8.2 Landlord's Repair Obligations. Provided that Tenant is not in default of Tenant's obligations hereunder, Landlord shall keep and maintain in good order, repair and condition and, where necessary, replace (except where covered by other provisions of this Lease) the following portions of the Premises: structural elements, foundations, concrete slab, roof and roof covering (but not the interior ceiling), gutters, downspouts, structural columns and beams and the exterior walls (but not interior surfaces thereof and not the storefronts, doors, door frames, door checks, plate glass, window frames or security grills), and all plumbing, electrical, sewage, air-conditioning, ventilating and heating facilities. The costs incurred by Landlord in the performance of all of its rights and obligations under this Section shall be a Common Area Repair Expense. If any of the aforementioned portions of the Premises, the Property or the Building are in need of repair, replacement or alteration because of the abuse, misuse, act, fault, neglect, omission of Tenant (or of its agents, employees, licensees or contractors), or default of Tenant in its obligations hereunder, or due to breaking or entering into the Premises by third parties, then Tenant, at its expense, and not Landlord, shall make the required repair or alteration. Tenant waives the right to make repairs at Landlord's expense under any Applicable Laws.

8.3 Tenant's Repair Obligations. Except as expressly provided in Section 8.2 above, Landlord shall not be obligated to make repairs, replacements or additions of any kind nor provide maintenance or janitorial service upon the exterior or interior of the Premises or upon any of Tenant's Personal Property. Except as provided in Section 8.2 above, Tenant shall, at Tenant's sole expense, maintain the Premises, and Tenant's fixtures and equipment, in first-class condition and repair and in compliance with all Applicable Laws and insurance requirements, and in good, clean, sanitary and safe order, free of debris (including sidewalks and walkways adjacent to the Premises), including, without limitation, the maintenance, replacement and repair of any storefront, doors or door frames, locks and closing devices, door checks, interior walls, ceiling, window casements or frames, plate glass, windows, security grills, electrical and plumbing components within the Premises or walls, including the grease trap, or on the exterior of the Premises which exclusively serve the Premises, utility meters, ceiling and floor of the Premises, except for electrical or plumbing lines which service premises other than the Premises. If Tenant refuses or neglects to make repairs and/or maintain the Premises, or any part thereof, in a manner reasonably satisfactory to Landlord, Landlord shall have the right, but not the obligation, on giving Tenant reasonable advance written notice of its election to do so, to make such repairs or perform such maintenance on behalf of and for the account of Tenant. Tenant shall within thirty (30) days after written request, reimburse Landlord for costs incurred by Landlord, plus an administrative fee of fifteen percent (15%) of such costs incurred by Landlord.

8.4 Trash Removal. Tenant shall place all waste, garbage and other trash generated from Tenant's business at the Premises in heavy duty, sealed double plastic bags or other appropriate containers reasonably approved by

Landlord, and Tenant shall place all trash generated from Tenant's conduct of business at the Premises in a designated general trash storage area and shall cooperate with Landlord's trash removal contractor. Tenant shall cause a garbage collection company to remove the trash from the storage area at the Premises.

8.5 Pest Control. Tenant, at Tenant's expense, shall maintain at all times throughout the Lease Term a written service contract with a licensed, bonded professional pest and sanitation control service to perform inspection and services for the purposes of endeavoring to keep the Premises reasonably constantly pest free and vermin free, including control coverage for the following: cockroaches, ants, earwigs, weevils, silverfish, spiders, beetles, rats, mice and rodents of all types. If a vermin infestation is found in the Premises, Tenant, at Tenant's expense, shall have a bonded professional pest and sanitation control operator immediately remedy such event of infestation. Such service shall include, without limitation, the moving of furniture, fixtures, equipment or inventory during inspection and spraying. Notwithstanding the foregoing, if Tenant or Tenant's pest control operator fails to immediately remedy such event of infestation to Landlord's sole satisfaction, Landlord may contract with its own pest control operator to remedy such event of infestation, and the total costs incurred by Landlord shall be paid by Tenant to Landlord within thirty (30) calendar days after written demand by Landlord.

8.6 Health Department Notices. Tenant shall comply with all health department and other governmental rules and regulations applicable to Tenant's operations in the Premises and shall promptly: (i) furnish or cause to be furnished to Landlord copies of all health department and other governmental reports, notices and citations issued with respect to the Premises; and (ii) cure or otherwise eliminate all deficiencies and violations noted by the health department and other governmental authorities and take all required actions to prevent the reoccurrence of such deficiencies and violations.

8.7 Odor and Noise Control. Throughout the Lease Term, Tenant, at Tenant's sole expense, shall maintain the Premises in a clean, sanitary and quiet manner and shall take such steps as may be necessary, in the sole discretion of Landlord, to keep the Premises free of public and/or private nuisances, waste, odors, including cooking odors, and loud sounds, including music associated with Tenant's business or from the operation of any instrument, apparatus, equipment, radio, television or amplification system. Upon Tenant's receipt of notice of any complaint of odor or noise that may be resulting, directly or indirectly, from the operation of Tenant's business, Tenant, at Tenant's sole expense, shall take such steps as may be necessary to immediately remedy such odor or noise. Notwithstanding the foregoing, if Tenant fails to immediately remedy such odor or noise to Landlord's sole satisfaction, Landlord may, in addition to Landlord's other remedies for breach of Tenant's obligations hereunder, take such action it deems appropriate to cure such odor or noise, and the total costs incurred by Landlord shall be paid by Tenant to Landlord within thirty (30) calendar days after written demand by Landlord.

ARTICLE 9 - ENVIRONMENTAL MATTERS

9.1 Hazardous Materials. As used in this Lease, the terms "**Hazardous Materials**" means those substances included within the definitions of "hazardous substances," "hazardous materials," "hazardous wastes," "toxic substances," or "solid waste" including any hazardous, toxic or radioactive substance, material, matter, such as but not limited to asbestos, petroleum products or waste which is or becomes regulated by under any current or future federal, state, or local statute, law, ordinance, rule, or interpretation thereof, and "**Hazardous Materials Laws**" means all such current or future federal , state, or local statutes, laws, ordinances, rules or interpretations thereof, including the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. 9601 et seq. (**"CERCLA"**), and the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq. (**"RCRA"**). Upon becoming aware, Tenant shall give Landlord immediate written notice of: (i) any regulatory action, or third-party claims (instituted, completed or threatened) with respect to the presence of any Hazardous Material on the Premises; (ii) any spill, release, discharge or disposal of Hazardous Material on or from the Premises; (iii) all matters where Tenant is required to give notice pursuant to Applicable Laws; and (iv) Tenant's storage, use, handling or disposing of any Hazardous Materials at the Premises, or its intention to do so, in which event Tenant shall notify Landlord in writing at least ten (10) days prior to their first appearance on the Premises and Tenant's failure to do so shall constitute a default under this Lease. Such notification shall include identification (type and common name) and quantities of all Hazardous Materials, or any combination thereof, which are or intended to be stored, used, handled or disposed of on, under or about the Premises. Tenant shall provide its employees, agents, subcontractors, as well as any governmental entities, the public and any other person or entity as required by Applicable Laws, with any and all notices, warnings, disclosures or other information

concerning Hazardous Materials related to the Premises or the Property, required by any Applicable Laws applicable to Tenant or the Premises.

9.2 Hazardous Material Remediation. If any Hazardous Material attributable to Tenant, or Tenant's sublessees, successors or assigns, or their respective agents, employees, contractors, invitees and customers (each, a **"Tenant Party"** and collectively, **"Tenant Parties"**), or the activities of any of them, is found in, on, under or about any portion of the Property, Landlord may, at any time or from time-to-time, require Tenant to conduct monitoring or evaluation activities with respect to such Hazardous Materials, at Landlord's sole discretion, and at Tenant's sole cost and expense, performed by environmental specialists approved in advance by Landlord. Such monitoring and/or evaluation activity may include, without limitation, soil testing, air testing, production waste stream analysis, and if necessary, in Landlord's sole discretion, groundwater testing. Tenant shall promptly take all actions, at its sole expense, necessary to return the Premises and the Common Area to the condition existing prior to the introduction of such Hazardous Material to the Premises or the Common Area in accordance with applicable Applicable Laws, provided that Landlord's written approval of such actions shall first be obtained. At Tenant's expense, including Landlord's actual attorney and expert consultant fees, Landlord shall have the right to join and participate in, as a party if it so elects, any legal proceedings or actions affecting the Premises initiated in connection with any environmental law, rule or regulation. The foregoing obligations of Tenant shall include, without limitation, costs incurred for or in connection with any investigation of the Property conditions or any clean-up, remedial work, monitoring, restoration or closure work required by any governmental agency or by Landlord because of any Hazardous Material present in, under, on or about the Premises or the Common Area caused by any Tenant Party. If Tenant or any other Tenant Party causes or permits a release of a Hazardous Material or is in noncompliance with any applicable Applicable Law or requirement of this Lease, Landlord may make a demand for action upon Tenant. If Tenant does not respond within five (5) calendar days (unless there is an emergency, in which case Tenant shall respond as soon as practicable), Landlord may, at its option, take all necessary or desirable actions to remedy the release or noncompliance at Tenant's sole expense, which sums shall be immediately due and payable to Landlord. At any time during the Lease Term Tenant shall, if required by any governmental agency, promptly take whatever steps are necessary to investigate and remedy any contamination or discharge by Hazardous Material caused by any Tenant Party. Landlord's consent to any remediation action by Tenant or its agents shall not constitute Landlord's endorsement, ratification or liability therefor.

