

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of Earliest Event Reported): January 30, 2018

GROWGENERATION CORP
(Exact Name of Registrant as Specified in its Charter)

Colorado
(State or other Jurisdiction
of Incorporation)

333-207889
(Commission File Number)

46-5008129
(I.R.S. Employer
Identification No.)

1000 West Mississippi Avenue
Denver, Colorado 80223
(Address of Principal Executive Offices)

Registrant's telephone number, including area code: **(303) 386-4796**

N/A
(Former Address of Principal Executive Offices)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation under any of the following provisions *see* General Instruction A.2. below:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Section 1 – Registrant’s Business and Operations

Item 1.01. Entry Into a Material Definitive Agreement

On October 25, 2017, GrowGeneration Corp. (the “Company”) entered into an asset purchase agreement (the “Purchase Agreement”) through its wholly-owned subsidiary, GrowGeneration California Corp., to purchase all of the assets of a retail hydroponic store, Humboldt Depot (the “Business”), located in Arcata, CA. The closing of the asset purchase took place on January 30, 2018.

The assets subject to the sale under the Purchase Agreement included inventories, fixed assets, tangible personal property, intangible personal property and contracts. The Company agreed to pay the sellers approximately a total of \$1,000,000 and 100,000 shares of common stock of the Company as consideration for the assets.

In connection with the purchase of the assets, the Company also entered into two commercial leases, to be effective from February 1, 2018 to January 31, 2021, to rent the premises where the Business is located.

The foregoing descriptions of the terms of the Purchase Agreement and the two leases do not purport to be complete and are qualified in their entirety by reference to the full text of the forms of them filed herewith as Exhibits 99.1, 99.2 and 99.3, respectively.

Section 2 – Financial Information

Item 2.01. Completion of Acquisition or Disposition of Assets

Disclosures under Item 1.01 above are incorporated hereunder in their entirety.

Section 7 – Regulation FD

Item 7.01. Regulation FD Disclosure

On January 31, 2018, the Company published a press release regarding the purchase of assets of the Business.

A copy of the press release is attached hereto as Exhibit 99.4. The information contained herein and the exhibit attached herewith shall be deemed furnished and not filed.

Section 9 – Financial Statements and Exhibits

Item 9.01. Financial Statements and Exhibits

<u>Exhibit No.</u>	<u>Description</u>
99.1	Form of Asset Purchase Agreement, dated October 25, 2017, by and among GrowGeneration California Corp., Golden State Analytics d/b/a Humboldt Depot, and Brian Whited
99.2	Form of Commercial Lease, dated January 30, 2018, with Kenneth E. Zanzi and Ellen C. Zanzi
99.3	Form of Commercial Lease, dated January 30, 2018, with Denis E. Cosby
99.4	Press Release, dated January 31, 2018

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Date: January 31, 2018

GrowGeneration Corp.

By: /s/ Darren Lampert

Name: Darren Lampert

Title: Chief Executive Officer

FORM OF ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (the "*Agreement*") is made and entered into as of the 25th day of October 2017 by and among GrowGeneration California Corp, a Delaware Corporation ("*Buyer*") with offices at 1000 W. Mississippi, Denver CO 80223, and Golden State Analytics d/b/a Humboldt Depot a Corporation with offices at, 5201 Carlson Park Drive, Arcata, CA 95521 ("*Seller*") and its shareholder, Brian Whited ("*Whited*").

RECITALS

- A. Seller is a corporation doing business as Humboldt Depot (the "*Business*").
- B. The Business consists of sales of hydroponic and garden supplies.
- C. Subject to the terms and conditions of this Agreement, Buyer is willing to purchase, and Seller is willing to sell the assets, rights and properties of the business.
- D. NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. DEFINITIONS

For the purposes of this Agreement, the terms set forth below shall have the following meanings:

- 1.1 "*Assets*" shall be as defined in Section 2.1.
- 1.2 "*Closing*" shall be as defined in Section 2.4.
- 1.3 "*Debt*" shall be defined as any monies owed by the Business as enumerated in Schedule A-1.
- 1.4 "*GAAP*" shall mean generally accepted accounting principles in the United States.
- 1.5 "*IRC*" shall mean the Internal Revenue Code of 1986, as amended.
- 1.6 "*Liens*" shall mean all liens, charges, easements, security interests, mortgages, conditional sale contracts, equities, rights of way, covenants, restrictions, title defects, objections, claims or other encumbrances.
- 1.7 "*Material Adverse Effect*" shall mean an event which has a material adverse effect on the condition, financial or otherwise, of the Assets, business, prospects or results of operations the business.

2. SALE AND PURCHASE OF ASSETS

2.1 *Sale of Assets.* On the terms and subject to the conditions of this Agreement and for the consideration set forth herein, Seller shall at the Closing, sell, convey, assign, transfer and deliver to Buyer, and Buyer shall purchase and acquire from Seller, all of the Assets of the business. The Assets shall include, without limitation, all assets of the Business identified by the terms of this Agreement or described with particularity in Schedule 2.1 to this Agreement. The Assets shall include the following:

2.1.1 *Inventories.* All inventories of, finished goods, inventory for resale, supplies and repair materials of the Business as of the Closing Date (the "Inventories"). A summary of such items on hand as of December , 2017 is attached hereto as Schedule 2.1.1.

2.1.2 *Fixed Assets and Tangible Personal Property.* All fixed assets and tangible personal property of the Business (other than the Inventories) as it relates to this transaction, including without limitation, all equipment, supplies, furniture, fixtures, hardware. A list of such fixed assets and tangible personal property is attached hereto as Schedule 2.1.2.

2.1.3 *Intangible Personal Property.* All intangible property of the Business including without limitation, software, copyrights software source codes, customer lists, customer records, trade and other association memberships and rights, and licenses and permits susceptible of transfer under regulatory agency rules. A detailed list of such assets is attached hereto as Schedule 2.1.3.

2.1.4 *Contracts.* All rights in and to the contracts of the Business (other than as described on Schedule 2.2), including without limitation, license agreements, assignment agreements, distribution agreements and agreements for leased equipment (the "*Contracts*"). A list of all written Contracts (excluding any Contracts listed on Schedules 2.1.1-3) is attached hereto as Schedule 2.1.4 showing, for each Contract, the names of the parties, the subject of the Contract, the basic terms and the consideration involved.

2.2 *Purchase Price.* Subject to the terms and conditions of this Agreement, and in full consideration for the transfer of such Assets at Closing, Buyer shall pay the Seller an aggregate purchase price equal to (i) the actual cost of Seller's inventory at Closing estimated to be \$500,000; plus (ii) the sum of \$30,000 for Seller's fixed assets; plus (iii) the sum of \$470,000 for Seller's intangible assets and goodwill, and (IV) Whited shall receive 100,000 of Common Shares (all to be delivered upon the closing of the Transaction (the "*Closing*").

2.2.1 *Employment Agreement.* On or before the Closing, Whited shall enter into mutually acceptable employment agreement with the Purchaser which shall outline the responsibilities of each of the parties and pursuant to which, among other (i) Whited shall be appointed as a Vice-President of Sales and Business Development for a period of five (5) years, at an annual salary of \$100,000 per annum, minimum of 6% annual increase, plus a commission equal to one and one half percent (1.5%) of sales in excess of \$4,000,000 that are generated from Purchaser's operation of the Business in any fiscal year during the term of his engagement ; (iii) Whited shall be entitled to up to \$500 per month of expense and travel reimbursement on an accountable basis

2.3 *Closing.*

2.3.1 *Closing Date.* The closing of the purchase and sale of the Assets shall take place, on or before January 10, 2017 at such place, date or time as Buyer and Seller may agree in writing. The date of the Closing shall constitute the "Closing Date."

2.3.2 *Seller's Deliveries at Closing.* At the Closing, Seller shall deliver or cause to be delivered to Buyer:

- (a) Bill of Sale of Seller authorizing consummation of the transaction contemplated by this Agreement,

- (b) A compliance certificate pursuant to Section 5.3;
- (c) A Non-Disclosure and Non-Compete Agreement executed at Closing;
- (d) An Assignment of Trademarks Form in a form reasonably required by Buyer;
- (e) An assignment of the URL, website content and all copyright therein for the website www.HumboldtDepot.Com;
- (h) Such other documents and instruments as may be reasonably requested to effect the transactions contemplated hereby.

Simultaneously with such deliveries, Seller shall take such steps as are necessary to put Buyer in actual possession and control of the Assets.

2.3.3 *Buyer's Deliveries at Closing.* At the Closing, Buyer shall deliver or cause to be delivered to or for the benefit of Seller the following instruments:

- (a) A check or wire transfer in the amount of Four Hundred Fifty Thousand Dollars (\$470,000) plus Thirty Thousand Dollars (\$30,000) plus the actual cost of Seller's Inventory, estimated to be Five Hundred Thousand Dollars (\$500,000) payable to Seller
- (b) A Resolution from the Buyer authorizing consummation of the transactions contemplated by the Agreement;
- (c) Such other documents and instruments as may be reasonably requested to affect the transactions contemplated hereby.

3. REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Buyer the following, except as set forth in the Disclosure Schedule attached hereto as Schedule 3:

3.1 *Organization and Authority.* Seller is an Individual doing business as "Humboldt Depot".

3.1.1 *Authority Relating to this Agreement; No Violation of Other Instruments* The execution and delivery of this Agreement and the performance hereunder by Seller have been duly authorized by all necessary actions on the part of Seller and, assuming execution of this Agreement by Buyer, this Agreement will constitute a legal, valid and binding obligation of Seller.

3.2 *Capitalization.* All of the debts or other obligations of the Business are set forth in the schedules hereto.

3.3 *Ownership and Delivery of Assets.* The Assets comprise all of the assets, material rights and all of the business of the Business. Seller is the true and lawful owner of the Assets and has all necessary power and authority to transfer the Assets to Buyer free and clear of all liens and encumbrances. No other person will have on the Closing Date, any direct or indirect interest in any of the Assets. Upon delivery to Buyer of the Bill of Sale and other instruments of conveyance with respect to the Assets on the Closing Date, Buyer will acquire good and valid title to the Assets free and clear of all liens.

3.4 *Compliance with Law.* The Seller holds, and has at all times since inception of the Business held, all licenses, permits and authorizations necessary for the lawful conduct of the Business pursuant to all applicable statutes, laws, ordinances, rules and regulations of all governmental bodies, agencies and subdivisions having, asserting or claiming jurisdiction over the Business or over any part of the Business' operations, and Seller knows of no violation thereof. The Seller is not in violation of any decree, judgment, order, law or regulation of any court or other governmental body, which violation could have a Material Adverse Effect on the Business.

3.5 *Investments in Others.* The Seller does not conduct any part of the Business through any other entity in which such Seller has an equity investment.

3.6 *Financial Statements.* Seller has delivered unaudited consolidated financial statements of the Business (the "*Financial Statements*") to Buyer.

3.7 *Absence of Undisclosed Liabilities.* The Business does not have outstanding on the date hereof, any indebtedness or liability (fixed or contingent, known or unknown, accrued or unaccrued) other than those enumerated in the schedules hereto.

3.8 *Tax Returns and Payments.* Schedule 3.9 constitutes a true and complete list of all types of taxes paid or required to be paid in connection with the Business. All tax returns and reports with respect to the Business required by law to be filed under the laws of any jurisdiction, domestic or foreign, have been duly and timely filed and all taxes, fees or other governmental charges of any nature which were required to have been paid have been paid or provided for. Seller has no knowledge of any unpaid taxes or any actual or threatened assessment of deficiency or additional tax or other governmental charge or a basis for such a claim against Seller. Seller has no knowledge of any tax audit of Seller by any taxing or other authority in connection with the Business. Sellers has no knowledge of any such audit currently pending or threatened, and there are no tax liens on any of the properties or assets of the Business, nor have any such liens been threatened.

3.9 *Absence of Certain Changes or Events.* Since September 1, 2017, there has been no events or changes giving rise to a Material Adverse Effect.

3.10 *Litigation.* Seller is not a party to any pending or, to the knowledge of Seller, threatened action, suit, proceeding or investigation, at law or in equity or otherwise in, for or by any court or other governmental body which could have a Material Adverse Effect on: (i) the condition, financial or otherwise, Assets, liabilities, business, prospects or results of operations of the Business; or (ii) the transactions contemplated by this Agreement ; nor, to the knowledge of the Business, does any basis exist for any such action, suit, proceeding or investigation. The Business is not subject to any decree, judgment, order, law or regulation of any court or other governmental body which could have a Material Adverse Effect or which could prevent the transactions contemplated by this Agreement or the continuation of the business conducted by the Business.

3.11 *Brokers and Finders.* Neither Seller nor any agent of Seller has retained any broker or finder in connection with the transaction contemplated by this Agreement. Seller will indemnify and hold Seller harmless against all claims for brokers' or finders' fees made or asserted by any party claiming to have been employed by the Seller, any Investor or any agent of Seller or an Investor and all costs and expenses (including the reasonable fees of counsel) of investigating and defending such claims.

3.12 *Negotiations with Other Parties.* Neither Seller nor any other person on his behalf is presently conducting or contemplating negotiations with any other party regarding any acquisition, merger or similar transaction.

3.13 *Limitations on Transferability.* Seller acknowledges that the Shares are being issued pursuant to exemption from registration as securities under applicable federal and state law. Seller covenants that in no event will Seller dispose of any of the Shares (other than pursuant to Rule 144 or any similar or analogous rule), without the prior written consent of Parent, which shall not unreasonably be withheld.

3.14 *Contracts.* Seller has delivered to Buyer copies of all Contracts. A list of the delivered Contracts is attached hereto as Schedule 3.23.

3.15 *Full Disclosure.* The representations and warranties of Buyer contained in this Agreement and the schedule hereto, when read together, do not contain any untrue statement of a material fact or omit any material fact necessary to make the statements contained therein or herein in view of the circumstances under which they were made not misleading.

4. REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to Seller that:

4.1 *Corporate Organization and Authority.* Buyer:

4.1.1 Is a Delaware Corporation duly organized, validly existing, authorized to exercise all its corporate powers, rights and privileges in California, and in good standing in the State of Delaware and California; and

4.1.2 has the corporate power and corporate authority to own and operate its properties and to carry on its business now conducted and as proposed to be conducted.

4.2 *Authorization.* All corporate action on the part of Buyer, its officers, directors, and unit holders necessary for the authorization, execution, delivery, and performance of all obligations under this Agreement and for the issuance of the Shares has been taken, and this Agreement constitutes a legally binding and valid obligation of Buyer enforceable in accordance with its terms.

4.3 *Corporate Power.* Buyer has all requisite legal and corporate power and authority to execute and deliver this Agreement, to sell and issue the Shares, and to carry out and perform its obligations under the terms of the Agreement.

4.4 *Litigation.* There is no action, proceeding, or investigation pending or threatened, or any basis therefor known to Seller, that questions the validity of the Agreement or the right of Buyer to enter into the Agreement or to consummate the transactions contemplated by the Agreement.

4.5 *Brokers and Finders.* Buyer has not retained any investment banker, broker or finder in connection with the transactions contemplated by this Agreement.

4.6 *Full Disclosure.* The representations and warranties of Buyer contained in this Agreement and the schedule hereto, when read together, do not contain any untrue statement of a material fact or omit any material fact necessary to make the statements contained therein or herein in view of the circumstances under which they were made not misleading.

5. CONDITIONS TO THE OBLIGATIONS OF BUYER

Except as otherwise specifically set forth herein or as contemplated by this Agreement, all obligations of Buyer under this Agreement are subject to the fulfillment, prior to or at the Closing Date, of each of the following conditions:

5.1 *Covenants Performed by Seller.* Each of the obligations of Seller to be performed on or before the Closing Date pursuant to the terms of this Agreement shall have been duly performed in all material respects.

5.2 *Material Changes in Business of Company.* Between January 1, 2017 and the Closing Date there shall have been no Material Adverse Effect.

5.3 *No Action to Prevent Completion.* There shall not have been instituted and be continuing or threatened any claim, action or proceeding which could have a Material Adverse Effect, nor shall there have been instituted and be continuing or threatened any such claim, action or proceeding to restrain, prohibit or invalidate, or to obtain damages in respect of, the transactions contemplated by this Agreement or which might affect the right of Buyer after the Closing Date to own the Assets or to operate the Business.

5.4 *Delivery of Closing Documents.* Seller shall have delivered to Buyer the closing documents required to be delivered in form and substance reasonably satisfactory to Buyer and its counsel.

5.5 *Employment Agreement.* Seller's principal Brian Whited shall have accepted a Employment Agreement with Buyer pursuant to terms which are reasonably acceptable to Buyer.

6. CONDITIONS TO THE OBLIGATIONS OF SELLER

Except as otherwise specifically set forth herein, all obligations of Seller under this Agreement are subject to the fulfillment and satisfaction, prior to or at the Closing, of each of the following conditions:

6.1 *Representations and Warranties True at the Closing.* The representations and warranties of Buyer contained in this Agreement shall be deemed to have been made again at and as of the Closing Date and shall then be true in all material respects.

6.2 *Covenants Performed by Buyer.* Each of the obligations of Buyer to be performed on or before the Closing Date pursuant to the terms of this Agreement shall have been duly performed in all material respects.

6.3 *Authority Relating to this Agreement.* All corporate and other proceedings required to be taken by or on behalf of Buyer to authorize Buyer to execute, deliver and carry out this Agreement, shall have been duly and properly taken.

6.4 *No Action to Prevent Completion.* There shall not have been instituted and be continuing or threatened any action or proceeding by or before any court or other governmental body to restrain, prohibit or invalidate, or to obtain damages in respect of, the transactions contemplated by this Agreement.

6.5 *Delivery of Closing Documents.* Buyer shall have delivered to Seller the closing documents required to be delivered pursuant to Section 2.5.2, in form and substance reasonably satisfactory to Seller and its counsel.

7. EMPLOYMENT MATTERS

7.1 *Independent Contractors and Employees.* Buyer shall have no liability for accrued wages (including salaries and commissions), severance pay, accrued vacation, sick leave or other benefits, or employee agreements of any type or nature on account of Seller, retention of or termination of independent contractors or employment of or termination of employees, and Seller shall indemnify Buyer and hold Buyer harmless against liability arising out of any claims for such pay or benefits or any other claims arising from Seller's retention of or employment of or termination of such independent contractors or employees.

8. INDEMNITY AND SET-OFF

8.1 *Seller's Indemnity.* The Seller shall indemnify and hold harmless Buyer from and against any and all losses, costs, expenses, liabilities, obligations, claims, demands, causes of action, suits, settlements and judgments of every nature, including the costs and expenses associated therewith and reasonable attorneys' fees ("*Buyer's Damages* ") which arise out of: (i) the breach by Seller of any representation or warranty made pursuant to this Agreement; (ii) the non-performance, partial or total, of any covenant made pursuant to this Agreement; (iii) claims of any type or nature relating to the retention of the Business' independent contractors or employment of the Business' employees by Seller or any termination of such independent contractors or employees.

8.2 *Buyer's Indemnity.* Buyer shall indemnify and hold harmless Seller from and against any and all losses, costs, expenses, liabilities, obligations, claims, demands, causes of action, suits, settlements and judgments of every nature, including the costs and expenses associated therewith and reasonable attorneys' fees ("*Seller's Damages*" and when used together with or in the alternative to Buyer's Damages, "*Damages* "), which arise out of: (i) the breach by Buyer of any representation or warranty made by Buyer pursuant to this Agreement and (ii) the non-performance, partial or total, of any covenant made by Buyer pursuant to this Agreement.

9. MISCELLANEOUS

9.1 *Allocation of Purchase Price.* Schedule 9.1 constitutes the allocation agreed to by Seller and Buyer of the Purchase Price among the various items included in the assets and business being transferred by Seller to Buyer. Buyer and Seller shall file all tax returns and reports in a manner consistent with Schedule 9.2. Schedules based upon and contains the information to be delivered by Buyer and Seller to the IRS on Form 8594.

9.2 *Confidentiality.* No party hereto shall issue a press release or otherwise publicize the transactions contemplated by this Agreement or otherwise disclose the nature or contents of this Agreement until the transaction is completed.

9.3 *Expenses.* Each party will pay its own costs and expenses, including legal and accounting expenses, related to the transactions provided for herein, irrespective of when incurred. In the event of any legal action to enforce any of the obligations set forth in the Agreement, the prevailing party shall be entitled to recover costs and reasonable legal fees.

9.4 *Further Assurances.* Seller will from time to time subsequent to the Closing Date, at Buyer's request and without further consideration, execute and deliver such other instruments of conveyance, assignment and transfer and take such other actions as Buyer may reasonably request in order more effectively to convey, assign, transfer to and vest in Buyer, the Assets and the right to operate the business of Seller.

9.5 *Notices.* Any notice or other communication required or permitted hereunder shall be in writing and shall be deemed to have been duly given on the date of service if served personally or by email, or five days after the date of mailing if mailed, by first class mail, registered or certified, postage prepaid. Notices shall be addressed as follows:

To Buyer at: GrowGeneration California Corp
1000 W. Mississippi Ave.
Denver, CO 80223

To Seller at: Brian Whited
5201 Carlson Park Drive, Suite 1
Arcata, CA 95521

or to such other address as a party has designated by notice in writing to the other party in the manner provided by this section.

9.6 *Survival of Terms.* All warranties, representations and covenants contained in this Agreement and any certificate or other instrument delivered by or on behalf of the parties pursuant to this Agreement shall be continuous and shall survive the Closing for a period of two years.

9.7 *Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of California applicable to contracts entered into and wholly to be performed in the State of California by California residents.

9.8 *Counterparts.* This Agreement may be executed in counterparts, each of which shall be deemed an original, but both of which when taken together shall constitute one and the same instrument.

9.10 *Arbitration.* In the event of any dispute or disagreement as to the interpretation of any provision of this Agreement or the performance of obligations hereunder, the matter, upon written request of either party, shall be referred to representatives of the parties for decision. The representatives shall promptly meet in a good faith effort to resolve the dispute. Notwithstanding anything to the contrary provided in this section and without prejudice to the above procedures, (i) any party may apply to any court of competent jurisdiction for temporary injunctive or other provisional judicial relief if such action is necessary to avoid irreparable damage or to preserve the status quo until such time as the arbitrator is selected and available to hear such party's request for temporary relief; and (ii) Buyer shall have the right to apply to a court of competent jurisdiction for the specific enforcement of Seller's obligations under this Agreement. The award rendered by the arbitrator shall be final and not subject to judicial review, and judgment thereon may be entered in any court of competent jurisdiction.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

SELLER

BUYER:

GROWGENERATION CALIFORNIA CORP

By: _____

Darren Lampert, CEO

Schedule 2.1

Assets

2.1.1 *Inventories.*

\$500,000 of finished goods

2.1.2 *Fixed assets and tangible personal property.* Racks, shelves, cash register, computers, furniture,

2.1.3 *Intangible Personal Property.* Software including Point of Sale System, the Lease, the name "Humboldt Depot" and good will associated therewith.

2.1.4 *Contracts.* - Lease

Attached:

Fork lift lease contracts and transfer assumption applications

Contact list for all properties

Lease agreement for 5201 Carlson Park Drive # 1 and 2 Arcata Ca 95521 (Shop & Office)

Month to Month Agreement for 1355 Guintoli Lane Arcata CA 95521 (warehouse)

Terms of agreement for Tensor IT (Serenity)

List of Fixed Assets

List of Intangible Personal Property

Schedule 2.1

2.1.1 Inventories

Estimated Dollar Amount Will take physical count at YE 2017 Will be amended on form 8594 Part III	\$	500,000.00
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2.1.3 Intangible Personal Property

Intuit QuikBooks Point of Sale 2013 Operating License x 3	\$	1,000.00
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Humboldt Depot URL	\$	1,000.00
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WWW.HumboldtDepot.Com

Good Will	\$	468,000.00
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Schedule 2.1

2.1.2 Fixed Assets

Arcata Location	
Forty foot Storage container	\$ 3,300.00
Forty foot Storage container	\$ 3,300.00
Forty foot Storage container	\$ 3,300.00
Two Way Radios x 3	\$ 600.00
Computer Tower and monitor	\$ 300.00
Computer Tower and monitor	\$ 300.00
PDS Hardware	\$ 250.00
Money Counter	\$ 50.00
Laser Printer/fax combo	\$ 50.00
Laser Printer/fax combo	\$ 50.00
Shelving	\$ 1,700.00
Cashier counter	\$ 300.00
Dollies x 2	\$ 75.00
Fork Lift exstensions	\$ 100.00
Pallet Jacks x 2	\$ 150.00
Push Carts	\$ 250.00
Safety Harness x 2	\$ 130.00
Misc Hardware	\$ 400.00
Microwave	\$ 50.00
Display Fridge	\$ 75.00
Z Rack	\$ 80.00
Camera System	\$ 550.00
Safe	\$ 250.00
Time card machine	\$ 100.00
Office partions x 2	\$ 200.00
Office Sofa	\$ 600.00
File Cabints x 2	\$ 120.00
Office Desk	\$ 75.00
McKinleyville Location	
Testing Station Work Bench	\$ 75.00
Glass Display Case	\$ 250.00
Shelving/ Including Gondola	\$ 1,900.00
Pallet Racks	\$ 5,000.00
Cashier Counter	\$ 400.00
Office Desk	\$ 50.00
computer/Monitor	\$ 300.00
computer/Monitor	\$ 300.00
POS Hardware	\$ 250.00
Server w/rack	\$ 3,200.00
Laser Printer/fax combo	\$ 50.00
Money Counter	\$ 50.00
Pallet Jack	\$ 75.00
Push Carts x 1	\$ 50.00
Misc Hardware	\$ 400.00
Microwave	\$ 50.00
Mini Fridge	\$ 75.00
Safe	\$ 250.00
Camera system	\$ 400.00
Tme card machine	\$ 100.00
File cabinet x2	\$ 70.00
	\$ 30,000.00

Schedule 2.1
Assets

2.1.4 Contracts — Lease

<u>Location</u>	<u>Contact</u>	<u>Type of contract</u>	<u>Amount</u>
5201 Carlson Park Drive # 1 and 2 Arcata CA 95521 (Arcata Shop and Office)	Ellen Zanzi	Lease w/options	\$ 1,825.00
1355 Giuntoli Aracta CA 95521 Warehouse in Arcata	Radness LLC Rod Nakamoto	month to month	\$ 2,250.00
1250 Guintoli Arcata CA 95521 Tank Yard	HBS LLC Andrew Cooper	month to month	\$ 2,200.00
2330 Central Ave McKinleyville CA 95519 (MK Store)	Cosby Rentals Dennis Cosby	month to month	\$ 3,360.00
Tensor IT McKinleyville CA 95519	Jeff Richi	Monthly IT Support & Monitoring	\$ 50.00



FORM OF

AIR COMMERCIAL REAL ESTATE ASSOCIATION
**STANDARD INDUSTRIAL/COMMERCIAL
 MULTI-TENANT LEASE - GROSS**

1. Basic Provisions ("Basic Provisions").

1.1 **Parties:** This Lease ("**Lease**"), dated for reference purposes only January 18, 2018, is made by and between Kenneth E. Zanzi and Ellen C. Zanzi ("**Lessor**") and GrowGeneration Corp. ("**Lessee**"), (collectively the "**Parties**", or individually a "**Party**").

1.2(a) **Premises:** That certain portion of the Project (as defined below), including all improvements therein or to be provided by Lessor under the terms of this Lease, commonly known by the street address of 5201 Carlson Park Drive, Suites 1 and 2, located in the City of Arcata, County of Humboldt, State of California, with zip code 9552, as outlined on Exhibit A attached hereto ("**Premises**") and generally described as (describe briefly the nature of the Premises): Approximately 2,625 square feet of demised space within a commercial building of approximately 6,750 square feet on Carlson Park Drive. In addition to Lessee's rights to use and occupy the Premises as hereinafter specified, Lessee shall have non-exclusive rights to any utility raceways of the building containing the Premises ("**Building**") and to the Common Areas (as defined in Paragraph 2.7 below), but shall not have any rights to the roof, or exterior walls of the Building or to any other buildings in the Project. The Premises, the Building, the Common Areas, the land upon which they are located, along with all other buildings and improvements thereon, are herein collectively referred to as the "**Project**." (See also Paragraph 2)

1.2(b) **Parking:** In common and unreserved vehicle parking spaces. (See also Paragraph 2.6)

1.3 **Term:** Three years and -0- months ("**Original Term**") commencing February 1, 2018 ("**Commencement Date**") and ending January 31, 2021 (See Addendum #7) ("**Expiration Date**"). (See also Paragraph 3)

1.4 **Early Possession:** If the Premises are available Lessee may have non-exclusive possession of the Premises commencing N/A ("**Early Possession Date**"). (See also Paragraphs 3.2 and 3.3)

1.5 **Base Rent:** \$ 2,250.00 per month ("**Base Rent**"), payable on the 1st day of each month commencing February 1, 2018. (See also Paragraph 4)

If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted. See Paragraph Addendum #6

1.6 **Lessee's Share of Common Area Operating Expenses** -0- percent (%) ("**Lessee's Share**"). In the event that the size of the Premises and/or the Project are modified during the term of this Lease, Lessor shall recalculate Lessee's Share to reflect such modification.