9.3 Hazardous Materials Indemnification. Tenant shall indemnify Landlord and the other Landlord Parties (as defined below) and hold Landlord and the other Landlord Parties harmless from and against any and all claims, losses, liabilities, penalties, damages and expenses (including, but not limited to, actual attorneys' fees and expenses of counsel selected by Tenant and approved by Landlord, which approval shall not be unreasonably withheld, and attorneys' fees and expenses awarded against Landlord) that Landlord may sustain or have asserted against it by reason of or in connection with (i) the bringing or discharge of any Hazardous Materials in, on, under, about or from the Premises by any Tenant Parties, (ii) the transportation or disposal of any Hazardous Materials to or from the Premises by any Tenant Parties, (iii) any actual or alleged failure by any Tenant Parties to comply with any Hazardous Materials Law, or (iv) any breach by any Tenant Parties of any obligations that are set forth in, or are required to be imposed by this Article 9. Tenant's indemnification obligations hereunder shall include, whether foreseeable or unforeseeable, (a) all costs of any required or necessary Hazardous Materials management plan, investigation, repairs, cleanup, detoxification or decontamination of the Premises or other affected property and the implementation of any closure, remedial action or other required plans in connection therewith; (b) all other damages suffered by Landlord or the other Landlord Parties which were proximately caused by the acts or omissions of Tenant or any Tenant Party, including without limitation all consequential damages, diminution in value of the Premises, the Property or the Building, damages for the loss or restriction on use of rentable space or any amenity of the Premises, the Property or the Building, and sums paid in settlement of claims, penalties, attorneys' fees and costs, consultant and laboratory fees. Said indemnification obligations shall survive the expiration or earlier termination of this Lease. To the fullest extent permitted by law, a good-faith settlement by Landlord or Tenant of any claim indemnified under this Section or any related claim shall not bar any claim by Landlord or any Landlord Party for indemnification under this Section. The indemnification obligations of Tenant under this Section shall not include indemnification for (1) claims relating to Hazardous Materials conditions on the Premises existing before the Term, or (2) claims resulting solely from the acts or omissions of Landlord.

9.4 Emissions. Tenant shall not, without the prior written consent of Landlord: (i) make, or permit to be made, any use of the Premises or any portion thereof which emits, or permits the emission of an unreasonable amount of smoke, grease, oil, dust, sweepings, dirt, cinders, or fumes into the atmosphere, the ground or any body of water, whether natural

or artificial, or that violates any Applicable Laws; (ii) create, or permit to be created, any sound pressure level which will interfere with the quiet enjoyment of any real property adjacent to the Premises, or which will create a nuisance; (iii) transmit, receive, or permit to be transmitted or received any electromagnetic, microwave or other radiation which is harmful or hazardous to any person or property in, on or about the Premises, or anywhere else, or which interferes with the operation of any electrical, electronic, telephonic or other equipment wherever located, whether on the Premises or anywhere else; (iv) create, or permit to be created, any ground vibration that is discernible outside the Premises; or (v) produce or permit to be produced any intense glare, light or heat except within an enclosed or screened area and then only in such manner that the glare, light or heat shall not be discernible outside the Premises.

ARTICLE 10 - INDEMNIFICATION

10.1 Tenant Indemnity. Except for the grossly negligent or willful acts or omissions of Landlord, its affiliates or their respective officers, directors, members, shareholders, agents and employees (collectively referred to herein as "**Landlord Parties**") which are the direct and sole cause of the following described occurrences, Tenant shall indemnify, defend (with counsel selected by Tenant and who is reasonably satisfactory to Landlord), protect and hold harmless the Landlord Parties, the Premises, the Property and the Building and Landlord's interest therein from and against any and all liens, claims, demands, actions, causes of action, obligations, penalties, charges, liabilities, damages, losses, costs or expenses, including actual attorneys' fees and costs of litigation, including fees and costs incurred in preparation for litigation, investigation and appeal, in connection with or arising from (i) the conduct or management of the business operated at the Premises, (ii) Tenant's or any other Tenant Parties' use or occupancy of the Premises and/or the Common Area, including the parking area, (iii) Tenant's or any other Tenant Parties' acts or omissions, or breach or default on the part of Tenant in the performance of any covenant or agreement on the part of Tenant to be performed pursuant to the terms of this Lease, or (iv) violations of or noncompliance with any Applicable Laws or provisions in any insurance policy covering the Premises, the Property or the Building.

10.2 Waiver. All of Tenant's Personal Property kept, stored or maintained on the Premises shall be done so at the sole risk of Tenant. Landlord, Landlord's Parties, the Premises, the Property and the Building shall not be liable, and Tenant waives all claims against the foregoing persons, entities and properties for loss, damage or destruction of Tenant's Personal Property, including any loss to vehicles and any resulting loss of business and/or profits sustained by Tenant resulting from or by reason of any condition or activity associated with the Premises or any portion of the Property, including the Common Area, or as a result of any equipment located therein becoming damaged, destroyed or out of repair, including from earth movement and/or subsidence, flood waters, burst, stopped or leaking sewers, pipes, conduits or plumbing fixtures, or through the acts or omissions of any persons renting, occupying or using any part of the Property, or adjacent properties, or for loss or damage resulting to Tenant or its property from interruption of or surges in any utility services, or from any failure of or defect in any electric line, circuit or facility, or from vandalism (other than resulting from the gross negligence or willful misconduct of Landlord or its employees) perpetuated by any person, or any other type of improvement or service on or furnished to the Premises or resulting from any accident in, on or about the Premises or the Property, including the Common Area.

ARTICLE 11 - INSURANCE

11.1 Tenant's Insurance. Tenant shall, at Tenant's sole expense, procure and maintain in full force throughout the Lease Term, insurance with coverage at least as broad and with limits of liability not less than those stated on **Exhibit C**. In no event shall the coverage or limits of the insurance policies be considered as limiting the liability of Tenant under this Lease. Failure of Tenant to maintain the insurance required by this Article 11 shall be deemed a material breach of Tenant's obligations hereunder. In such event Landlord may exercise Landlord's remedies under Section 17.2 below and without further notice to Tenant, deduct from any monies which may be owed Tenant, or bill Tenant for, any premium costs paid by Landlord for such insurance plus Interest on the premiums so expended. Landlord, in the exercise of commercially reasonable discretion or at the direction of its lenders, may adjust the minimum types of coverages required or adjust the minimum limits of coverage upward or downward from time to time but no more than once in any twelve (12) month period. Not less than thirty (30) days prior to the relevant adjustment date, Landlord shall notify Tenant of any required adjustments. Tenant shall pay on demand any increase in Landlord's insurance premiums or deductibles that may be charged because of Tenant's vacating or otherwise failing to occupy the Premises or because of any increase in hazard caused by Tenant or because of any other act or omission by Tenant. This provision shall not be deemed to limit in any respect Tenant's obligations under Section 10.1 above.

11.2 Waiver of Subrogation. Tenant and Tenant's contractor hereby waive any rights of recovery against Landlord and Landlord's employees for injury or loss, including loss or use thereof, and on behalf of Tenant's and Tenant's contractor's insurance companies, any right of subrogation that Tenant and Tenant's contractor may have against Landlord or Landlord's employees.

ARTICLE 12 - DAMAGE/DESTRUCTION

12.1 Landlord's Obligation to Rebuild. Except as provided in Section 12.2, if the Building is partially or totally damaged by fire or other casualty so as to become partially or totally untenantable, which damage is insured against to its actual full replacement cost to satisfy all then Applicable Laws, this Lease shall not terminate. In such event, subject to the provisions of the next sentence, the Premises and the Building shall, to the extent originally constructed by Landlord and permitted by then applicable building codes, zoning ordinances and other Applicable Laws, be rebuilt by Landlord promptly and with due diligence. Landlord shall have no obligation to repair Tenant's Alterations or Tenant's Personal Property.

12.2 Election to Terminate. If: (i) the Premises or any portion of the Building are damaged, whether or not the Premises are a part thereof, by any casualty to the extent of at least twenty five percent (25%) of the cost to replace the damaged portion of the Property at the time of loss without deduction for physical depreciation; or (ii) the Premises or the Building are partially or totally damaged by fire or other casualty, and there are not sufficient insurance proceeds (excluding the deductible amount) made available to Landlord by Landlord's insurance carrier and lender, if applicable, for repair or reconstruction, then in each such case Landlord shall have the option of terminating this Lease by written notice to Tenant given not later than one hundred eighty (180) days after the occurrence of such damage. If no such notice is given within such period, to the extent that insurance proceeds are made available to Landlord in amounts sufficient to restore the Premises and/or Building to an architecturally complete unit, to then applicable building codes, zoning ordinances and other Applicable Laws, and the same can be accomplished within a reasonable period of time, Landlord shall restore the Premises and the balance of the Building originally constructed by Landlord as in Landlord's sole and absolute discretion is necessary to create an economically feasible commercial unit. If Landlord elects to terminate this Lease, this Lease shall terminate effective as of the effective date of the notice of election to terminate.

12.3 Tenant's Obligation to Rebuild. If the Premises is partially or totally damaged by fire or other casualty and this Lease has not been terminated by Landlord in accordance with Section 12.2, Tenant shall promptly repair, reconstruct and rebuild any damage to the Premises not required to be restored by Landlord and open the Premises for business to the public within one hundred eighty (180) days. If Landlord elects or is required to repair or restore the damaged improvements, then with respect to the Premises, Landlord and Tenant each shall be economically responsible to the same extent as each paid for work which was done in the original construction and fixturizing of the improvements within the Premises. Landlord shall have no obligation to repair or restore Tenant's Alterations or Tenant's Personal Property.

12.4 Rent Adjustment. If any destruction or damage to the Premises or Common Area is such as to prevent any operation of Tenant's business being conducted on the Premises, and this Lease is not terminated pursuant to the provisions of this Article 12, and damage or destruction is not a result of Tenant's or Tenant's employees', agents' or customers' acts or omissions, then the Minimum Rent to be paid by Tenant hereunder shall, subject to Section 12.5 below, abate proportionate to the size of the usable space from the date that Tenant cannot conduct business at the Premises, up to and including the time that the Premises have been rebuilt or restored to their prior condition, or to the extent permitted under then applicable Applicable Laws, and Tenant is given physical possession of the Premises and use of the Common Area.

12.5 Damage Caused by Tenant. Notwithstanding the preceding provisions of this Article 12, if the damage to the Premises or the Building was the result of the acts or omissions of Tenant or Tenant's employees, agents or customers, then the Minimum Rent shall be abated (as provided in Section 12.4 above) only to the extent Landlord actually receives from Landlord's insurance company rental or business interruption proceeds allocated thereto.

ARTICLE 13 - CONDEMNATION

13.1 Total Taking. If the whole of the Premises is acquired or condemned by exercise of the power of eminent domain or condemnation, or any transfer of the entire Premises is made in avoidance or because of a threat or imminence thereof (each a "**Taking**" or "**Taken**"), then the Term of this Lease shall cease and terminate as of the date title to the Premises transfers pursuant to such proceeding, all Rent shall be paid up to that date, and Tenant shall have no claim against Landlord nor the condemning authority for the value of any unexpired portion of the Term of this Lease.

13.2 Partial Condemnation. If any portion of the Premises is Taken and such Taking renders the Premises unsuitable for the business of Tenant, then Tenant may, upon at least thirty (30) days' prior written notice to Landlord, terminate this Lease as of the date title to the portion of the Premises transfers pursuant to such proceeding, all Rent shall be paid up to that date and Tenant shall have no claim against Landlord nor the condemning authority for the value of any unexpired portion of the Term of this Lease. In the event of a partial Taking (i) which is not extensive enough to render the Premises unsuitable for the business of Tenant or (ii) where Tenant does not elect to terminate this Lease in accordance with this Section 13.2, then Landlord shall promptly restore the Premises to a condition comparable to the condition at the time of the Taking less the portion lost in the Taking, and this Lease shall continue in full force and effect without any reduction or abatement of Rent.

13.3 Award. In the event of any Taking, whether total or partial, Tenant shall not be entitled to any portion of the award paid for such Taking, and Landlord shall receive the full amount of the award, with Tenant hereby expressly waiving any right or claim to any part thereof.

ARTICLE 14 - ASSIGNMENT AND SUBLEASES

Tenant shall not (voluntarily, by operation of law or otherwise) assign, transfer, mortgage, pledge, hypothecate or encumber this Lease or any interest therein and shall not sublet the Premises or any part thereof or any right or privilege appurtenant thereto or allow any other person (the employees, agents and invitees of Tenant excepted) to occupy or use the Premises or any portion thereof (each, a "**Transfer**") without first obtaining the written consent of Landlord, which consent may be withheld in Landlord's sole discretion. Any consent by Landlord to any act requiring consent pursuant to this Section shall not constitute a waiver of the necessity for such consent to any subsequent act. Tenant shall pay all costs, expenses and attorneys' fees that may be incurred or paid by Landlord in processing, documenting or administering any request of Tenant for Landlord's consent required pursuant to this Section. Landlord may require that each proposed assignee or sublessee agree, in a written agreement satisfactory to Landlord, to assume and abide by all the terms and provisions of this Lease, including those which govern the permitted uses of the Premises. In the absence of an express agreement in writing to the contrary executed by Landlord, no Transfer shall act as a release of Tenant from any of the provisions, covenants and conditions of this Lease on the part of Tenant to be kept and performed. If this Lease is assigned, or if the Premises or any part thereof are underlet or occupied by anybody other than Tenant, Landlord may collect rent from the assignee, under-tenant or occupant and apply the net amount collected to the Rent herein reserved, but no such assignment, under-letting, occupancy or collection shall be deemed a waiver of the provisions of this Section or the acceptance of the assignee, under-tenant or occupant as a tenant by Landlord, or a release of Tenant from further performance of its obligations hereunder.

ARTICLE 15 - SIGNAGE AND ADVERTISING

15.1 General Prohibition. Except as existing on the Effective Date or as expressly permitted by Landlord in writing, in its sole discretion, Tenant shall not place or permit the placing outside of or on the defined exterior roof, doors, windows or walls of the Premises or Common Areas or within four (4) feet of such doors or windows and visible therefrom any signs, lettering, placards, sign easels, awnings, aerials, flagpoles or the like. Tenant, upon request of Landlord, shall immediately remove any such sign, advertisement, decoration, marquee or awning, and if Tenant fails so to do, Landlord may enter upon the Premises and remove the same at Tenant's expense. No advertising medium shall be utilized by Tenant which can be heard or seen outside the Premises including, without limitation, flashing lights, searchlights, loudspeakers, phonographs, radios or televisions. Tenant shall not display, paint, place or distribute any handbill, bumper sticker or other advertising device on any vehicle parked in the Common Area, the Building or the Property, or utilize any

truck or other vehicle signs. Without limiting the foregoing, Tenant shall also not display at the Premises any signs, billboards or advertising materials not directly related to the conduct of its Permitted Use.

15.2 Internal Signs. Subject to the limitations set forth in Section 15.1, Tenant may, at its own expense, erect and maintain upon the interior floor sales areas (meaning those areas of the Premises not visible from outside of the Premises) of the Premises professionally prepared, first-class signs and advertising matter for retail sales from the Premises, which are not hand-lettered, and are customary and appropriate in the conduct of Tenant's business. In this connection, Tenant acknowledges that the Premises are a part of the integrated Property, and agrees that control of all signs by Landlord is essential to the maintenance of uniformity, propriety and the aesthetic values of the Property.

ARTICLE 16 - END OF TERM

16.1 Condition of Premises; Yielding Up. Upon the expiration or termination of the Term of this Lease, Landlord may require Tenant to remove, at its own expense, any or all Alterations and other tenant improvements, whether installed by Landlord or Tenant, and Tenant shall remove all of Tenant's Personal Property that was installed by Tenant or any sublessee, concessionaire or licensee upon the Premises or installed by Landlord at Tenant's request. In case of any injury or damage to the Property or any portion of the Premises resulting from the removal of Alterations, tenant improvements, or Tenant's Personal Property, Tenant shall promptly repair the damage and, in the absence of Tenant timely doing so, Tenant shall promptly pay to Landlord the cost of repairing such injury or damage. Tenant shall complete such removal at the expiration or termination of the Term of this Lease. Tenant shall yield up peaceably to Landlord the Premises in good order, repair and condition in all respects and broom clean, damage by fire, casualty, taking by eminent domain and reasonable use and wear excepted.