1.7 Base Rent and Other Monies Paid Upon Execution:

- (a) **Base Rent:** \$2,250.00 for the period February 1 thru February 28, 2018.
- (b) **Common Area Operating Expenses:** N/A for the period N/A.
- (c) **Security Deposit:** \$3,000.00 ("**Security Deposit**"). (See also Paragraph 5).
- (d) **Other:** \$ -0- for .
- (e) **Total Due Upon Execution of this Lease:** \$5,250.00

1.8 **Agreed Use:** E-commerce wholesale, distribution and retail of water and soil testing equipment, garden and landscaping tools and products. (See also Paragraph 6)

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

1.10 **Real Estate Brokers:** (See also Paragraph 15 and 25)

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

- N/A represents Lessor exclusively ("**Lessor's Broker**");
- N/A represents Lessee exclusively ("**Lessee's Broker**"); or
- N/A represents both Lessor and Lessee ("**Dual Agency**").

(b) **Payment to Brokers:** Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Brokers the brokerage fee agreed to in a separate written agreement (or if there is no such agreement, the sum of N/A or % of the total Base Rent) for the brokerage services rendered by the Brokers.

1.11 **Guarantor.** The obligations of the Lessee under this Lease are to be guaranteed by N/A (“**Guarantor**”). (See also Paragraph 37)

1.12 **Attachments.** Attached hereto are the following, all of which constitute a part of this Lease:

- an Addendum consisting of Paragraphs 1 through 7 ;
- a site plan depicting the Premises;
- a site plan depicting the Project;
- a current set of the Rules and Regulations for the Project;
- a current set of the Rules and Regulations adopted by the owners’ association;
- a Work Letter;
- other (specify): _____

2. Premises.

2.1 **Letting.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. While the approximate square footage of the Premises may have been used in the marketing of the Premises for purposes of comparison, the Base Rent stated herein is NOT tied to square footage and is not subject to adjustment should the actual size be determined to be different. **NOTE: Lessee is advised to verify the actual size prior to executing this Lease.**

2.2 **Condition.** Lessor shall deliver that portion of the Premises contained within the Building (“**Unit**”) to Lessee broom clean and free of debris on the Commencement Date or the Early Possession Date, whichever first occurs (“**Start Date**”), and, so long as the required service contracts described in Paragraph 7.1(b) below are obtained by Lessee and in effect within thirty days following the Start Date, warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems (“**HVAC**”), loading doors, sump pumps, if any, and all other such elements in the Unit, other than those constructed by Lessee, shall be in good operating condition on said date, that the structural elements of the roof, bearing walls and foundation of the Unit shall be free of material defects, and that the Unit does not contain hazardous levels of any mold or fungi defined as toxic under applicable state or federal law. If a non-compliance with such warranty exists as of the Start Date, or if one of such systems or elements should malfunction or fail within the appropriate warranty period, Lessor shall, as Lessor’s sole obligation with respect to such matter, except as otherwise provided in this Lease, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, malfunction or failure, rectify same at Lessor’s expense. The warranty periods shall be as follows: (i) 6 months as to the HVAC systems, and (ii) 30 days as to the remaining systems and other elements of the Unit. If Lessee does not give Lessor the required notice within the appropriate warranty period, correction of any such non-compliance, malfunction or failure shall be the obligation of Lessee at Lessee’s sole cost and expense (except for the repairs to the fire sprinkler systems, roof, foundations, and/or bearing walls - see Paragraph 7). Lessor also warrants, that unless otherwise specified in writing, Lessor is unaware of (i) any recorded Notices of Default affecting the Premise; (ii) any delinquent amounts due under any loan secured by the Premises; and (iii) any bankruptcy proceeding affecting the Premises.

2.3 **Compliance.** Lessor warrants that to the best of its knowledge the improvements on the Premises and the Common Areas comply with the building codes applicable laws, covenants or restrictions of record, regulations, and ordinances (“**Applicable Requirements**”) that were in effect at the time that each improvement, or portion thereof, was constructed. Said warranty does not apply to the use to which Lessee will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Lessee’s use (see Paragraph 49), or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. **NOTE: Lessee is responsible for determining whether or not the Applicable Requirements, and especially the zoning are appropriate for Lessee’s intended use, and acknowledges that past uses of the Premises may no longer be allowed.** If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same at Lessor’s expense. If Lessee does not give Lessor written notice of a non-compliance with this warranty within 6 months following the Start Date, correction of that non-compliance shall be the obligation of Lessee at Lessee’s sole cost and expense. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Unit, Premises and/or Building, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Unit, Premises and/or Building (“**Capital Expenditure**”), Lessor and Lessee shall allocate the cost of such work as follows:

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

(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor shall pay for such Capital Expenditure and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease or any extension thereof, on the date that on which the Base Rent is due, an amount equal to 1/144th of the portion of such costs reasonably attributable to the Premises. Lessee shall pay Interest on the balance but may prepay its obligation at any time. If, however, such Capital Expenditure is required during the last 2 years of this Lease or if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option to terminate this Lease upon 90 days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with Interest, from Rent until Lessor's share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days written notice to Lessor.

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to non-voluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall either: (i) immediately cease such changed use or intensity of use and/or take such other steps as may be necessary to eliminate the requirement for such Capital Expenditure, or (ii) complete such Capital Expenditure at its own expense. Lessee shall not have any right to terminate this Lease.

2.4 Acknowledgements. Lessee acknowledges that: (a) it has been given an opportunity to inspect and measure the Premises, (b) it has been advised by Lessor and/or Brokers to satisfy itself with respect to the size and condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements and the Americans with Disabilities Act), and their suitability for Lessee's intended use, (c) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises, (d) it is not relying on any representation as to the size of the Premises made by Brokers or Lessor, (e) the square footage of the Premises was not material to Lessee's decision to lease the Premises and pay the Rent stated herein, and (f) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (ii) it is Lessor's sole responsibility to investigate the financial capability and/or suitability of all proposed tenants.

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

2.6 Vehicle Parking. Lessee shall be entitled to use the number of Parking Spaces specified in Paragraph 1.2(b) on those portions of the Common Areas designated from time to time by Lessor for parking. Lessee shall not use more parking spaces than said number. Said parking spaces shall be used for parking by vehicles no larger than full-size passenger automobiles or pick-up trucks, herein called "**Permitted Size Vehicles.**" Lessor may regulate the loading and unloading of vehicles by adopting Rules and Regulations as provided in Paragraph 2.9. No vehicles other than Permitted Size Vehicles may be parked in the Common Area without the prior written permission of Lessor. In addition: **(See Addendum #2)**

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

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

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

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

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

2.9 Common Areas - Rules and Regulations. Lessor or such other person(s) as Lessor may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to establish, modify, amend and enforce reasonable rules and regulations ("**Rules and Regulations**") for the management, safety, care, and cleanliness of the grounds, the parking and unloading of vehicles and the preservation of good order, as well as for the convenience of other occupants or tenants of the Building and the Project and their invitees. Lessee agrees to abide by and conform to all such Rules and Regulations, and shall use its best efforts to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Lessor shall not be responsible to Lessee for the non-compliance with said Rules and Regulations by other tenants of the Project. **(See Addendum #4)**

2.10 Common Areas - Changes Lessor shall have the right, in Lessor's sole discretion, from time to time:

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

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

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

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

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

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

3. Term.

3.1 Term. The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 Early Possession. Any provision herein granting Lessee Early Possession of the Premises is subject to and conditioned upon the Premises being available for such possession prior to the Commencement Date. Any grant of Early Possession only conveys a non-exclusive right to occupy the Premises. If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such Early Possession. All other terms of this Lease (including but not limited to the obligations to pay Lessee's Share of Common Area Operating Expenses, Real Property Taxes and insurance premiums and to maintain the Premises) shall be in effect during such period. Any such Early Possession shall not affect the Expiration Date.

3.3 Delay In Possession. Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession by such date, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease or change the Expiration Date. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession is not delivered within 60 days after the Commencement Date, as the same may be extended under the terms of any Work Letter executed by Parties, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. If possession of the Premises is not delivered within 120 days after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

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

4. Rent.

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

4.2 **Common Area Operating Expenses**". Lessee shall pay to Lessor during the term hereof, in addition to the Base Rent, Lessee's Share (as specified in Paragraph 1.6) of all Common Area Operating Expenses, as hereinafter defined, during each calendar year of the term of this Lease, in accordance with the following provisions:

(a) The following costs relating to the ownership and operation of the Project are defined as "**Common Area Operating Expenses**" :

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

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

(bb) Exterior signs and any tenant directories.

(cc) Any fire sprinkler systems.

(dd) All other areas and improvements that are within the exterior boundaries of the Project but outside of the Premises and/or any other space occupied by a tenant.

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

(iii) The cost of trash disposal, pest control services, property management, security services, owner's association dues and fees, the cost to repaint the exterior of any structures and the cost of any environmental inspections.

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

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

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

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

(viii) Auditors', accountants' and attorneys' fees and costs related to the operation, maintenance, repair and replacement of the Project.

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

(x) The cost of any other services to be provided by Lessor that are stated elsewhere in this Lease to be a Common Area Operating Expense.

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

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

(d) Lessee's Share of Common Area Operating Expenses is payable monthly on the same day as the Base Rent is due hereunder. The amount of such payments shall be based on Lessor's estimate of the annual Common Area Operating Expenses. Within 60 days after written request (but not more than once each year) Lessor shall deliver to Lessee a reasonably detailed statement showing Lessee's Share of the actual Common Area Operating Expenses for the preceding year. If Lessee's payments during such year exceed Lessee's Share, Lessor shall credit the amount of such over-payment against Lessee's future payments. If Lessee's payments during such year were less than Lessee's Share, Lessee shall pay to Lessor the amount of the deficiency within 10 days after delivery by Lessor to Lessee of the statement.

(e) Common Area Operating Expenses shall not include the cost of replacing equipment or capital components such as the roof, foundations, exterior walls or Common Area capital improvements, such as the parking lot paving, elevators, fences that have a useful life for accounting purposes of 5 years or more.

(f) Common Area Operating Expenses shall not include any expenses paid by any tenant directly to third parties, or as to which Lessor is otherwise reimbursed by any third party, other tenant, or insurance proceeds.

4.3 Payment. Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States, without offset or deduction (except as specifically permitted in this Lease), on or before the day on which it is due. All monetary amounts shall be rounded to the nearest whole dollar. In the event that any statement or invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of \$25 in addition to any Late Charge and Lessor, at its option, may require all future Rent be paid by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent and Common Area Operating Expenses, and any remaining amount to any other outstanding charges or costs.

5. Security Deposit. Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount already due Lessor, for Rents which will be due in the future, and/ or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 90 days after the expiration or termination of this Lease, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease.

6. Use.

6.1 **Use.** Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Other than guide, signal and seeing eye dogs, Lessee shall not keep or allow in the Premises any pets, animals, birds, fish, or reptiles. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the Building or the mechanical or electrical systems therein, and/or is not significantly more burdensome to the Project. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in the Agreed Use.

6.2 Hazardous Substances.

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

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

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

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

(e) **Lessor Indemnification.** Except as otherwise provided in paragraph 8.7, Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which suffered as a direct result of Hazardous Substances on the Premises prior to Lessee taking possession or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

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

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

6.3 Lessee's Compliance with Applicable Requirements. Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to such Requirements, without regard to whether said Requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements. Likewise, Lessee shall immediately give written notice to Lessor of: (i) any water damage to the Premises and any suspected seepage, pooling, dampness or other condition conducive to the production of mold; or (ii) any mustiness or other odors that might indicate the presence of mold in the Premises.

6.4 Inspection; Compliance. Lessor and Lessor's "Lender" (as defined in Paragraph 30) and consultants shall have the right to enter into Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable notice, for the purpose of inspecting the condition of the Premises and for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a Hazardous Substance Condition (see Paragraph 9.1) is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets (MSDS) to Lessor within 10 days of the receipt of written request therefor.

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

7.1 Lessee's Obligations.

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

~~**(b) Service Contracts.** Lessee shall, at Lessee's sole expense, procure and maintain contracts, with copies to Lessor, in Premises after 10 days' prior written notice to Lessee (except in the case of an emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf, and put the Premises in good order, condition and repair, and Lessee shall promptly pay to Lessor a sum equal to 115% of the cost thereof.~~

(c) Failure to Perform. If Lessee fails to perform Lessee's obligations under this Paragraph 7.1, Lessor may enter upon the customary form and substance for, and with contractors specializing and experienced in the maintenance of the following equipment and improvements, if any, if and when installed on the Premises: (i) HVAC equipment, (ii) boiler and pressure vessels, and (iii) clarifiers. However, Lessor reserves the right, upon notice to Lessee, to procure and maintain any or all of such service contracts, and Lessee shall reimburse Lessor, upon demand, for the cost thereof.

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

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

7.3 Utility Installations; Trade Fixtures; Alterations.

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

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

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

7.4 Ownership; Removal; Surrender; and Restoration.

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

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

(c) Surrender; Restoration. Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof broom clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing, if this Lease is for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall also remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Premises) to the level specified in Applicable Requirements. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. Any personal property of Lessee not removed on or before the Expiration Date or any earlier termination date shall be deemed to have been abandoned by Lessee and may be disposed of or retained by Lessor as Lessor may desire. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

8. Insurance; Indemnity.

8.1 Payment of Premium Increases.

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

(b) Lessee shall pay any Insurance Cost Increase to Lessor pursuant to Paragraph 4.2. Premiums for policy periods commencing prior to, or extending beyond, the term of this Lease shall be prorated to coincide with the corresponding Start Date or Expiration Date.

8.2 Liability Insurance.

(a) **Carried by Lessee.** Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$1,000,000 per occurrence with an annual aggregate of not less than \$2,000,000. Lessee shall add Lessor as an additional insured by means of an endorsement at least as broad as the Insurance Service Organization's "Additional Insured-Managers or Lessors of Premises" Endorsement. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "**insured contract**" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. Lessee shall provide an endorsement on its liability policy(ies) which provides that its insurance shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

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

8.3 Property Insurance - Building, Improvements and Rental Value.

(a) **Building and Improvements.** Lessor shall obtain and keep in force a policy or policies of insurance in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Premises. The amount of such insurance shall be equal to the full insurable replacement cost of the Premises, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee not by Lessor. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed \$5,000 per occurrence.

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

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

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

8.4 Lessee's Property; Business Interruption Insurance; Worker's Compensation Insurance

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

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

(c) **Worker's Compensation Insurance.** Lessee shall obtain and maintain Worker's Compensation Insurance in such amount as may be required by Applicable Requirements. Such policy shall include a 'Waiver of Subrogation' endorsement. Lessee shall provide Lessor with a copy of such endorsement along with the certificate of insurance or copy of the policy required by paragraph 8.5.

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

8.5 Insurance Policies. Insurance required herein shall be by companies maintaining during the policy term a "General Policyholders Rating" of at least A-, VII, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates with copies of the required endorsements evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 30 days prior written notice to Lessor. Lessee shall, at least 10 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may order such insurance and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.