16.2 Holding Over. If Tenant otherwise holds the Premises after the expiration or earlier termination of the Term hereof without the written consent of Landlord, to be given or withheld in Landlord's sole discretion, such holding over shall be deemed to have created a tenancy at sufferance only, at a monthly rental equal to one hundred fifty percent (150%) of the total of Minimum Rent and Additional Rent payable by Tenant to Landlord during the calendar month immediately preceding such expiration or termination of the Term, and otherwise subject to all terms of this Lease, and all other charges payable by Tenant hereunder. Neither this Section 16.2 nor Landlord's acceptance of Rent after the expiration or earlier termination of this Lease shall be construed as consent to such holding over. In addition, Tenant shall pay any damages and hold Landlord harmless from any liability incurred in connection with any claims made by any succeeding occupant based on delay of possession. If Tenant fails to surrender the Premises upon the expiration or termination of the Lease Term, Tenant shall indemnify and hold harmless Landlord from all claims, losses, brokerage commissions, lost rents, liabilities and expenses, including actual attorneys' fees and costs of litigation and investigation, resulting from such failure, including without limitation any claims made by any successor tenant arising out of such failure, and Interest on all such sums. The foregoing indemnification obligation shall survive the expiration or earlier termination of this Lease.

16.3 Ownership of Improvements. Any improvements built, constructed or placed within or upon the Premises by Tenant which Landlord elects not to be demolished or removed, shall remain within or upon the Premises and become the absolute property of Landlord without any cost to Landlord upon the termination of this Lease, whether by lapse of time or by forfeiture by reason of default.

ARTICLE 17 - DEFAULT

17.1 Events of Default. The occurrence of any of the following shall constitute a material default and breach of this Lease by Tenant (each an **"Event of Default"**):

17.1.1 Failure To Pay Rent. Any failure by Tenant to pay Rent where such failure continues for five (5) calendar days after written demand by Landlord that such payment was not paid when due; provided, however, such notice shall be in lieu of and not in addition to, any notice required in connection with any unlawful detainer or eviction action; provided, further, that in the event that Landlord has provided one (1) written notice within any twelve (12) month period pursuant to this Section 17.1.1, Landlord shall not be required to provide an additional written notice, and an Event of Default shall be deemed to have occurred if Tenant fails to pay any Rent or other amount when such amount is due.

17.1.2 Failure to Continuously Operate. Failure of Tenant to keep open the Premises for business and continuously conduct normal business operations therein, where such failure continues for five (5) calendar days after written demand by Landlord to cure such failure; provided, however, such written demand shall be in lieu of, and not in addition to, any notice required by Applicable Laws. Tenant shall be deemed to have conclusively violated the provisions of this Section in the event that Tenant does not timely and appropriately respond to any notice of abandonment given by Landlord to Tenant.

17.1.3 Breach of Other Obligations. A failure by Tenant to observe and perform any other provision of this Lease, as the same may be modified from time-to-time, to be observed or performed by Tenant, where such failure continues for the lesser of: (i) the specific time set forth in the applicable Section of this Lease, or (ii) except for non-curable breaches, fifteen (15) calendar days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of such default is such that the same cannot reasonably be cured within such fifteen (15) calendar day period, Tenant shall not be deemed to be in default if Tenant shall within such period commence such cure and thereafter diligently prosecute the same to completion. The notice required from Landlord to Tenant shall be in lieu of, and not in addition to, any notice required by Applicable Laws.

17.1.4 Bankruptcy. The making by Tenant of any general assignment for the benefit of creditors; the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt or filing of a petition for reorganization or arrangement under any law relating to bankruptcy (unless in the case of a petition filed against Tenant the same is dismissed within sixty (60) calendar days of the date of such filing); the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets or of Tenant's interest in this Lease where possession is not restored to Tenant within thirty (30) calendar days; or the attachment, execution or other judicial seizure of substantially all of Tenant's assets or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) calendar days of such seizure.

17.1.5 Health Violation. Tenant receives written notice of the violation of any food, health or sanitation Applicable Law, and Tenant does not commence cure of such violation within forty-eight (48) hours and does not complete such cure by the earlier of fourteen (14) days after such notice or whenever required by Applicable Laws.

17.1.6 Health Closure. Tenant is required to close temporarily or permanently by order of any governmental food, health or sanitation inspection authority.

17.1.7 Health Grading. In the event that the applicable governmental food, health or sanitation inspection authorities maintain a rating or grading system (such as A, B, C) in relation to relative amounts of violations and Tenant receives a grade other than the highest grading category (i.e., having the fewest violations), then (i) Tenant's failure to correct any violations so as to receive the highest grading category at the earliest re-inspection opportunity, or (ii) Tenant's receipt within any six (6) month period of two (2) separate rating or grading determinations that Tenant is not in the highest grading category shall constitute a material default and breach of this Lease.

17.2 Landlord's Remedies. On the occurrence of an Event of Default, Landlord shall have the right to pursue any one or more of the following remedies in addition to all other remedies now or hereafter available to Landlord at law, equity or under this Lease:

17.2.1 Terminate Lease and Possession. Terminate this Lease and Tenant's right to possession of the Premises and recover from Tenant all damages allowed at law or in equity, including without limitation (a) the worth at the time of award of any unpaid Rent which had been earned at the time of the termination, plus (b) the worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of Rent loss Tenant proves could have been reasonably avoided, plus (c) the worth at the time of award of the amount by which the unpaid Rent for the balance of the Lease Term after the time of award exceeds the amount of Rent loss that Tenant proves could be reasonably avoided, plus (d) any other amounts necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which, in the ordinary course of things, would be likely to result therefrom including, but not limited to, the unamortized cost of real estate brokerage commissions, and any costs or expenses incurred by Landlord in: (v) retaking possession of the Premises, including actual attorneys' fees therefor, (w) maintaining or preserving the Premises after any default, (x) preparing the Premises for reletting to a new tenant, including tenant improvement allowances, free or reduced

Rent, repairs or alterations to the Premises, (y) leasing commissions, and (z) any other costs necessary or appropriate to relet the Premises, plus any other amounts in addition to or in lieu of the foregoing as may be permitted from time-to-time by the laws of the State of Nevada. As used in subparagraphs (a) and (b) above, the "worth at the time of award" is computed by allowing interest at the Interest rate (as defined below). As used in subparagraph (c) above, the "worth at the time of award" is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award, plus one percent (1%).

17.2.2 Continuation of Lease in Effect. If Tenant has breached the Lease and abandoned the Premises, Landlord may continue the Lease in effect after Tenant's breach and abandonment and recover Rent as it becomes due, as Tenant has the right to sublet and assign the Lease, subject only to reasonable limitations. No reentry to the Premises for purposes of reletting the Premises, acts of maintenance or preservation or appointment of a receiver to protect Landlord's interest in the Premises, shall be construed as an election by Landlord to terminate Tenant's right to possession under this Lease, unless a written notice of such intention is given by Landlord to Tenant; and notwithstanding any such reletting without such termination, Landlord may at any time thereafter elect to terminate Tenant's right to possession and this Lease in the event that at such time Tenant remains in breach hereunder.

17.2.3 Reletting. Upon repossession, Landlord shall have the right, at its election, to relet the Premises or any part thereof for such period or periods (which may be extended beyond the Term of this Lease) and at such Rent and upon such other terms and conditions as Landlord may, in good faith, deem advisable, and in connection with any such reletting, Landlord may make or cause to be made such additions, alterations, and improvements to the Premises as Landlord shall, in good faith, deem advisable and the making of such additions, alterations and improvements shall not release Tenant from liability hereunder. Landlord shall in no event be liable and Tenant's liability shall not be affected or diminished in any way whatsoever for failure to relet the Premises, or in the event the Premises are relet, for failure to collect any rental under such reletting. Notwithstanding Landlord's recovery of possession of the Premises, Tenant shall continue to pay on the dates herein specified, the Minimum Rent and all Additional Rent which would be payable hereunder if such repossession had not occurred, less a credit for the net amounts, if any, actually received by Landlord through any reletting of the Premises. In addition, Landlord shall have the right to recover from Tenant all damages allowed at law or in equity, including without limitation, the damages set forth in Section 17.2.1(d) above.

17.2.4 Removal of Goods. If Landlord shall terminate this Lease or take possession of the Premises by reason of a default by Tenant, and/or those holding under Tenant, Tenant and those holding under Tenant shall forthwith remove their goods and effects from the Premises. If Tenant or any such claimant shall fail to effect such removal forthwith, Landlord may, without liability to Tenant or to those claiming under Tenant, remove such goods and effects and may store the same for the account of Tenant or of the owner thereof in any place selected by Landlord, or, at Landlord's election, Landlord may sell the same in accordance with Applicable Laws. If, in Landlord's judgment, the cost of removing and storing or the cost of removing and selling any of such goods and effects exceeds the value thereof or the probable sale price thereof, as the case may be, Landlord shall have the right to dispose of such goods in any commercially reasonable manner. Tenant shall be responsible for all costs of removal, storage and sale, and Landlord shall have the right to reimburse itself from the proceeds of any such sale for all such costs paid or incurred by Landlord. If any surplus sale proceeds shall remain after such reimbursement, Landlord may deduct from such surplus any other sum due to Landlord hereunder and shall pay over to Tenant any remaining balance of such surplus sale proceeds.