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

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

8.8 Exemption of Lessor and its Agents from Liability. Notwithstanding the negligence or breach of this Lease by Lessor or its agents, neither Lessor nor its agents shall be liable under any circumstances for: (i) injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, indoor air quality, the presence of mold or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the Building, or from other sources or places, (ii) any damages arising from any act or neglect of any other tenant of Lessor or from the failure of Lessor or its agents to enforce the provisions of any other lease in the Project, or (iii) injury to Lessee's business or for any loss of income or profit therefrom. Instead, it is intended that Lessee's sole recourse in the event of such damages or injury be to file a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of paragraph 8.

8.9 Failure to Provide Insurance. Lessee acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that Lessee does not maintain the required insurance and/or does not provide Lessor with the required binders or certificates evidencing the existence of the required insurance, the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater. The parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

9. Damage or Destruction.

9.1 Definitions.

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

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

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

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

(e) **“Hazardous Substance Condition”** shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance, in, on, or under the Premises which requires restoration.

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

9.3 Partial Damage - Uninsured Loss If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee’s expense), Lessor may either: (i) repair such damage as soon as reasonably possible at Lessor’s expense (subject to reimbursement pursuant to Paragraph 4.2), in which event this Lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within 30 days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective 60 days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within 10 days after receipt of the termination notice to give written notice to Lessor of Lessee’s commitment to pay for the repair of such damage without reimbursement from Lessor. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days after making such commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

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

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

9.6 Abatement of Rent; Lessee’s Remedies.

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

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

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

10. Real Property Taxes.

10.1 Definitions.

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

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

10.2 Payment of Taxes. Except as otherwise provided in Paragraph 10.3, Lessor shall pay the Real Property Taxes applicable to the Project, and said payments shall be included in the calculation of Common Area Operating Expenses in accordance with the provisions of Paragraph 4.2.

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

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

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

11. Utilities and Services. Lessee shall pay for all water, gas, heat, light, power, telephone, trash disposal and other utilities and services supplied to the Premises, together with any taxes thereon. Notwithstanding the provisions of Paragraph 4.2, if at any time in Lessor's sole judgment, Lessor determines that Lessee is using a disproportionate amount of water, electricity or other commonly metered utilities, or that Lessee is generating such a large volume of trash as to require an increase in the size of the trash receptacle and/or an increase in the number of times per month that it is emptied, then Lessor may increase Lessee's Base Rent by an amount equal to such increased costs. There shall be no abatement of Rent and Lessor shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Lessor's reasonable control or in cooperation with governmental request or directions. **(See Addendum #5)**

12. Assignment and Subletting.

12.1 Lessor's Consent Required.

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

(b) Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.

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

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

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

(f) Lessor may reasonably withhold consent to a proposed assignment or subletting if Lessee is in Default at the time consent is requested.

(g) Notwithstanding the foregoing, allowing a de minimis portion of the Premises, ie. 20 square feet or less, to be used by a third party vendor in connection with the installation of a vending machine or payphone shall not constitute a subletting.

12.2 Terms and Conditions Applicable to Assignment and Subletting

(a) Regardless of Lessor's consent, no assignment or subletting shall: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

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

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

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

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of \$500 as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Paragraph 36)

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

(g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing. (See Paragraph 39.2)

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

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

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

(c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.

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

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

13. Default; Breach; Remedies.

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

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

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee. **THE ACCEPTANCE BY LESSOR OF A PARTIAL PAYMENT OF RENT OR SECURITY DEPOSIT SHALL NOT CONSTITUTE A WAIVER OF ANY OF LESSOR'S RIGHTS, INCLUDING LESSOR'S RIGHT TO RECOVER POSSESSION OF THE PREMISES.**

(c) The failure of Lessee to allow Lessor and/or its agents access to the Premises or the commission of waste, act or acts constituting public or private nuisance, and/or an illegal activity on the Premises by Lessee, where such actions continue for a period of 3 business days following written notice to Lessee.

(d) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate or financial statements, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 41, (viii) material data safety sheets (MSDS), or (ix) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

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

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

(g) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false.

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

13.2 Remedies. If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee’s behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. Lessee shall pay to Lessor an amount equal to 115% of the costs and expenses incurred by Lessor in such performance upon receipt of an invoice therefor. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

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

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

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

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

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

13.5 Interest. Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due shall bear interest from the 31st day after it was due. The interest ("Interest") charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 Breach by Lessor.

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

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

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

15. Brokerage Fees.

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

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

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

16. Estoppel Certificates.

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

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate. In addition, Lessee acknowledges that any failure on its part to provide such an Estoppel Certificate will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to execute and/or deliver a requested Estoppel Certificate in a timely fashion the monthly Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater for remainder of the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to provide the Estoppel Certificate. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to provide the Estoppel Certificate nor prevent the exercise of any of the other rights and remedies granted hereunder.

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall within 10 days after written notice from Lessor deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17. Definition of Lessor. The term "**Lessor**" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

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

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

20. Limitation on Liability. The obligations of Lessor under this Lease shall not constitute personal obligations of Lessor, or its partners, members, directors, officers or shareholders, and Lessee shall look to the Premises, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against Lessor's partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction.

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

22. No Prior or Other Agreements; Broker Disclaimer. This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party.

23. Notices.

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

23.2 Date of Notice. Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices transmitted by facsimile transmission or by email shall be deemed delivered upon telephone confirmation of receipt (if by fax, a confirmation report from fax machine is sufficient), provided a copy is also delivered via delivery or mail. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

24. Waivers.

(a) No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent.

(b) The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of monies or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.

(c) THE PARTIES AGREE THAT THE TERMS OF THIS LEASE SHALL GOVERN WITH REGARD TO ALL MATTERS RELATED THERETO AND HEREBY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE TO THE EXTENT THAT SUCH STATUTE IS INCONSISTENT WITH THIS LEASE.

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

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

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

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

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

(b) Brokers have no responsibility with respect to any default or breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to this Lease may be brought against Broker more than one year after the Start Date and that the liability (including court costs and attorneys' fees), of any Broker with respect to any such lawsuit and/or legal proceeding shall not exceed the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

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

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

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

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

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

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

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

30.2 **Attornment.** In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Device to which this Lease is subordinated (i) Lessee shall, subject to the non-disturbance provisions of Paragraph 30.3, attorn to such new owner, and upon request, enter into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of the new owner, this Lease will automatically become a new lease between Lessee and such new owner, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor which was not paid or credited to such new owner.

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

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

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

32. Lessor's Access; Showing Premises; Repairs. Showing Premises; Repairs. Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect on Lessee's use of the Premises. All such activities shall be without abatement of rent or liability to Lessee.

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

34. Signs. Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last 6 months of the term hereof. Except for ordinary "For Sublease" signs which may be placed only on the Premises, Lessee shall not place any sign upon the Project without Lessor's prior written consent. All signs must comply with all Applicable Requirements. (See Addendum #1)

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

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

37. Guarantor.

37.1 Execution. The Guarantors, if any, shall each execute a guaranty in the form most recently published by the AIR Commercial Real Estate Association.

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

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

39. **Options.** If Lessee is granted any option, as defined below, then the following provisions shall apply.

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

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

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

39.4 Effect of Default on Options.

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

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

(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term or completion of the purchase, (i) Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof), or (ii) if Lessee commits a Breach of this Lease.

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

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

42. **Performance Under Protest.** If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay. A Party who does not initiate suit for the recovery of sums paid "under protest" within 6 months shall be deemed to have waived its right to protest such payment.

43. Authority.; Multiple Parties; Execution.

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

(b) If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and severally liable hereunder. It is agreed that any one of the named Lessees shall be empowered to execute any amendment to this Lease, or other document ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

(c) This Lease may be executed by the Parties in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

44. **Conflict.** Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

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

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

47. **Waiver of Jury Trial. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.**

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

49. **Accessibility; Americans with Disabilities Act.**

(a) The Premises: have not undergone an inspection by a Certified Access Specialist (CASp). have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises met all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises did not meet all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq.

(b) Since compliance with the Americans with Disabilities Act (ADA) is dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. In the event that Lessee's use of the Premises requires modifications or additions to the Premises in order to be in ADA compliance, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

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

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

1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.

2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAID

INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING OF THE PREMISES, THE STRUCTURAL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE.

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

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

Executed at: Arcata, California

On: _____

By LESSOR:

Kenneth E. Zanzi

Ellen C. Zanzi

By: _____

Name Printed: Kenneth E. Zanzi

Title: Property Owner

By: _____

Name Printed: Ellen C. Zanzi

Title: Property Owner

Address: P. O. Box 857

Fortuna, California 95540

Telephone: _____

Facsimile: _____

Email: _____

Email: _____

Federal ID No. _____

BROKER:

Att: _____

Title: _____

Address: _____

Telephone: _____

Facsimile: _____

Email: _____

Federal ID No. _____

Broker/Agent BRE License #: _____

Executed: Arcata, California

On: _____

By LESSEE:

GrowGeneration Corp.

By: _____

Name Printed: Darren Lampert

Title: CEO/Chairman

GrowGeneration

By: _____

Name Printed: _____

Title: _____

Address: _____

Telephone: _____

Facsimile: _____

Email: Darren@growgeneration.com

Email: _____

Federal ID No. _____

BROKER:

Att: _____

Title: _____

Address: _____

Telephone: _____

Facsimile: _____

Email: _____

Federal ID No. _____

Broker/Agent BRE License #: _____

NOTICE: These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form: AIR Commercial Real Estate Association, 500 N Brand Blvd, Suite 900, Glendale, CA 91203. Telephone No. (213) 687-8777. Fax No.: (213) 687-8616.

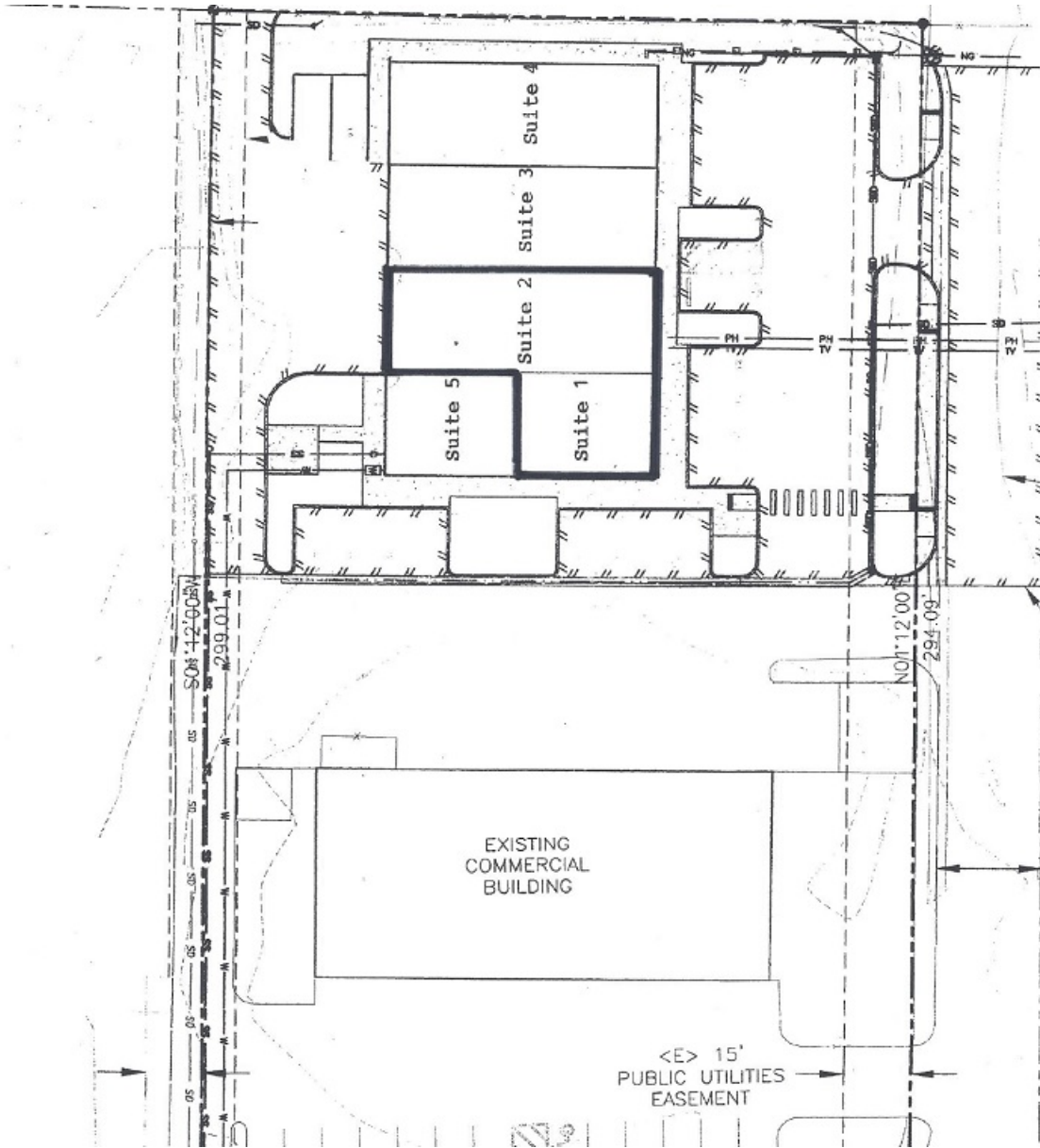
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EXHIBIT A

5201 CARLSON PARK DRIVE
ARCATA CA



LEASE ADDENDUM
To Standard Industrial/Commercial Multi-Tenant Lease-Gross
5201 Carlson Park Drive, Suites 1 and 2
Areata, California

This is an Addendum to the Standard Industrial/Commercial Multi-Tenant Lease-Gross dated, January 18, 2018, wherein **Kenneth E. Zanzi and Ellen C. Zanzi** are referred to as "**Lessor**" and GrowGeneration Corp. is referred to as "**Lessee**".

1. **Sign.** Lessee is to provide signage. A Master Sign Plan for the building was approved by the City of Areata Historic and Design Review Commission. Sign design must be approved in advance by Lessor. City of Areata approved signage is as follows:
 - a. Wall-mounted fascia sign: "Name of business" wall-mounted fascia sign manufactured from formed plastic letters (C.A.B.). The maximum height of letters is 15 inches and will not exceed 20 square feet per sign. Color, style, and size to be chosen by Lessee with Lessor's approval. Letters will be stud mounted and may be illuminated with LED strips mounted inside the formed letters.
 - b. Wood monument sign: A wood monument sign (70" x 88") with building address and individual shingles for each business is provided by Lessor. Lessee is responsible for cost of design, fabrication, and placement of signage on shingle.
 - c. Storefront Door Signage: Business name and hours of operation signage may be placed on the storefront doors. The letters, logos, or symbols shall be professionally applied to the door. Size and style to be at the discretion of Lessee; however, the window signage shall not exceed 20% of the total elevation window area in which it is located.

For further information regarding signage, request a copy of the approved Master Sign Plan from Lessor.