17.2.5 Partial Payment. No payment by Tenant or receipt or acceptance by Landlord of a lesser amount than the Rent shall be deemed to be other than on account of the earliest stipulated Rent due, and shall not be a waiver of any preceding breach by Tenant of any provision hereof other than the failure of Tenant to pay that part of the Rent so accepted nor shall any endorsement or statement on any check or any letter accompanying any check or payment as Rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or pursue any other remedy in this Lease, at law or in equity.

17.2.6 Waiver of Notice; Performance by Landlord. Notwithstanding any provision of this Article 17: (i) if Tenant is required to comply with any Applicable Law, Tenant shall not be entitled to notice of default from Landlord and right to cure beyond the period within which such compliance may be required; and (ii) Landlord may, with or without notice to Tenant, elect to perform those acts in respect to which Tenant is in default for the account and at the expense of Tenant; provided, however, that Landlord shall be under no obligation to observe or perform any covenant of this Lease on its part to be observed or performed which accrues after the date of any default by Tenant hereunder. If, by reason of

Tenant's default, Landlord is compelled to pay or elects to pay any sum of money, including without limitation attorneys' fees, such sums so paid by Landlord, with Interest thereon, shall be due from Tenant to Landlord on the first day of the month next following such payment by Landlord.

17.2.7 Interest. Whether or not specifically elsewhere provided herein, any sum accruing to Landlord under the terms and provisions of this Lease which are not paid when due, or which Landlord advances or pays due to Tenant's failure to do so, shall bear interest at twelve percent (12%) per annum from the date due, but in any event not in excess of the maximum lawful rate of interest allowed to be charged by non-exempt lenders in business related loans under the Nevada usury law (**"Interest"**). Interest shall accrue from the date any sum hereunder becomes due and payable by the terms and provisions of this Lease until paid. Acceptance of Interest by Landlord shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder.

17.2.8 Late Charges. Tenant hereby acknowledges that late payment (including the failure of any of Tenant's checks to clear for any reason) by Tenant to Landlord of any Rent will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, late charges and interest which may be imposed on Landlord by the terms of any promissory note secured by a trust deed to which Landlord is bound. Accordingly, if any installments of Rent shall not actually be received by Landlord within ten (10) days after such amount shall be due, Tenant shall pay to Landlord a late charge equal to ten percent (10%) of all such overdue amounts. Acceptance of such late charge by Landlord shall in no event constitute a waiver by Landlord of Tenant's default with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted at law or equity or pursuant to this Lease. The payment of such late charge shall be in addition to and not in lieu of Interest.

17.2.9 Remedies Cumulative. Each right and remedy of Landlord provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, including, but not limited to, suits for injunctive relief and specific performance. The exercise or beginning of the exercise by Landlord of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by Landlord of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

17.3 Landlord's Default. Landlord shall not be in default of this Lease unless Landlord fails to commence to cure such default promptly after receipt of written notice from Tenant specifying the nature of such default, and fails to complete such cure within a reasonable period of time. Landlord shall not be deemed to be in default of any of Landlord's obligations hereunder to Tenant in the event that any other tenant of the Property breaches any provision of such tenant's lease. Tenant's sole and exclusive remedies against Landlord for a default hereunder by Landlord shall be an action for specific performance, injunction or damages (subject to the provisions of Section 17.4 below), but, without limiting the foregoing, shall not include any right to withhold any Rent or to terminate this Lease. Notwithstanding the foregoing, Landlord, its agents and employees, shall not be liable for, and Tenant waives all claims for lost profits, or consequential, incidental or punitive damages, to person, property or otherwise, sustained by Tenant or any person claiming through Tenant in connection with Tenant's occupancy of the Premises or the terms of this Lease.

17.4 Limitations on Liability. The obligations of Landlord hereunder shall be binding upon Landlord and each succeeding owner of Landlord's interest hereunder only during the period of such ownership, and Landlord and each succeeding owner, including by voluntary conveyance, master lease of all or substantially all of the Property and any beneficiary of an encumbrance on Landlord's estate in the Property (each, a **"Beneficiary"**) who has foreclosed under its deed of trust or who has taken a deed in lieu of foreclosure shall have no liability whatsoever hereunder for any matter arising at any other time; provided, however, that if ownership of or title to the various sections of the Property are severed, each such owner or title holder shall be obligated to Tenant only for acts or omissions occurring during the period of ownership with respect to the rights granted to Tenant in respect of the Property. In the event that the interest or estate of Landlord in the Premises shall terminate by operation of law or a bona fide sale of the Premises or the Property of all or substantially all of the Property, or by execution or foreclosure sale or any other reason or if, for any reason, Landlord ceases to be entitled to the Rent, then in any such event Landlord shall be released and relieved from all liability

and responsibility thereafter accruing to Tenant under this Lease. Anything in this Lease and Section to the contrary notwithstanding, Tenant agrees that, in the event Tenant shall have any claim against Landlord for any default by Landlord or by any Landlord Parties of any covenant, representation, warranty or indemnification hereunder Tenant's sole recourse shall be against Landlord's interest in the Property, for the satisfaction of any claim, judgment or decree requiring the payment of money by Landlord as a result of any default under this Lease or otherwise in connection with this Lease, and no other property or assets of Landlord, Landlord Parties or Beneficiaries shall be subject to the levy, execution or other enforcement procedure for the satisfaction of any such claim, judgment, injunction or decree. In no event shall Landlord or Beneficiaries be responsible for injury to Tenant's business or for any loss of income or profit therefrom.

17.5 Non-Waiver. The waiver by either party of any default in the performance by the other of any covenant contained herein shall not be construed to be a waiver of any preceding or subsequent default of the same or any other covenant contained herein. The subsequent acceptance of any Rent, late charge or Interest by Landlord shall not be deemed a waiver of any preceding default other than the failure of Tenant to pay the particular Rent or other sum or portion thereof so accepted, regardless of Landlord's knowledge of such preceding default at the time of acceptance of such Rent or other sum.

17.6 Provisions Regarding Bankruptcy. In addition to any rights or remedies of Landlord under the terms of this Lease, in the event Tenant engages in any one or more of the acts contemplated by the provisions of Section 17.1.4 above and in the event of an assumption of this Lease by a debtor or by a trustee, such debtor or trustee shall within fifteen (15) days after such assumption (i) cure any default or provide adequate assurance that any default will be promptly cured; and (ii) compensate Landlord for actual pecuniary loss or provide adequate assurance that compensation will be made for actual pecuniary loss including, but not limited to, all attorneys' fees and costs incurred by Landlord resulting from any such proceedings; and (iii) provide adequate assurance of future performance. Landlord and Tenant agree that such fifteen (15) day period is reasonable in view of the fact that the Premises is one of a part of an integrated property where the performance by each tenant of its obligations has an effect on the wellbeing of all other tenants and Landlord. Any proposed assignee, including shareholders of a corporate assignee of this Lease, must assume and agree to personally guarantee the performance by assignee of the terms, provisions and covenants of this Lease. If any of the events described in Section 17.1.4 shall occur with regard to Tenant, Tenant hereby irrevocably consents to immediate relief from the automatic stay under 11 U.S.C. Section 362(d). Tenant hereby waives any right of redemption or relief from forfeiture under Applicable Laws in the event Tenant is evicted or Landlord takes possession of the Premises by reason of any default by Tenant hereunder.

ARTICLE 18 - LEASEHOLD MATTERS

18.1 Quiet Enjoyment. Subject to the provisions of this Lease and conditioned upon the timely performance of all of the provisions to be performed by Tenant hereunder, Landlord shall secure to Tenant during the Term the quiet and peaceful possession of the Premises.

18.2 Subordination, Non-Disturbance and Attornment. At Landlord's option, this Lease shall be subordinated or remain senior to any deed of trust presently or in the future encumbering the Premises or the Property or Landlord's fee estate, and to any advances to be made thereunder, any interest thereon, and all renewals, replacements and extensions thereof. Tenant shall attorn to and recognize as Tenant's landlord the Beneficiaries or any purchaser at a foreclosure or judicial sale relating to the deed of trust or debt secured thereby or any transferee by deed or assignment in lieu thereof. Tenant shall execute and deliver to Landlord all instruments that may be required to effect such subordination and attornment.