2. **Vehicle Parking:** Parking on the eastern and southern facings of the building are unreserved and in common.
 3. **Structural Alterations.** Any structural alterations to the premises shall be done with prior written approval from Lessor. All work shall be performed by a licensed professional contractor under permit from the City of Areata.
 4. **Common Area.** No items are to be stored outside of building during or after normal business hours. Lessor will provide a designated space for a bin in the enclosed trash enclosure. Lessee shall clean daily around the immediate area of its premises and pickup any litter in the parking areas, landscaping, or other areas of the subject property caused by the operation of its business.
 5. **Utilities.** Lessee agrees to pay for all utilities and services directly billed to Lessee which include the following: electricity, gas, telephone, security system, internet, trash collection. Private water meters will measure the amount of
-

LEASE ADDENDUM (continued)

January 18, 2018

Page 2

6. **Increase in the Base Rent/Consumer Price Index.** The base rent upon renewal shall be increased annually if the Consumer Price Index, U.S. City Average All Urban Consumers (Index) as published by the United States Department of Labor's Bureau of Labor Statistics, increases over the base period Index. The base period Index shall be the Index for the calendar month for each subsequent year (comparison month). If the index for any comparison month is higher than the base period Index, then the rental fee for the next year shall be increased by the identical percentage commencing with the next rental commencement month. In no event shall any adjusted base rent be less than the Base Rent for the month immediately preceding the adjustment.

{By way of illustration only, if Lessee commenced paying rent in June of 1977, then the base Period Index is that for February 1977 (assume 176.3), and that Index shall be compared to the Index for February 1978 (assume 185.8), and because the Index for February of 1978 is 5.39 Percent higher, the minimum rental commencing June 1978 shall be 5.39 percent higher. Likewise, the Index for February 1979 shall be compared with the Index for February 1977.}

7. **Option to Extend Lease.** Provided that tenant is not in default in the performance of this lease, tenant shall have the option to extend the lease for an additional term of three years commencing at the expiration of the initial lease term. All of the terms and conditions of the initial lease shall apply during the extended three-year term except the monthly base rent at the start of the Renewal Lease term. The rent shall be increased by ten percent (10%) above the last monthly rent paid at the end of the initial lease term. (10% higher than Base rent of \$2,250 plus annual CPFs). The option shall be exercised by written notice given to Lessor not less than sixty (60) days prior to the expiration of the initial lease term. If notice is not given in the manner provided herein within the time specified, this option shall expire.

Agreed and acknowledged:

Lessor: Kenneth E. Zanzi and Ellen C. Zanzi

By: _____
Kenneth E. Zanzi

Dated: _____

By: _____
Ellen C. Zanzi

Dated: _____

Lessee: GrowGeneration Corp.

By: _____
Darren Lampert, CEO

Dated: _____

Humboldt Depot/ GrowGeneration Commercial Lease

Basic Lease Information

Recitals

Section 1.	Premises
Section 2.	Term
Section 3.	Rent
Section 4.	Utilities
Section 5.	Taxes
Section 6.	Permits
Section 7.	Insurance
Section 8.	Repairs and Maintenance
Section 9.	Alterations
Section 10.	Use
Section 11.	Environmental Provisions
Section 12.	Damage and Destruction
Section 13.	Default
Section 14.	Assignment and Subletting
Section 15.	Estoppel
Section 16.	Attornment
Section 17.	Subordination
Section 18.	Entry
Section 19.	Late Charges and Interest
Section 20.	Security Deposit
Section 21.	Entire Agreement
Section 22.	Time of Essence
Section 23.	Attorney Fees
Section 24.	Severable
Section 25.	Governing Law
Section 26.	No Option
Section 27.	Successors and Assigns
Section 28.	No Third-Party Beneficiaries
Section 29.	Memorandum of Lease
Section 30.	No Agency, Partnership, or Joint Venture
Section 31.	No Merger
Section 32.	Signs
Section 33.	No Waiver
Section 34.	Financial Statements
Section 35.	Limitation of Liability
Section 36.	Notices
Section 37.	Brokerage Commission
Section 38.	Authorization
Section 39.	Holding Over
Section 40.	Intrabuilding Network Cables
Section 41.	Surrender

Section 42.	Joint and Several
Section 43.	Covenants and Conditions
Section 44.	Addenda
Exhibit A.	Land Description
Exhibit B.	Site Plan
Exhibit C.	Form of Insurance Certificate
Exhibit D.	List of Permitted Hazardous Materials
Exhibit E.	Estoppel Certificate
Exhibit F.	Environmental Certification

Basic Lease Information

Effective Date: 1/30/2018

Landlord: Denis E. Cosby

Landlord's Address for Notice ("Landlord's Address"): 2350 Central Avenue, McKinleyville, California 95519.

Tenant: GrowGeneration Corp., Darren Lampert, CEO

Tenant's Address for Notice ("Tenant's Address"): 2330 Central Ave. #3 & 4, Mckinleyville, CA 95519

Real Property ("Real Property"): A portion of the parcel of land situated in the unincorporated area of the County of Humboldt, State of California, described in attached **Exhibit A.**

Lease Space: an approximately 60' x 56' rental shop & retail space of approx. 3,360 rentable sq.ft. with 11 parking spaces and 1 handicap parking space, as shown on the attached Site Plan as **Exhibit B.**

Term ("Term"): Three (3) years with an option to renew.

Commencement Date ("Estimated Commencement Date"): 1/30/2018

Initial Base Rent Per Month ("Base Rent"): \$3,360.00 per month.

Security Deposit ("Security Deposit"): \$3,360.00 (received)

Broker ("Broker"): None

Lease Year ("Lease Year"): During the Term, each period of approximately 365 days. The first period will commence on the Commencement Date and end on the day prior to the first anniversary of that period and each successive period.

Permitted Use ("Permitted Use"): The Premises are to be used for the exclusive purpose of operating a rental shop and retail space, for uses normally incident to that purpose and for no other purpose.

The terms and provisions in the Basic Lease Information above and the Attached Exhibits are a part of the following Lease. The definitions in the Basic Lease Information apply to all references in this Lease to those terms and provisions. If this Lease and the Basic Lease Information contain conflicting definitions, the Basic Lease Information definition will control.

Landlord (____[landlord's initials]) and Tenant (____[tenant's initials]) agree.

Cosby/

Section 1. Premises.

Landlord leases to Tenant the Real Property. The Real Property and the Improvements are collectively referred to as the "Premises."

Section 2. Term.

(a) Commencement Date. The Term of this Lease will Commence ("Commencement Date") on the earliest of the following dates: 2/1/2018

The Term of the Lease will continue for the period of time specified as the Term or until this Lease is terminated as otherwise provided for in the lease.

Section 3. Rent.

(a) Initial Base Rent. Tenant will pay to Landlord, at any address that Landlord may designate in writing to Tenant, the Base Rent. The rent must be paid, without the need for notice, demand, offset, or deduction, on the first day of each calendar month. Upon the execution of this Lease, Tenant will pay to Landlord the first month's Base Rent. If the Term commences or ends on a date other than the first or last day of a month, Tenant must pay on the Commencement Date or the first day of the last month a Base Rent prorated on a per diem basis with respect to the portion of the month within the Term. All sums other than Base Rent that Tenant is obligated to pay under this Lease will be deemed to be additional rent due, regardless of whether those sums are designated as "additional rent." The term "Rent" means the Base Rent and all additional rent payable under this Lease.

(b) Scheduled Base Rent Increases. Base Rent will be negotiated at the end of the three year lease. Increase will be based on the Consumer Price Index for All Urban Consumers, West Cities Average, published by the United States Department of Labor, Bureau of Labor Statistics.

Section 4. Utilities

Tenant agrees to indemnify, release, defend, and hold Landlord harmless against all utility charges.

Section 5. Taxes

(a) Real Property Taxes. Landlord will pay to the proper taxing authorities, as they become due, all Real Property Taxes applicable to the Premises.

(b) Personal Property Taxes. Prior to delinquency, Tenant will pay all taxes and assessments levied on trade fixtures, alteration, additions, improvements, inventories, and other personal property located or installed on the Premises by Tenant. Tenant will also provide Landlord copies of receipts for payment of all those taxes and assessments. To the extent any taxes are not separately assessed or billed to Tenant, Tenant will pay the amount as invoiced by Landlord. If requested by Landlord.

Section 6. Permits

Tenant shall obtain any and all permits and licenses necessary to comply with any governmental or regulatory agencies, including but not limited to, a use permit from the Humboldt County Planning Department.

Section 7. Insurance.

(a) Tenant's Obligations. Tenant will, at Tenant's expense, obtain and keep in force at all times the following insurance:

(i) Casualty Insurance. Casualty insurance insuring the Improvements against fire, and extended coverage, if applicable) for the full replacement cost of the Improvements, with deductibles and the form and endorsements of the coverage as selected by Landlord.

(ii) General Liability Insurance. A policy of commercial general liability insurance (occurrence form) having a combined single limit of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) aggregate per location if Tenant has multiple locations, providing coverage for, among other things, blanket contractual liability, premises, products and completed operations, and personal and advertising injury coverage.

(iii) Workers' Compensation and Employer's Liability Insurance. Workers' compensation insurance having limits not less than those required by state statute and federal statute, if applicable, and covering all persons employed by tenant in the conduct of Tenant's operations on the Premises.

(iv) Personal Property Insurance. "All risk" property insurance, including boiler and machinery comprehensive form, if applicable, covering damage to or loss of any equipment of Tenant and coverage for the full replacement cost, including electronic data processing equipment, and coverage for the full replacement cost of the equipment. If the property of Tenant's invitees is to be kept in the Premises, the insurance should include warehouse's legal liability or customers' insurance for full replacement cost of the property belonging to invitees and located in Premises.

(b) General Insurance Provisions.

(i) Insurance Companies. Insurance required to be maintained by Tenant will be written by companies licensed to do business in the state in which the Premises are located and having a "General Policyholders Rating" of at least A, or a higher rating if required by a lender having a lien on the Premises, as set forth in the most current issue of "Best's Insurance Guide."

(ii) Certificates of Insurance. Tenant will deliver to Landlord certificates of insurance for all insurance required to be maintained by Tenant in the form of attached **Exhibit C** no later than seven (7) days prior to the date of possession of the Premises. Tenant will, at least ten (10) days prior to expiration of the policy, furnish Landlord with certificates of renewal or "binders." Each certificate will expressly provide that the policies are not cancelable or otherwise subject to modification except after thirty (30) days' prior written notice to the parties named as additional insureds in this Lease. However, in the case of cancellation for nonpayment of premium, the cancellation will not take effect until at least (10) days' notice has been given to Landlord. If Tenant fails to maintain any insurance required in this Lease. Tenant will be liable for all losses and costs resulting from that failure; Landlord will have the right, but not the obligation, to obtain insurance on behalf of Tenant, and Tenant will immediately on demand pay Landlord the premiums on the insurance; and Landlord may declare a default under this Lease.

(iii) Additional Insureds. Landlord and any property management company of Landlord for the Premises must be named as additional insureds under all of the policies required by Section 8(a). The policies required under Section 8(a)(ii) must provide for severability of interest.

(iv) Primary Coverage. All insurance to be maintained by Tenant must, except for workers' compensation and employer's liability insurance, be primary, without right of contribution from insurance of Landlord. Any umbrella liability policy or excess liability policy must provide primary insurance. The limits of insurance maintained by Tenant will not limit Tenant's liability under this Lease.

(v) Waiver of Subrogation. Tenant waives any right to recover against Landlord for damages to Tenant's Property covered by insurance. This fully waives, for the benefit of Landlord, any rights and claims that might give rise to a right of subrogation in favor of any insurance carrier. The coverage obtained by Tenant pursuant to this Lease must include, without limitation, a waiver of subrogation endorsement attached to the certificate of insurance that conforms to attached **Exhibit C**.

(c) Indemnification. Landlord will not be liable for any loss or damage to person or property caused by theft, fire, acts of God, acts of a public enemy, riot, strike, insurrection, war, court order, requisition, or order of government body or authority, or for any damage or inconvenience that may arise through repair or alteration of any part of the Premises or failure to make any repair. Tenant will indemnify and defend Landlord, by counsel acceptable to Landlord against any liabilities, including reasonable attorney fees and court costs, arising out of or relating to the following.

(i) claims of injury to or death of persons or damage to property occurring or resulting directly or indirectly from the use or occupancy of the Premises, or from activities of Tenant, Tenant's invitees, or anyone about the Premises, or from any other cause except to the extent caused by Landlord's negligence or willful misconduct;

(ii) claims for work or labor performed, or for materials or supplies furnished to or at the request of Tenant in connection with performance of any work done for the account of Tenant within the Premises; and

(iii) claims arising from any breach or default on the part of Tenant in the performance of any covenant contained in this Lease.

The provisions of this Section 8(c) will survive the expiration or termination of this Lease with respect to any claims or liability occurring prior to the expiration or termination.

Section 8. Repairs and Maintenance.

(a) Landlord's Obligations. Subject to the terms of this Section, Landlord shall maintain the structural portions of the roof, foundation, and load-bearing portions of walls of the Improvements, including glass, doors, plumbing and lights, not including bulbs. Landlord will not be required to make any repair resulting from:

(i) any alteration or modification to the Improvements or to mechanical equipment within the Improvements performed by, for, or because of Tenant or to special equipment or systems installed by, for, or because of Tenant;

(ii) the installation, use, or operation of Tenant's property, fixtures, and equipment;

(iii) the moving of Tenant's property in or out of the Improvements or in and about the Premises;

(iv) Tenant's use or occupancy of the Premises in violation of Section 11 of this Lease or in the manner not contemplated by the parties at the time of the execution of this Lease;

(v) the acts or omissions of Tenant and Tenant's employees, agents, invitees, subtenant's, licensees, or contractors;

(vi) fire and other casualty, except as provided by Section 13 of this Lease; or

(vii) condemnation, except as provided in Section 14, of this Lease.

Landlord shall have no obligation to make repairs under this Section until a reasonable time after receipt of written notice from Tenant of the need for repairs. Tenant waives any right to repair at the expense of Landlord under any applicable governmental laws, ordinances, statutes, orders, or regulations now or later in effect.

(b) Tenant's Obligations. Except for the portions of the Premises expressly required to be maintained by Landlord under Section 9(a), Tenant, at Tenant's expense, will maintain the Premises in good order including, without limitation, floor coverings, walls and wall coverings and truck aprons and any signage. If Tenant fails, in the reasonable judgment of Landlord, to maintain the Premises in good order, Landlord may perform the maintenance, repairs, refurbishing, or repairing at Tenant's expense.

(c) Tenant to keep premises clean and orderly with regular garbage service. This includes interior and exterior areas. No storage permitted outside unless in an enclosed trailer or storage container.

Section 9. Alterations.