18.3 Estoppel Certificate. In connection with any proposed sale, financing, refinancing or ground leasing of the Property, Tenant shall, at any time and from time-to-time within five (5) days after written request therefor by Landlord, execute, acknowledge and deliver to Landlord a completed estoppel certificate in a form acceptable to Landlord in its sole discretion together with any related information including Tenant's then-current financial statements as required by Landlord. If Tenant fails to deliver such certificate within said five (5) day period, at Landlord's option, Tenant shall be in default hereunder, or it shall be conclusively deemed to mean that this Lease has commenced as of a date reasonably determined by Landlord, and that it is in full force and effect, there are no existing defenses or offsets in favor of Tenant

which would preclude enforcement of this Lease by Landlord, there are no defaults by Landlord, and no advance Rent or other deposits have been made except as set forth in the Lease.

18.4 Credit Reports. Landlord shall have the right, and Tenant hereby authorizes Landlord, at any time and from time-to-time to obtain a credit report on Tenant. Tenant shall execute any forms reasonably required by Landlord or the credit reporting entity to enable Landlord to obtain a credit report. Tenant shall grant any consent required by any credit reporting agency if necessary or desirable to enable Landlord to obtain a credit report.

18.5 No Subordination of Landlord's Fee. Nothing contained in this Lease shall be construed as an agreement by Landlord, and Landlord shall not have any obligation whatsoever, to encumber or permit to be encumbered by deed of trust of otherwise, Landlord's fee estate for any purpose, including without limitation, for the benefit of Tenant, and Tenant shall not have the right to encumber such interests.

18.6 Force Majeure. The time for performance of Landlord's and Tenant's obligations, except payment of Rent, hereunder shall be extended by the periods of delay in performance caused by inclement weather, earthquake, other acts of God, government moratorium, acts of war and civil disturbance, and judicial actions, provided the party prevented, delayed or stopped shall have given the other party written notice thereof within thirty (30) days of such event causing the prevention, delay or stoppage. Notwithstanding anything to the contrary contained in this Section, in the event any work performed by Tenant or its contractor results in a strike, lockout and/or labor dispute, the strike, lockout and/or labor dispute shall not excuse the performance by Tenant of the provisions of this Lease.

18.7 Relocation of Tenant. During the Term, Landlord, on at least ninety (90) days' prior written notice, may require Tenant to move from the Premises to other space of comparable size owned by Landlord, provided that the reasonable costs of such relocation shall be at Landlord's expense. In the event any such relocation right is exercised, the parties shall execute and deliver an amendment to this Lease to memorialize the same.

ARTICLE 19 - MISCELLANEOUS PROVISIONS

19.1 Notices. Any and all notices, demands or other communications (collectively, "**Notices**") required or desired to be given hereunder by any party shall be in writing and shall be validly given or made by any of the following methods: (a) if served personally by delivery; (b) by facsimile transmission if also concurrently deposited for delivery in the manner described in subparagraph (c) or (d) below; (c) deposit in the United States mail, certified or registered, postage prepaid; or (d) by delivery by a same-day or overnight courier (e.g., Federal Express, etc.). For Notices served personally or by courier, service shall be conclusively deemed made at the time of such personal service or refusal to accept service. Notice served by facsimile transmission shall conclusively be deemed to have been made as of the earlier of (i) the first business day following the date of transmission to the facsimile number, if any, at Paragraphs B or I, as appropriate, so long as the sender has reasonable confirmation of the receipt by the receiving facsimile machine of the facsimile transmission; or (ii) the effective date of receipt of the concurrently mailed copy of the Notice. If such Notice be given by mail, such shall conclusively be deemed delivered three (3) business days after the deposit thereof in the United States mail addressed to the party to whom such Notice is to be given at the address set forth at Paragraphs B or I, as appropriate. Any party hereto may change its address or facsimile number for the purpose of receiving Notices as herein provided by a written notice given in the manner aforesaid to the other party or parties hereto. Notwithstanding the prescribed methods of delivery set forth above, actual receipt of written notice by the parties shall constitute notice given in accordance with this provision on the date received, unless deemed earlier given pursuant to the foregoing methods.

19.2 No Partnership. Landlord shall not in any way or for any purpose be deemed a partner, joint venturer or member of any joint enterprise with Tenant.

19.3 Entire Instrument. This Lease and the exhibits and addendum attached, if any, set forth the entire agreement between the parties. Except as specifically set forth herein, there are no agreements, representations or warranties as to any matter. Any prior conversations or writings are merged herein, superseded hereby and extinguished, including, without limitation, any letters of intent written by or on behalf of Landlord or Tenant. No person has the power or authority to bind the parties to any agreement not set forth herein. No subsequent amendment to this Lease shall be binding upon Landlord or Tenant unless in writing and signed by Landlord and Tenant, and approved by all Beneficiaries

in writing if required under their respective loan documents. Should Tenant request any amendment to this Lease, Tenant shall pay to Landlord all attorneys' fees and costs incurred by Landlord in considering and/or documenting such amendment, whether or not an amendment is agreed to or executed by the parties. Submission of this Lease for examination does not constitute an option to lease the Premises and becomes effective as a lease only upon execution and delivery thereof by Landlord to Tenant. The captions appearing herein are inserted only as a matter of convenience and are not intended to define, limit, construe or describe the scope or intent of any paragraph, nor in any other way to affect this Lease.

19.4 Attorneys' Fees. Should any party hereto institute any action or proceeding in court, including in any bankruptcy proceeding, to enforce or seek an interpretation of any provision hereof or for damages by reason of an alleged breach of any provision of this Lease, the prevailing party shall receive from the losing party or parties such amount as the court may adjudge to be reasonable attorneys' fees for services rendered, including, without limitation, the costs of services of paralegals, legal assistants and professional legal secretaries, and costs of litigation, investigation and appeal incurred by the prevailing party in such action or proceeding. The prevailing party shall be entitled to recover the above attorneys' fees even if the losing party or parties should become the subject of an order for relief under Title 11 of the United States Bankruptcy Code, or any successor statute or any other applicable statute.

19.5 Merger. The voluntary or other surrender of this Lease by Tenant or a mutual cancellation of this Lease shall not effect a merger and shall, at Landlord's sole option, terminate all existing subleases or subtenancies or operate as an assignment to Landlord of any or all of such subleases or subtenancies.

19.6 Successors. Subject to the provisions of Article 14 above, this Lease shall be binding upon and shall inure to the benefit of the parties hereto and their permitted successors and assigns.

19.7 Governing Law, Etc. The laws of the State of Nevada shall govern the validity, construction and effect of this Lease. Wherever the context so requires, the singular number shall include the plural, the plural shall refer to the singular, and the neuter gender shall include the masculine and feminine genders. Whenever the word "including" is used in this Lease, it shall be deemed to mean and read "including without limitation". In the event that any provision of this Lease shall be adjudicated by a court of competent jurisdiction to be void, illegal, invalid or unenforceable, the remaining terms and provisions of this Lease shall not be affected thereby, and each of such remaining terms and provisions of this Lease shall be valid and enforceable to the fullest extent permitted by law and shall in no way be impaired thereby. If suit is initiated against any party hereto for any cause or matter arising from or in connection with any rights or obligations of the parties under this Lease, the sole jurisdiction and venue for such action shall be the state and federal courts sitting in Clark County, Nevada. For purposes of this Lease, "business day" shall mean Monday through Thursday, except for bank holidays in Clark County, Nevada. Except as expressly provided to the contrary in this Lease, all references to days shall mean calendar days.

19.8 Waiver of Trial by Jury. LANDLORD AND TENANT DESIRE AND INTEND THAT ANY DISPUTES ARISING BETWEEN THEM WITH RESPECT TO OR IN CONNECTION WITH THIS LEASE BE SUBJECT TO EXPEDITIOUS RESOLUTION IN A COURT TRIAL WITHOUT A JURY. THEREFORE, TO THE MAXIMUM EXTENT PERMITTED BY LAW, LANDLORD AND TENANT EACH HEREBY WAIVE THE RIGHT TO TRIAL BY JURY OF ANY CAUSE OF ACTION, CLAIM, COUNTERCLAIM OR CROSS-COMPLAINT IN ANY ACTION, PROCEEDING OR OTHER HEARING BROUGHT BY EITHER LANDLORD AGAINST TENANT OR TENANT AGAINST LANDLORD ON ANY MATTER WHATSOEVER ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE PREMISES OR ANY CLAIM OF INJURY OR DAMAGE, OR THE ENFORCEMENT OF ANY REMEDY UNDER ANY LAW, STATUTE, OR REGULATION, EMERGENCY OR OTHERWISE, NOW OR HEREAFTER IN EFFECT.