(a) Trade Fixtures and Alterations. Tenant will not make or allow any additions, alterations, installations, or improvements in or to the Premises (collectively, "Alterations") without the prior written consent of Landlord, which will not be unreasonably withheld. Unless Landlord has waived this requirement in writing, together with Tenant's request for approval of any Alteration, Tenant must also submit details about design concept, plans and specifications, names of proposed contractors, and financial and other pertinent information about any contractors (including, without limitation, the labor organization affiliation or lack of affiliation of any contractors), certificates of insurance to be maintained by Tenant's contractors, hours of construction, proposed construction methods, details about the quality of the proposed work and, if reasonably required by Landlord, evidence of security (such as payment and performance bonds) to assure timely completion of the work by the contractor and payment by the contractor of all costs of the work. For any alteration that is visible from outside the Premises, the proposed Alteration must, in the opinion of Landlord, also be architecturally and aesthetically harmonious with the remainder of the Project. If a Notice of Completion is required for the work, Tenant must file it and provide Landlord with a copy. Tenant must provide Landlord with a set of "as-built" drawings for any work.

(b) Liens. Tenant will promptly pay and discharge all claims for labor performed, supplies furnished, and services rendered at the request of Tenant and will keep the Premises free from all mechanics' and material men's liens. Tenant will provide at least ten (10) days' prior written notice to Landlord before any labor is performed, supplies are furnished, or services are rendered at the Premises, and Landlord will have the right to post notices of non responsibility on the Premises. If any lien is filed, Landlord may take any necessary action to remove the lien, and Tenant will pay Landlord any amounts expended by Landlord, together with interest at the Applicable Interest Rate from the date of expenditure.

Section 10. Use.

The Premises will be used only for the Permitted Use and for no other uses. The use will be otherwise consistent with any applicable governmental laws, ordinances, statutes, orders, and regulations or any supplement to these that has been or will be recorded in any official or public records concerning the Project or any portion of it, including, but not limited to, all provisions of the Americans with Disabilities Act [42 USCA 12183 and 12204]; except to the extent that the use results from (a) any work to be done by Landlord pursuant to this Lease, and (b) any work necessitated by defects in the construction of the Building. The judgment of any court of competent jurisdiction, or the admission of Tenant in any action or proceeding against Tenant, regardless of whether the Landlord is a party, that Tenant has violated any Legal Requirement in the condition, use, or occupancy of the Premises, will be conclusive of that fact as between Landlord and Tenant.

Section 11. Environmental Provisions.

(a) Definitions. As used in this Section, the following terms have the following definitions:

“Agencies” means any federal, state, or local governmental authorities, agencies, or other administrative bodies with jurisdiction over Tenant or the Premises.

“Environmental Laws” means any federal, state, or local environmental, health, or safety-related laws, regulations, standards, court decisions, ordinances, rules, codes, orders, decrees, directives, guidelines, permits, or permit conditions, currently existing and as amended, enacted, issued, or adopted in the future that are or become applicable to Tenant or the Premises.

“Hazardous Material” means any chemical, substance, material, controlled substance, object, condition, waste, living organism, or combination that is or may be hazardous to human health or to the safety of the environment due to its radioactivity, flammability, corrosivity, reactivity, explosivity, toxicity, carcinogenicity, mutagenicity, phytotoxicity, infectiousness, or other harmful or potentially harmful properties or effects, including, without limitation, petroleum and petroleum products, asbestos, radon, polychlorinated biphenyls (PCBs) and all of those chemicals, substances, materials, controlled substances, objects, conditions, wastes, living organisms, or combinations that are now or become in the future listed, defined, or regulated in any manner by any Environmental Law based upon, directly or indirectly, their properties or effects.

“Tenant’s Parties” means Tenant’s employees, agents, customers, visitors, invitees, licensees, contractors, designees, or sub tenant’s.

(b) Use of Hazardous Materials. Tenant will not use or allow the use of the Premises in a manner that may cause “Hazardous Materials” to be released or to become present on, under, or about the Premises or other properties in the vicinity of the Premises.

(c) Environmental Compliance.

(i) Tenant and Tenant’s Parties will not, at any time during the Term, cause or permit any Hazardous Materials to be brought upon, stored, manufactured, generated, blended, handled, recycled, treated, disposed, or used on, under, or about the Premises, the Building, or the Project for any purpose, except as specifically approved in writing by Landlord (“Permitted Hazardous Materials”), as amended from time to time. A copy of the Permitted Hazardous Materials as of the date of this Lease is attached as **Exhibit D**. Any material change to the Permitted Hazardous Materials must be approved in advance in writing by Landlord, whose approval will not be unreasonably withheld.

(ii) During the Term, Tenant will take reasonable steps to protect against intentional or negligent acts or omissions of third parties that might result directly or indirectly in the release, disposal, or other placement of Hazardous Materials on or under the Premises.

(iii) No asbestos-containing materials will be manufactured or installed for any purposes on or as part of the Premises, whether as part of Tenant’s or Tenant’s Parties’ business operations or as tenant improvements, unless specifically identified on **Exhibit D** and approved in advance in writing by Landlord, whose approval will not be unreasonably withheld.

(iv) Tenant will keep, operate, and maintain the Premises in substantial compliance with all, and will not cause or permit the Premises to be in violation of any, Environmental Laws.

(d) Underground Storage Tanks.

(i) Neither Tenant nor any of Tenant's Parties will install or use any underground storage tanks on the Premises unless specifically approved in advance in writing by Landlord, which approval may be withheld in Landlord's sole discretion. If Landlord approves Tenant's installation or use of underground storage tanks, Tenant will be responsible for compliance with all applicable requirements and Environmental Laws, including, but not limited to, financial assurance requirements, and must furnish evidence satisfactory to Landlord of that compliance. Tenant will also test the soil for settling and conduct appropriate tests of the tank and associated piping and equipment at the time of installation to assure that the tank has been properly installed.

(ii) At Landlord's option, upon termination of this Lease at any time and for any reason, Tenant will, within forty-five (45) days from the date of termination, remove and close all underground storage tanks and related equipment and clean up and remove all Hazardous Materials in, on, under, and about the Premises, in accordance with the requirements of all Environmental Laws and to satisfaction of the Agencies (defined in Section 12[1]) and Landlord, and deliver to Landlord a copy of a certificate of closure issued for the tanks by the Agencies.

(c) Landlord's Right of Entry and Testing. Landlord and Landlord's representatives have the right, but not the obligation, at any reasonable time to enter onto and to inspect the Premises and to conduct reasonable testing, monitoring, sampling, digging, drilling, and analysis to determine if Hazardous Materials are present on, under, or about the Premises and to review and copy any documents, materials, data, inventories, financial data, or notices or correspondence to or from private parties or governmental authorities (collectively, "Inspection"). If the Investigation indicates the presence of any environmental condition that occurred during the Term as a result of Tenant's or Tenant's Parties' activities, or failure to act where Tenant had a duty to act, in connection with the Premises, Tenant will reimburse Landlord for the cost of conducting the tests.

(f) Notification.

(i) Tenant must give immediate written notice to Landlord of:

(A) any enforcement, remediation, or other regulatory action or order, taken or threatened, by any Agency regarding, or in connection with, the presence, release, or threat of release of any Hazardous Material on, under, about, or from the Premises, or any tanks on the Premises, or otherwise resulting from Tenant's use of the Premises;

(B) all demands or claims made or threatened by any third party against Tenant or Tenant's Parties or the Premises relating to any liability, loss, damage, or injury resulting from the presence, release, or threat of release of any Hazardous Materials on, under, or about, or from the Premises or otherwise resulting from Tenant's use of the Premises;

(C) any significant spill, release, or discharge of a Hazardous Material on, under, about, or from the Premises, including, without limitation, any spill, release, or discharge required to be reported to any Agency under applicable Environmental Laws; and

(D) all incidents or matters where Tenant and Tenant's Parties are required to give notice to any Agency pursuant to applicable Environmental Laws.

(ii) Tenant must promptly provide to Landlord copies of all materials, reports, technical data, Agency inspection reports, notices and correspondence, and other information or documents relating to incidents or matters subject to notification under Section 12(f)(i). Also, Tenant must promptly furnish to Landlord copies of all permits, approvals, and registrations Tenant receives or submits with respect to Tenant's operation on the Premises, including, without limitation, any underground storage tank registrations, installation permits, and closure permits.

(g) Remediation.

(i) If any Hazardous Materials are released or found on, under, or about the Premises arising out of Tenant's or Tenant's Parties' activities, or failure to act where Tenant had a duty to act, in connection with the Premises, Tenant must promptly take all actions, at Tenant's sole expense, necessary to investigate and remediate the release or presence of Hazardous Materials on, under, or about the Premises in accordance with Environmental Laws and the requirements of all Agencies. However, unless an emergency situation exists that requires immediate action, Landlord's written approval of these actions will first be obtained, and the approval will not be unreasonably withheld. Landlord's right of prior approval of these actions includes, but is not limited to, the selection of any environmental consultant to perform work on or related to the Premises, the scope of work, and sampling activities to be performed by the consultant before the report is final. Tenant will provide Landlord with at least three (3) business days' advance notice of any sampling, and upon request of Landlord, will split samples with Landlord. Tenant will also promptly provide Landlord with the results of any test, investigation, or inquiry conducted by or on behalf of Tenant or Tenant's Parties in connection with the presence or suspected presence of Hazardous Materials on, under, about, or from the Premises. Tenant must notify Landlord in advance and give Landlord the right to participate in any oral or written communications with regulatory agencies concerning environmental conditions on or arising from the Premises. Landlord has the right, but not the obligation, to assume control of any required remediation on the Premises at Tenant's expense if Tenant fails to notify Landlord and obtain Landlord's approvals as required under Section 12(h). Within thirty (30) days after Tenant's completion of any remediation of the Premises, Tenant must deliver to Landlord a letter from the applicable Agency stating that the remediation was undertaken in accordance with all applicable Environmental Laws and that any residual contamination remaining after the remediation does not pose a threat to human health or the environment.

(ii) If Tenant or Tenant's Parties have caused or permitted a release of Hazardous Materials that results in or threatens to result in Hazardous Materials becoming present on, under, or about the Premises, threatens public health or safety or the environment, or is in noncompliance with any applicable Environmental Laws or requirements of Section 12, Landlord may demand that Tenant promptly take action in accordance with Section 12(h)(i). If Tenant does not respond within thirty (30) days (unless there is an emergency, in which case Tenant must respond as soon as practicable, but not less than three (3) days), Landlord has the right, but not the obligation, to enter onto the Premises and take all actions reasonably necessary to investigate and fully remediate the release of noncompliance at Tenant's sole expense, which sums will be immediately due and payable upon receipt of an invoice and will constitute additional rent under this Lease.

(h) Annual Certification. On the date that is one year from the commencement of the Term and annually after that, Tenant must provide Landlord with a letter certifying that Tenant has complied with all applicable Environmental Laws and the requirements of all applicable Agencies and that no soil or ground water contamination has occurred on or originated from the Premises in the form of attached **Exhibit D**.

(i) Expiration and Termination Procedures. Upon expiration or termination of this Lease and if contamination is suspected, upon the request of Landlord, Tenant will perform all of the following activities at Tenant's sole expense:

(i) an environmental assessment of the Premises to evaluate the environmental condition of the Premises and any potential environmental liabilities and in accordance with Section 11(e);

(ii) all remedial or other work identified in the environmental assessment in accordance with Section 11(h) and all applicable Environmental Laws;

(iii) all corrective, remedial, repair, or other work necessary to correct any alleged violations, deficiencies, or hazards noted by any environmental governmental agency; and

(iv) all steps necessary to terminate, close, or transfer all environmental permits, licenses, and other approvals or authorizations for the Premises or for activities, equipment or conditions on the Premises, in accordance with all Environmental Laws. Tenant will also obtain and provide to Landlord the written approval or verification of the satisfactory completion of the termination, closure, or transfer from each Agency with jurisdiction over the environmental permit, license, or other approval.

(j) Liability.

(i) Tenant's Indemnification of Landlord. Tenant will indemnify, protect, defend, and hold harmless Landlord and Landlord's partners, directors, officers, employees, shareholders, lenders, agents, contractors, and each of their respective successors and assigns (individually and collectively "Landlord Indemnities") from all claims, judgments, causes of action, damages, penalties, fines, taxes, cost, liabilities, losses, and expenses arising (directly or indirectly) as a result of or in connection with Tenant's or Tenant's Parties' breach of any prohibition or provision of Section 12, or the presence of any Hazardous Materials on or under the Premises during the Term or any Hazardous Materials that migrate from the Premises to other properties, as a result (directly or indirectly) of Tenant's or Tenant's Parties' activities, or failure to act where Tenant had a duty to act, on or in connection with the Premises.

This obligation by tenant to indemnify, protect, defend, and hold harmless Landlord Indemnities includes, without limitations, costs and expenses incurred for or in connection with any investigation, cleanup, remediation, monitoring, removal, restoration, or closure work required by the Agencies because of any Hazardous Materials present on, under, or about the Premises; the costs and expenses of restoring, replacing, or acquiring the equivalent of damaged natural resources if required under any Environmental Law; all foreseeable consequential damages; all reasonable damages for the loss or restriction on use or rentable or usable space or of any amenity of the Premises; all reasonable sums paid in settlement of claims; reasonable attorney fees; litigation, arbitration, and administrative proceeding costs; and reasonable expert, consultant, and laboratory fees. Neither the written consent of Landlord to the presence of Hazardous Materials on or under the Premises, nor the strict compliance by Tenant with all Environmental Laws, will excuse Tenant from the indemnification obligation. This indemnity will survive the expiration or termination of this Lease. Further, if Landlord detects a deficiency in Tenant's performance under this indemnity and Tenant fails to correct the deficiency within ten (10) days after receipt of written notice from Landlord, Landlord has the right to join and participate in any legal proceedings or actions affecting the Premises that are initiated in connection with any Environmental Laws. However, if the correction of the deficiency takes longer than ten (10) days, Landlord may join and participate if Tenant fails to commence corrective action within the ten (10) day period and after that diligently proceeds to correct the deficiency.

(ii) Landlord's Indemnification of Tenant. Landlord will indemnify, protect, defend, and hold harmless Tenant and Tenant's partners, directors, officers, employees, shareholders, lenders, agents, contractors, and each of their respective successors and assigns (individually and collectively "Tenant Indemnitees") against all claims, judgments, causes of action, damages, penalties, fines, taxes, costs, liabilities, losses, and expenses arising as a result (directly or indirectly) of or in connection with any Existing environmental Condition, or the presence of any Hazardous Materials on the Premises during the Term or any Hazardous Materials that migrate from the Premises to other properties, as a result (directly or indirectly) of Landlord's or Landlord's Parties' activities, or failure to act where Landlord had a duty to act, on or in connection with the Premises. This obligation by Landlord to indemnify, protect, defend, and hold harmless Tenant Indemnitees includes, without limitation, costs and expenses incurred for or in connection with any investigation, cleanup, remediation, monitoring, removal, restoration, or closure work required by the Agencies because of any Hazardous Materials present on the premises; the costs and expenses of restoring, replacing, or acquiring the equivalent of damaged natural resources if required under any Environmental Law; all foreseeable consequential damages; all reasonable damages for the loss or restriction on use of rentable or usable space or of any amenity of the Premises; all reasonable sums paid in settlement of claims, reasonable attorney fees; litigation, arbitration, and administrative proceeding costs; and reasonable expert, consultant, and laboratory fees. The strict compliance by Landlord with all Environmental Laws will not excuse Landlord from the indemnification obligation. This indemnity will survive the expiration or termination of this Lease. If Tenant detects a deficiency in Landlord's performance under this indemnity and Landlord fails to correct the deficiency within ten (10) days after receipt of written notice from Tenant, Tenant will have the right to join and participate in any legal proceedings or actions affecting the Premises initiated in connection with any Environmental Laws. However, if the correction of the deficiency takes longer than ten (10) days, Tenant will have the right to join and participate if Landlord fails to commence corrective action within the ten (10) day period and after that diligently proceeds to correct the deficiency.

(k) Tenant's Release of Landlord. Tenant on behalf of Tenant and Tenant's successors, assigns, and successors-in-interest waives, releases, remises, acquits, and discharges Landlord Indemnitees from all claims, actions, causes of actions, demands, rights, damages, costs, expenses, or compensation, direct or indirect, known or unknown, foreseen or unforeseen, that Tenant now has or that may arise in the future on account of the physical condition of the real property; the Environmental Laws, including, but not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 USCA 9601 et seq., or their application to the Premises; or the existence or condition of any fill, excavation, or filled ground on the real property that may affect the use, maintenance, monitoring, or otherwise of any underground storage tanks or related equipment installed by Tenant or Tenant's Parties. Also, Tenant waives the benefit of Civil Code 1542, which reads as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”

Tenant's release of Landlord does not apply to any Existing Environmental Condition or the presence of Hazardous Materials on the Premises during the Term as a result of the conduct or activities of Landlord, not will tenant's release of Landlord affect Tenant's discovery rights against Landlord in connection with any action brought by a third party.

Section 12. Damage and Destruction.

(a) Casualty. If the Improvements are damaged or destroyed by fire or other casualty, Tenant will give immediate written notice to Landlord. Within thirty (30) days after receipt, Landlord will notify Tenant whether repairs can reasonably be made (1) within ninety (90) days, (2) in more than ninety (90) days, but in less than one hundred eighty (180) days; or (3) in more than one hundred eighty (180) days from the date of notice.

(i) Less Than 90 Days. If the Premises are damaged only to the extent that rebuilding or repairs can be reasonably completed within ninety (90) days, this Lease will not terminate and, provided that insurance proceeds are available to fully repair the damage, Landlord will repair the Premises. However, Landlord will not be required to rebuild, repair, or replace any Alterations that may have been placed on the Premises for Tenant. The Rent will be abated proportionately from the date Tenant vacates the Premises only to the extent the Premises are unfit for occupancy.

(ii) Greater than 90 Days. If the Improvements are damaged only to the extent that rebuilding or repairs can be reasonably completed in more than ninety (90) days, but in less than one hundred eighty (180) days, Landlord will have the option of (1) terminating the Lease effective upon the occurrence of the damage, in which event the Rent will be abated from the date Tenant vacated the Premises; or (2) electing to repair the Premises, provided insurance proceeds are available to fully repair the damage. However, Landlord will not be required to rebuild, repair, or replace any part of the Alterations that may have been placed on the Premises for the Tenant. The Rent will be abated proportionately from the date Tenant vacates the Premises only to the extent the Premises are unfit for occupancy. If Landlord fails to complete repairs within one hundred eighty (180) days after the date on which Landlord is notified by Tenant (that period to be extended for delays caused by Tenant. Tenant may, within ten (10) days after the expiration of the one hundred eighty (180) day period, terminate this Lease by delivering written notice to Landlord as Tenant's exclusive remedy. All rights under this Lease will cease and terminate thirty (30) days after Landlord's receipt of notice.

(iii) Greater Than 180 Days. If the Improvements are so damaged that rebuilding or repairs cannot be completed within one hundred eighty (180) days, either Landlord or Tenant may terminate by giving written notice within ten (10) days after notice from Landlord regarding the time period of repair. This Lease and the rent will be abated from the date Tenant vacates the Premises. If neither party elects to terminate this Lease, Landlord will promptly commence and diligently prosecute to completion the repairs to the Premises, provided insurance proceeds are available to fully repair the damage. However, Landlord will not be required to rebuild, repair, or replace any Alterations that may have been placed on the Premises for the Tenant. During the time when Landlord is prosecuting repairs to completion, the Rent will be abated proportionately from the date Tenant vacates the Premises only to the extent and only during the period that the Premises are unfit for occupancy.

(b) Tenant's Fault. If any portion of the Premises is damaged resulting from the fault or breach of this Lease by Tenant or any of Tenant's Parties, the Rent will be diminished during the repair of the damage only to the extent the Premises are unfit for occupancy and Tenant will be liable to Landlord for the cost of the repair to the extent the cost is not covered by insurance proceeds.

(c) Uninsured Casualty. Tenant is responsible for and will pay to Landlord any deductible amount under the property insurance for the Improvements up to a maximum of One Thousand Dollars (\$1,000.00). If any portion of the Improvements is damaged and is not fully covered by insurance proceeds received by Landlord for any reason other than Landlord's failure to obtain insurance as required under Section 8(a) (and Tenant elects not to pay any difference) or if the holder of any indebtedness secured by the Premises requires that the insurance proceeds be applied to the indebtedness, Landlord will have the right to terminate this Lease by delivering written notice of termination to Tenant within thirty (30) days after the date of notice to Tenant. All rights and obligations will then cease and terminate under this Lease.

(d) Waiver. With respect to any damage or destruction that Landlord is obligated to repair or may elect to repair, Tenant waives all rights to terminate this Lease pursuant to rights otherwise presently or later accorded by law.

Section 13. Default.

(a) Events of Default. The occurrence of any of the following events will, at Landlord's option, constitute or event of default ("Event of Default"):

(i) failure to pay Rent on the date when due, the failure continuing for a period of ten (10) days after payment is due;

(ii) vacation or abandonment of the Premises for a period of thirty (30) consecutive days;

(iii) failure to perform Tenant's covenants under this Lease (except default in the payment of Rent); provided that if this default is susceptible of cure and Tenant has promptly commenced the cure of this default and is diligently prosecuting the cure to completion, then the default must remain uncured for thirty (30) days after written notice from Landlord;

(iv) the making of a general assignment by Tenant for the benefit of creditors, the filing of a voluntary petition by Tenant, or the filing of an involuntary petition by any of Tenant's creditors seeking the rehabilitation, liquidation, or reorganization of Tenant under any law relating to bankruptcy, insolvency, or other relief of debtors and, in the case of an involuntary action, the failure to remove or discharge the petition within sixty (60) days of the filing, the appointment of a receiver or other custodian to take possession of substantially all of Tenant's assets or this leasehold, Tenant's insolvency or inability to pay Tenant's debts or failure generally to pay Tenant's debts when due, any court entering a decree or order directing the winding up or liquidation of Tenant's debts when due, any court entering a decree or order directing the winding up or liquidation of Tenant or substantially all of Tenant's assets, Tenant taking any action toward the dissolution or winding up of Tenant's affairs, the cessation or suspension of Tenant's use of the Premises, or the attachment, execution, or other judicial seizure of substantially all the Tenant's assets or this leasehold; or

(v) the making of any material misrepresentation or omission by tenant in any materials delivered by or on behalf of Tenant to Landlord pursuant to this Lease.

(b) Remedies.

(i) Termination. In the event of the occurrence of any Event of Default, Landlord will have the right to give a written termination notice to Tenant and, on the date specified in that notice, this Lease will terminate unless on or before that date all arrears of Rent and all other sums payable by Tenant under this Lease and all costs and expenses incurred by or on behalf of Landlord have been paid by Tenant and all other Events of Default at the time existing have been fully cured to the satisfaction of Landlord.

(A) Repossession. Following termination, without prejudice to other remedies Landlord may have, Landlord may (1) peaceably re-enter the Premises on voluntary surrender by Tenant; (2) remove Tenant and any other persons occupying the Premises, using any legal proceedings that may be available; (3) repossess the Premises or relet the Premises or any part of them for any term (which may be for a term extending beyond the Term), at any rental and on any other terms and conditions that Landlord in Landlord's sole discretion may determine, with the right to make reasonable alterations and repairs to the Premises, and (4) remove all personal property.

(B) Unpaid Rent. Landlord will have all the rights and remedies of a landlord provided by applicable law, including the right to recover from Tenant (1) the worth, at the time of award of the unpaid Rent that had been earned at the time of termination; (2) the worth, at the time of award, of the amount by which the unpaid Rent that would have been earned after the date of termination until the time of award exceeds the amount of loss of rent that Tenant proves could have been reasonably avoided; (3) the worth, at the time of award, of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of the loss of rent that Tenant Proves could have been reasonably avoided; and (4) any other amount, and court costs, necessary to compensate Landlord for all detriment proximately caused by Tenant's default. The phrase "worth, at the time of award," as used in clauses (1) and (2) above, will be computed at the greater of ten percent (10%) per annum or five percent (5%) per annum plus the federal discount rate on advances to member banks in effect at the Federal Reserve Bank of San Francisco on the 25th day of the month preceding the date of the Lease, and as used in clause (3) above, will be computed by discounting that amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

(ii) Continuation. Even through an Event of Default may have occurred, this Lease will continue in effect for so long as Landlord does not terminate Tenant's right to possession. Also, Landlord may enforce all of Landlord's rights and remedies under this Lease, including the right to recover Rent as it becomes due, and Landlord, without terminating this Lease, may, during the period Tenant is in default, enter the Premises and relet them, or any portion of them, to third parties for Tenant's account. Tenant will be liable to Landlord for all costs Landlord incurs in reletting the Premises, including, without limitation, broker's commissions, expenses of remodeling the Premises, and similar costs. Reletting may be for a period shorter or longer than the remaining Term. Tenant will continue to pay the Rent on the date that it is due. No act by Landlord under this Lease, including acts of maintenance, preservation, or efforts to lease the Premises or the appointment of a receiver on application of Landlord to protect Landlord's interest under this Lease, will terminate this Lease unless Landlord notifies Tenant that Landlord elects to terminate this Lease. In the event that landlord elects to relet the Premises, the rent that Landlord receives from reletting will be applied to pay the following in the order listed:

(A) any indebtedness from Tenant to Landlord other than Base Rent, and other amounts owing to Landlord under this Lease;

(B) all costs, including maintenance, incurred by Landlord in reletting, and

(C) Base Rent and other amounts owing to Landlord under this Lease.

After deducting the payments referred to above, any sum remaining from the rental Landlord receives from reletting will be held by Landlord and applied in payment of future Rent as Rent becomes due under this Lease. In no event will Tenant be entitled to any excess rent received by Landlord. If, on the date Rent is due under this Lease, the rent received from the reletting is less than the Rent due on that date, Tenant will pay to Landlord, in addition to the remaining Rent due, all costs, including maintenance, that Landlord incurred in reletting that remain after applying the rent received from reletting. So long as this Lease is not terminated, Landlord will have the right to remedy any default of Tenant, to maintain or improve the Premises, to cause a receiver to be appointed to administer the Premises and new or existing subleases, and to add to the Rent all of Landlord's reasonable costs in so doing, with interest at the Applicable Interest Rate from the date of the expenditure.

(c) Cumulative. Each right and remedy of Landlord provided for in this Lease or now or later existing at law, in equity, by statute, or otherwise, will be cumulative and will not preclude Landlord from exercising any other rights or remedies provided for in this Lease or now or later existing at law or in equity, by statute, or otherwise. No payment by Tenant of a lesser amount than the Rent, or any endorsement on any check or letter accompanying any check or payment as Rent, will be deemed an accord and satisfaction of full payment of Rent. However, Landlord may accept this payment without prejudice of Landlord's right to recover the balance of Rent or to pursue other remedies.

Section 14. Assignment and Subletting.

Tenant will not assign or sublet, whether voluntarily or involuntarily or by operation of law, the Premises or any part of the Premises without Landlord's prior written approval, which will not be unreasonably withheld. The merger of Tenant with any other entity or the transfer of any controlling or managing ownership of beneficial interest in Tenant constitutes an assignment under this Lease. If Tenant desires to assign this Lease or sublet any or all of the Premises, Tenant must give Landlord written notice thirty (30) days prior to the anticipated effective date of the assignment or sublease. Landlord will then have a period of thirty (30) days following receipt of notice and all related documents and agreements associated with the assignment or sublease, including, without limitation, the financial statements of any proposed assignee or subtenant, to notify Tenant in writing that Landlord elects (a) to permit Tenant to assign this Lease or sublet space, subject however to Landlord's prior written approval of the proposed assignee or subtenant and of any related documents or agreements associated with the assignment or sublease received by Landlord or reasonably requested by Landlord; or (b) to disapprove the proposed assignment or subletting. If Landlord fails to notify Tenant in writing of the election, Landlord will be deemed to have elected option (b). This Lease may not be assigned by operation of law. Any purported assignment or subletting contrary to the provisions of this Lease will be void. Landlord may, without waiving any rights or remedies, collect rent from the assignee, subtenant, or occupant, and apply the net amount collected to the Rent reserved here and apportion any excess rent collected in accordance with the terms of the preceding sentence. Tenant will continue to be liable as a principal and not as a guarantor or surety to the same extent as though no assignment or subletting had been made. Landlord may consent to subsequent assignments or subletting of this Lease or amendments or modifications to the Lease by assignees of Tenant without notifying Tenant or any successor of Tenant and without obtaining their consent. No permitted transfer will be effective until there has been delivered to Landlord a counterpart of the transfer instrument in which the transferee agrees to be and remain jointly and severally liable with Tenant for the payment of Rent pertaining to the space and for the performance of all the terms and provisions of this Lease arising on or after the date of the transfer. Tenant will not do any act that will in any way encumber the title of Landlord to the Premises or the Project.

Section 15. Estoppel.

Within ten (10) days after request by Landlord, Tenant will deliver an estoppel certificate duly executed (and acknowledged, if required by any lender) in the form of attached **Exhibit F**, to any proposed mortgagee, purchaser, or Landlord, Tenant's failure to deliver this statement in that time period will be an Event of Default under this Lease and it will be conclusive on Tenant that (a) this Lease is in full force and effect, without modification except as may be represented by Landlord; (b) there are no uncured defaults in Landlord's performance and Tenant has no right of offset, counterclaim, or deduction against Rent; and (c) no more than one period's Base Rent has been paid in advance. Landlord reserves the right to substitute a different form of estoppel certificate requiring substantially the same information from Tenant on the request of any proposed mortgagee or purchaser. If any financier should require that this Lease be amended (other than in the description of the Premises, the Term, the Permitted Use, the Rent, or as will substantially, materially, and adversely affect the rights of Tenant), Landlord will give written notice of that to Tenant. The notice will be accompanied by a Lease supplement embodying the amendments. Tenant must, within ten (10) days after the receipt of Landlord's notice, execute the tendered Lease supplement.