TENANT INITIALS **LANDLORD INITIALS**

19.9 Corporate/LLC Authority. As of the Effective Date, Tenant represents, warrants and covenants to Landlord that this Lease and the consummation of the transactions contemplated hereby are valid and binding upon Tenant and shall not constitute a default (or an event which with notice or passage of time or both will constitute a default) under any lease or contract to which Tenant and/or Tenant affiliates are a party or by which it is bound.

19.10 Broker Commissions. Tenant represents and warrants to Landlord that Tenant has not engaged or been represented by any real estate broker or salesperson in connection with this Lease and agrees to indemnify, defend and hold harmless Landlord with regard to the claims of any real estate broker or salesperson for any commission alleged to be owed by Landlord as a result of Tenant's engaging any such real estate broker or salesperson.

19.11 Separate Counterparts. This document may be executed in one or more separate counterparts, each of which, when so executed, shall be deemed to be an original. Such counterparts shall together constitute and be one and the same instrument.

19.12 Interpretation. The parties hereto acknowledge and agree that each has been given the opportunity to independently review this Agreement with legal counsel, and/or has the requisite experience and sophistication to understand, interpret, and agree to the particular language of the provisions hereof. Since all parties have participated in the negotiation and drafting of this Lease, in the event of an ambiguity in or dispute regarding the interpretation of same, the interpretation of this Lease shall not be resolved by any rule of interpretation providing for interpretation against the party who causes the uncertainty to exist or against the draftsman.

19.13 Absence of Third-Party Beneficiaries. No provisions of this Lease, express or implied, are intended or shall be construed to confer upon or give to any person other than Landlord and Tenant, any rights, remedies or other benefits under or by reason of this Lease unless specifically provided otherwise herein, and except as so provided, all provisions hereof shall be personal solely between Landlord and Tenant.

19.14 Time of Essence. Time is of the essence as to each and every provision of this Lease.

[*Signatures appear on the following page*]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the Effective Date.

LANDLORD

CITY OF HENDERSON,
a municipal corporation and political subdivision of the State of Nevada

Date of City Council approval: _____

APPROVED AS TO FORM:

_____
Robert A. Murnane, P.E.
City Manager

_____
Josh M. Reid
City Attorney

ATTEST:

_____
Sabrina Mercadante, MMC
City Clerk

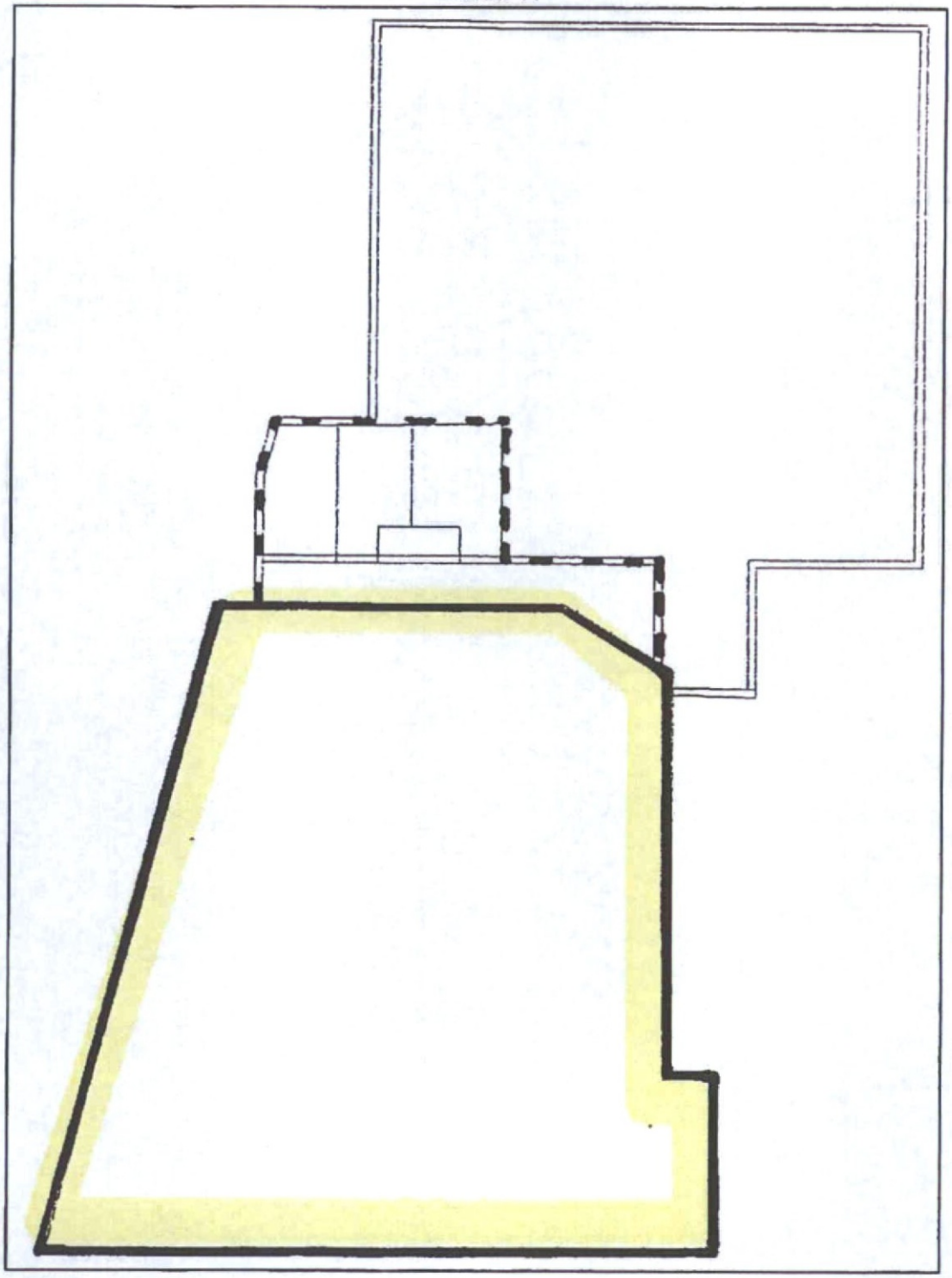
APPROVED AS TO FUNDING:

_____
Richard Derrick
Chief Financial Officer

TENANT:

_____
Jone Dong Lim, an individual,
doing business as "The Lotus"

Exhibit "A"



219 S. Water Street, Units B, C, and D
Building Area of Lease Premises Depicted with Solid Black Lines- 3,421 Square Feet
Common Area Depicted with Broken Lines

Attachment 1

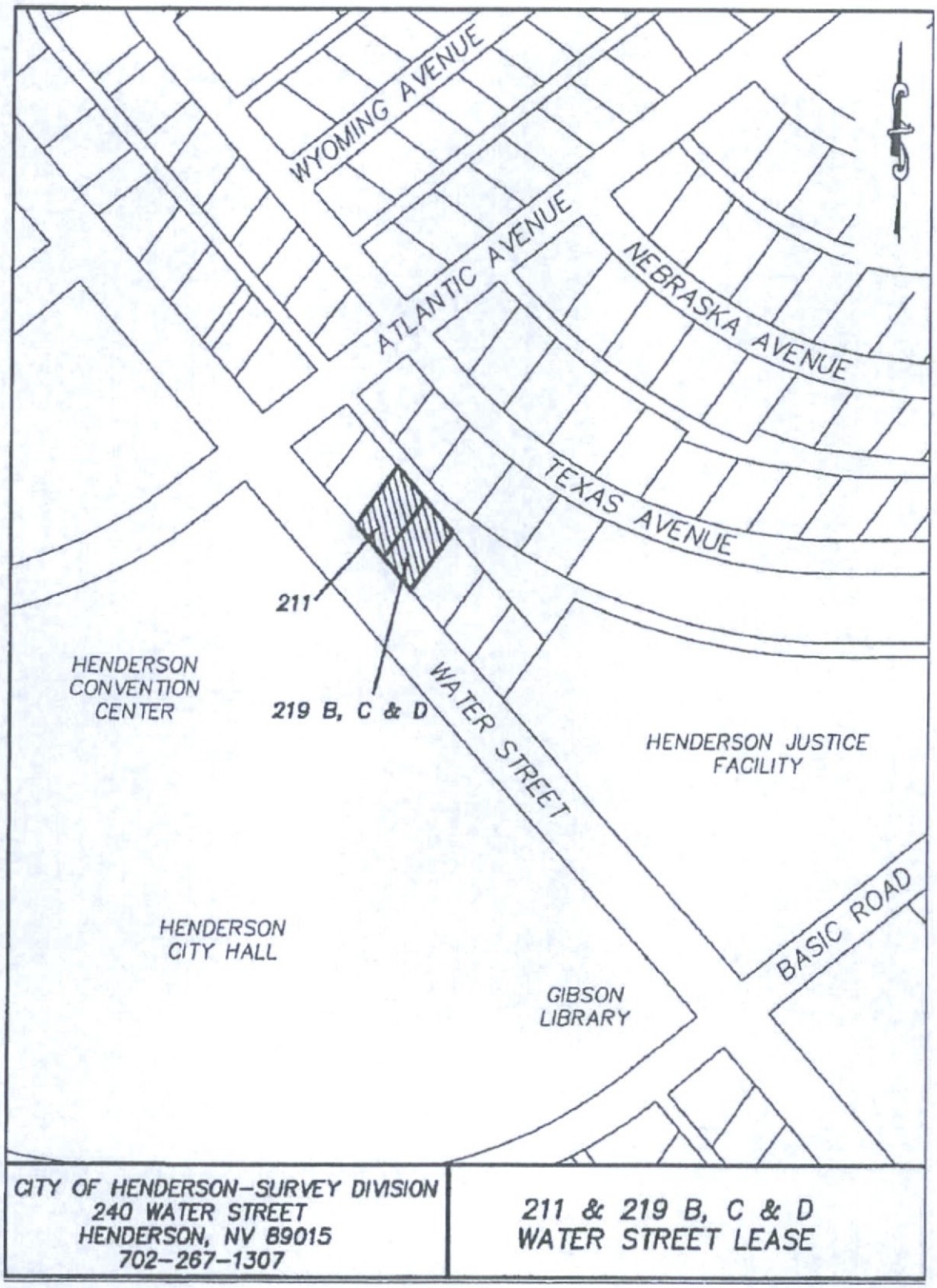
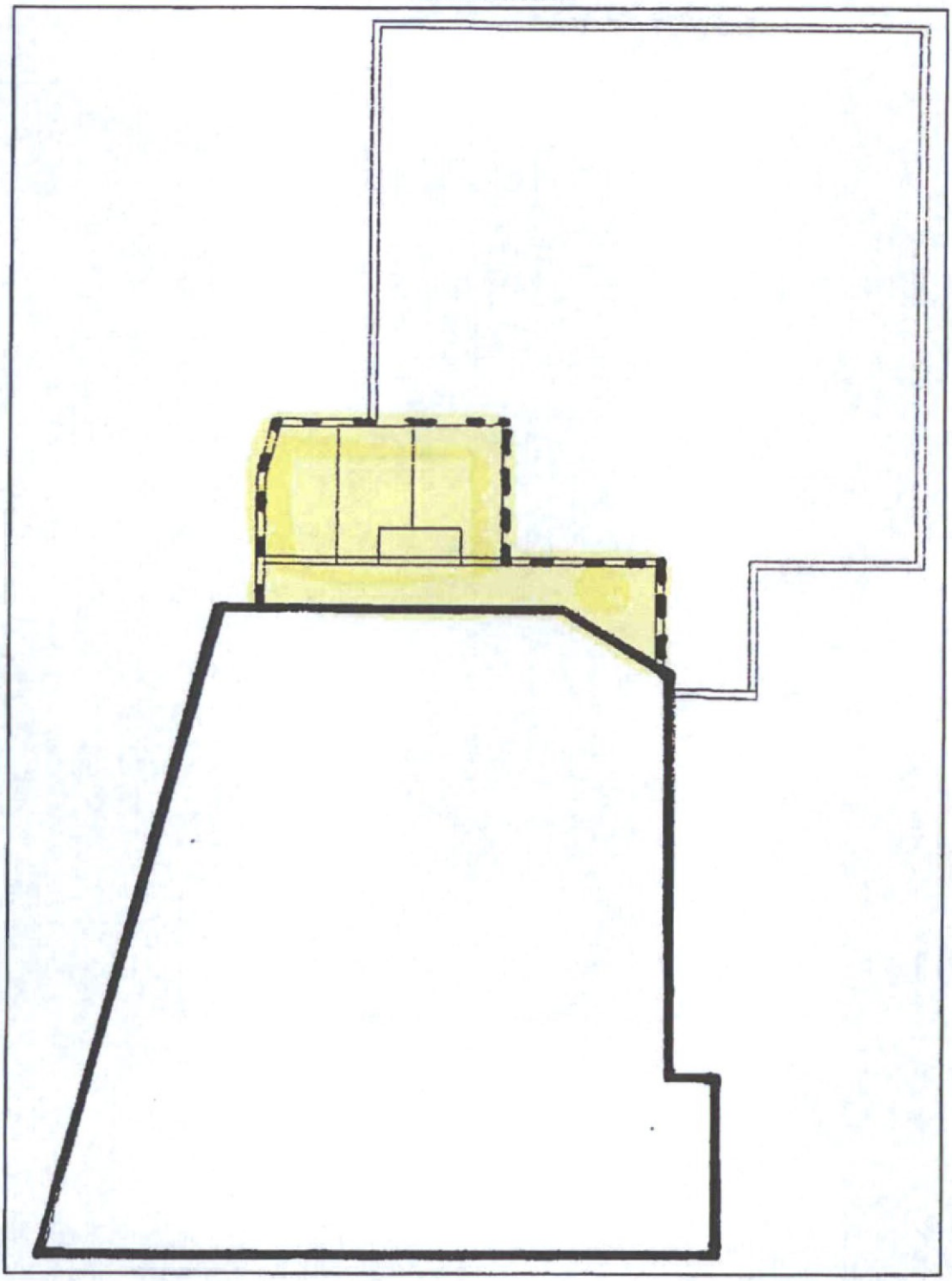


Exhibit "B"
Common Area



219 S. Water Street, Units B, C, and D
Building Area of Lease Premises Depicted with Solid Black Lines- 3,421 Square Feet
Common Area Depicted with Broken Lines

EXHIBIT C
INSURANCE REQUIREMENTS

Tenant will maintain at all times during the Lease Term, insurance for claims which may arise from, or in connection with, services performed / products furnished by Tenant, its agents, representatives, employees, contractors or subcontractors with coverage at least as broad and with limits of liability not less than those stated below.

I. Workers' compensation and employers' liability insurance

- Statutory workers' compensation coverage
- Employers' liability insurance:
  $1,000,000 each accident
  $1,000,000 disease, each employee
  $1,000,000 disease, policy limit

II. Commercial General liability insurance

- Limits: $2,000,000 per occurrence
  $2,000,000 aggregate
- No exclusions for food borne illness
- Blanket contractual liability
- Personal and advertising injury
- Medical expense coverage
- Fire legal liability / damage to Premises
- Liquor Legal / Dram Shop if alcohol served or sold
- Limits may be combination of primary and excess

III. Commercial Automobile insurance

- Limits: $1,000,000 combined single limit each accident
  $1,000,000 uninsured and underinsured motorist
- Covers all owned, hired and non-owned autos
- Tenant warrants that all personal vehicles of Tenant's employees or independent contractors which enter the Property will carry at least the minimum auto liability insurance as required by the State of Nevada and that all drivers shall have a valid driver's license

IV. Property and Business Interruption Insurance

- Coverage for all improvements, betterments, and personal property of Tenant located within the Premises (including trade fixtures, inventory, merchandise, machinery and equipment) insured in an amount not less than 100% of their full replacement cost value.
- Such coverage shall be on an "all risk" or "special causes of loss" form including, without limitation, coverage for windstorm, flood, and earth movement
- Landlord shall be named as loss payee
- Business interruption coverage for direct or indirect loss of earnings, income and extra expense for at least twelve (12) months

Evidence of Insurance:

Before the Effective Date, immediately upon the expiration or replacement of any coverage above, and upon request, Tenant shall provide Landlord with a certificate of insurance in accordance with the foregoing and referencing the services to be provided.

General Terms:

All policies of insurance shall:

1) provide for not less than thirty (30) days' prior written notice of cancellation to Landlord,
2) have a minimum A.M. Best rating of A-VII,
3) be primary and non-contributory with respect to any insurance or self-insurance program of Landlord, and
4) provide a waiver of subrogation in favor of Landlord.

Tenant further agrees that any contractors, subcontractors or sub-vendors engaged by the Tenant will carry like and similar insurance with the same additional insured requirements.

Additional Insureds:

Insurance required to be maintained by Tenant pursuant to this Lease (excluding workers' compensation) shall name ***Landlord as an additional insured.*** The coverage for an additional insured shall apply on a primary basis and shall be to the full limits of liability purchased by Tenant, even if those limits are in excess of those required by this Lease.

Failure to Maintain Insurance:

Failure to maintain the insurance required in this Exhibit will constitute a material breach and may result in termination of this Lease at Landlord's option.

Representation of Insurance:

By requiring the insurance as set out in this Exhibit, Landlord does not represent that coverage and limits will necessarily be adequate to protect Tenant, and such coverage and limits shall not be deemed as a limitation on Tenant's liability under the indemnities provided to Landlord in this Lease, or any other provision of the Lease.