Section 16. Attornment.

In the event of a foreclosure proceeding, the exercise of the power of sale under any mortgage or deed of trust or the termination of a ground lease, Tenant will, if requested, attorn to purchaser and recognize purchaser as Landlord under this Lease. However, Tenant's obligation to attorn to the purchaser will be conditioned on Tenant's receipt of a nondisturbance agreement.

Section 17. Subordination

This Lease is subject and subordinate to all ground leases and the lien of all mortgages and deeds of trust that now or later affect the Premises or the Project or Landlord's interest, or on or against all ground leases, and to all subdivision maps of the Project and all CC&Rs on the Project that are now or may become of record, and all amendments, all without the necessity of Tenant's executing further instruments to effect the subordination. If requested, Tenant will execute whatever documentation may be required to further effect the provision of this paragraph.

Section 18. Entry.

Landlord reserves the right to enter the Premises upon reasonable notice to Tenant (except in case of an emergency, in which case no notice would be required) to inspect the Premises or the performance by Tenant of the terms and conditions of this Lease, and, during the last six [6] months of the Term, show the Premises to prospective tenants.

Section 19. Late Charges and Interest.

The late payment of any Rent will cause Landlord to incur additional costs, including administration and collection costs, processing and accounting expenses, and increased debt service. If Landlord has not received any installment of Rent within Ten (10) days after that amount is due, Tenant must pay five percent (5%) of the delinquent amount, which is agreed to represent a reasonable estimate of the cost incurred by Landlord. In addition, all delinquent amounts will bear interest from the date the amount was due until paid in full at a rate per annum ("Applicable Interest Rate") equal to the greater of (a) five percent (5%) per annum plus the then federal discount rate on advances to member banks in effect at the Federal Reserve Bank of San Francisco on the 25th day of the month preceding the date of this Lease or (b) ten percent (10%). However, in no event will the Applicable Interest Rate exceed the maximum interest rate permitted by law that may be charged under the circumstances. Landlord and Tenant recognize that the damage that Landlord will suffer in the event of Tenant's failure to pay these amounts is difficult to ascertain and the late charge and interest are the best estimate of the damage that Landlord will suffer in the event of late payment.

Section 22. Security Deposit.

Upon the execution of this Lease, Tenant has paid to Landlord \$3,360 Security Deposit. The Security Deposit will secure the full and faithful performance of each provision of this Lease to be performed by Tenant. Landlord may use and commingle the Security Deposit with other funds of Landlord. If Tenant fails to perform any of Tenant's obligations under this Lease, Landlord may apply all or any portion of the Security Deposit toward fulfillment of Tenant's unperformed obligations. If Landlord does apply the Security Deposit, Tenant must immediately pay Landlord sufficient cash to restore the Security Deposit to the full original amount. The security Deposit will not bear interest.

Section 21. Entire Agreement.

This Lease sets forth all the agreements between Landlord and Tenant concerning the Premises, and there are no other agreements, either oral or written, other than as set forth in this Lease.

Section 22. Time of Essence.

Time is of the essence in this Lease.

Section 23. Attorney Fees.

In any action that either party brings to enforce rights under this Lease, the unsuccessful party will pay all costs incurred by the prevailing party, including reasonable attorney fees, to be fixed by the court. Those costs and attorney fees will be considered a part of the judgment in that action.

Section 24. Severable.

If any provision of this Lease or the application of any provision is held by a court of competent jurisdiction to be invalid, void, or unenforceable to any extent, the remaining provisions of this Lease and the application of it will remain in full force and will not be affected, impaired, or invalidated.

Section 25. Governing Law.

This Lease will be construed and enforced in accordance with the laws of the state of California.

Section 26. No Option.

Submission of this Lease to Tenant for examination or negotiation does not constitute an option to lease, offer to lease, or a reservation of, or option for, the Premises. This document will become effective and binding only upon the execution and delivery of the document by Landlord and Tenant.

Section 27. Successors and Assigns.

This Lease will be binding on and inure to the benefit of the successors and assigns of Landlord and, to the extent assignment is approved by Landlord, Tenant.

Section 28. No Third-Party Beneficiaries.

Nothing in this Lease is intended to create any third-party benefit.

Section 29. Memorandum of Lease.

Tenant may not record this Lease or a short memorandum of it without Landlord's prior written consent.

Section 30. No Agency, Partnership, or Joint Venture.

Nothing contained in this Lease will be deemed or construed by the parties, or by any third party, as creating the relationship of principal and agent, partnership, or joint venture by the parties. It is understood and agreed that no provision contained in this Lease or any acts of the parties will be deemed to create any relationship other than the relationship of landlord and tenant.

Section 31. No Merger.

The voluntary or other surrender of this Lease by Tenant or a mutual cancellation of the Lease or a termination by Landlord will not work a merger and will, at the option of Landlord, terminate all of any existing subtenancies or may, at the option of Landlord, operate as an assignment of Landlord of any subtenancies.

Section 32. Signs.

(a) All signs and graphics of every kind visible from public view, corridors, or the exterior of the Premises will be subject to Landlord's prior written approval and will be subject to any applicable governmental laws, ordinances, and regulations and in compliance with Landlord's signage program. Tenant must remove all signs and graphics prior to the termination of this Lease. Installations and removals must be made in a manner so as to avoid injury or defacement of the Premises. Tenant must repair any injury or defacement, including, without limitation, discoloration caused by installation or removal.

(b) Landlord consents to Tenant having a sign on Central Avenue, if approved by applicable governmental laws, ordinance and regulations.

Section 33. No Waiver.

No waiver of any default or breach under this Lease will be implied from any omission to take action on account of this Lease, regardless of any custom and practice or course of dealing. No waiver will affect any default other than the default specified in the waiver, and then the waiver will be operative only for the time and to the extent stated in the Lease. Waivers of any covenant will not be construed as a waiver of any subsequent breach of the same covenant. No waiver by either party of any provision under this Lease will be effective unless in writing and signed by that party.

Section 34. Financial Statements.

Tenant will provide to any lender, purchaser, or Landlord, within ten (10) days after request, a current, accurate, certified financial statement for Tenant and Tenant's business prepared under generally accepted accounting principles consistently applied and any other certified financial information or tax returns as may be reasonably required by Landlord, purchaser, or any lender of either.

Section 35. Limitation of Liability.

The obligations of Landlord under this Lease are not personal obligations of the individual partners, directors, officers, shareholders, agents, or employees of Landlord. Tenant may look solely to the Premises for satisfaction of any liability and may not look to other assets of Landlord or seek recourse against the assets of the individual partners, directors, officers, shareholders, agents, or employees of Landlord. Whenever Landlord transfers Landlord's interest, Landlord will be automatically released from further performance under this Lease and from all further liabilities and expenses under this Lease and the transferee of Landlord's interest will assume all liabilities and obligations of Landlord under this Lease from the date of the transfer.

Section 36. Notices.

All notices to be given under this Lease will be in writing and mailed, postage prepaid, by certified or registered mail, return receipt requested, or delivered by personal or courier delivery, or sent by telecopy (immediately followed by one of the preceding methods), to Landlord's Address and Tenant's Address, or to any other place that Landlord or Tenant may designate in a written notice given to the other party. Notices will be deemed served on the earlier of receipt or three (3) days after the date of mailing.

Section 37. Brokerage Commission.

Landlord and Tenant each represent to the other that each has had no dealings with any broker, finder, or other party concerning Tenant's lease of the Property. Landlord and Tenant each agree to indemnify and hold the other harmless from all loss, cost, damage, or expense, including reasonable attorney fees, incurred by the other as a result of any claim arising out of the acts of the indemnifying party, or other on that party's behalf, for a commission, finder's fee, or similar compensation made by any broker, finder, or any party who claims to have dealt with the indemnifying party. The representations and warranties contained in this Section shall survive the Closing.

Section 38. Authorization.

Tenant will furnish to Landlord, within ten (10) days after written request, evidence satisfactory to Landlord that the person who executed this Lease on behalf of Tenant was duly authorized to do so. Each individual executing this Lease on behalf of Tenant represents and warrants that she or he is duly authorized to execute and deliver this Lease on behalf of Tenant and that the execution is binding upon Tenant.

Section 39. Holding Over.

If Tenant holds over the Premises or any part of the Premises after expiration of the Term, the holding over will constitute a month-to-month tenancy, at a rent equal to the base Rent in effect immediately prior to the holding over plus ten percent (10%) of the Rent. This paragraph will not be construed as Landlord's permission for Tenant to hold over. Acceptance of Rent by Landlord following expiration or termination would not constitute a renewal of this Lease.

Section 40. Intrabuilding Network Cables.

Landlord and Tenant agree as follows:

(a) Cabling and Equipment. Tenant will be responsible, at Tenant's sole cost, for the maintenance and repair of all telecommunications cabling, wiring, and risers running throughout the Building, together with all of Tenant's telephones, telecopiers, computers, telephone switching, telephone panels, and related equipment. Tenant agrees to maintain and repair the telecommunications cabling, wiring, and risers running throughout the Building in a good manner.

(b) Right of Entry. In addition to Landlord's other rights of entry under this Lease, Landlord will have the right to enter into the Leased Premises to inspect the telecommunications cabling, wiring, and risers to assure that the maintenance and repair is being performed in a proper manner.

(c) Designated Provider. Tenant agrees to cause the maintenance and repair of the telecommunications cabling, wiring, and risers to be done by a service provider or independent contractor approved in writing in advance by Landlord.

(d) Indemnity. Tenant agrees to indemnify, release, defend, and hold Landlord harmless against all damages, claims, or other liability resulting from Tenant's repair or maintenance of the telecommunications cabling, wiring, and risers, including, but not limited to, the costs of repair.

(e) Release. Tenant releases Landlord from all losses, claims, injuries, damages, or other liability, including, but not limited to, consequential damages, whether to persons or property, no matter how caused, in any way connected with the interruption of telecommunications services due to the failure of any telecommunications cabling, wiring, or risers. Tenant expressly waives any right to claim that any interruption constitutes grounds for a claim or abatement of rent, constructive eviction, or for termination of the Lease.

Section 41. Surrender.

Upon the termination of this Lease or Tenant's right to possession of the Premises, Tenant will surrender the Premises, together with all keys, in good condition and repair, reasonable wear and tear excepted. Conditions existing because of Tenant's failure to perform maintenance, repairs, or replacements will not be deemed "reasonable wear and tear."

Section 42. Joint and Several.

If Tenant consists of more than one person, the obligation of all those persons will be joint and several.

Section 43. Covenants and Conditions.

Each provision to be performed by Tenant under this Lease will be deemed to be both a covenant and a condition.

Section 44. Addenda.

The attached Addenda, if any, identified with this Lease and initialed by the parties, are incorporated by this reference.

In Witness Whereof, the parties have executed this Lease as of the date set forth above.

LANDLORD

Denis E. Cosby

Date

TENANT

Darren Lampert, CEO of GrowGeneration Corp.

Date

Cosby/

GrowGeneration Purchases All the Assets of Humboldt Depot

California market to grow at a compounded annual rate of 18.5%, to \$6.5 Billion by 2020.

DENVER, CO, Jan. 31, 2018 / - GrowGeneration Corp. (OTCQB:GRWG), GrowGeneration ("GrowGen" or the "Company"), one of the largest specialty retail hydroponic and organic gardening stores, with currently 15 locations serving both commercial and home growers, today announced that it has purchased all the assets of Humboldt Depot located in Arcata, CA. The Humboldt Depot operation generated approximately \$4.0 Million in revenue in 2017 and this revenue will be added to the Company's consolidated financial statement. Humboldt Depot also has a location in McKinleyville, CA which the company plans to open and operate as a 2nd location in Humboldt County.

GrowGeneration Focused On Aggressive California Expansion

GrowGen continues the execution of its acquisition plans to acquire the leading hydroponic stores in key markets. Additionally, the company plans to expand its acquisition strategy into complementary verticals that include nutrients, soils, integrated pest management and other products that are consumed by cultivators already served by GrowGeneration. California continues to present significant growth opportunities for GrowGen, particularly with adult-use laws going into effect on Jan. 1, 2018. According to New Frontier Data, the California market projects to grow at a compounded annual rate of 18.5%, from \$2.76 billion in 2015 to \$6.5 billion by 2020.

GrowGen CEO Comments

Commenting on GrowGen's a purchase of Humboldt Depot, Darren Lampert, Co-Founder and CEO, said, "Our acquisition of Humboldt Depot strongly positions GrowGen in Humboldt County which is abundant with cultivators. Increasing our warehouse and retail showroom space will allow us to stock at inventory levels and sizes to attract the largest commercial growers. With over 2,000 cultivation licenses being applied for this year in Humboldt County, GrowGen is now poised to gain significant new business in one of America's iconic regions for cannabis cultivation. California is a major marketplace that the Company is developing, and plans to add several locations in the coming months."

GrowGeneration has already increased its revenue forecast for 2018 to \$30M and has a strong acquisition pipeline in development for 2018. The Company plans to complete several acquisitions in the first half of 2018 and expanding its US model into Canada in 2018.

About GrowGeneration Corp.:

GrowGeneration Corp. ("GrowGen") owns and operates specialty retail hydroponic and organic gardening stores. Currently, GrowGen has 17 stores, which includes 9 locations in Colorado, 4 locations in California, 2 locations in Las Vegas, 1 location in Rhode Island and 1 location in Washington. GrowGen carries and sells thousands of products, including organic nutrients and soils, advanced lighting technology and state of the art hydroponic equipment to be used indoors and outdoors by commercial and home growers. Our mission is to own and operate GrowGeneration branded stores in all the major legalized cannabis states. Management estimates that roughly 1,000 hydroponic stores are in operation in the U.S. By 2020 the market is estimated to reach over \$23 billion with a compound annual growth rate of 32%.

Forward Looking Statements:

This press release may include predictions, estimates or other information that might be considered forward-looking within the meaning of applicable securities laws. While these forward-looking statements represent our current judgments, they are subject to risks and uncertainties that could cause actual results to differ materially. You are cautioned not to place undue reliance on these forward-looking statements, which reflect our opinions only as of the date of this release. Please keep in mind that we are not obligating ourselves to revise or publicly release the results of any revision to these forward-looking statements in light of new information or future events. When used herein, words such as "look forward," "believe," "continue," "building," or variations of such words and similar expressions are intended to identify forward-looking statements. Factors that could cause actual results to differ materially from those contemplated in any forward-looking statements made by us herein are often discussed in filings we make with the United States Securities and Exchange Commission, available at: www.sec.gov, and on our website, at: www.growgeneration.com.

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Website: www.GrowGeneration.com

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