

**Loopy Limited Partnership**  
**Lease Agreement**

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## LEASE AGREEMENT

This Office Lease Agreement ("Lease") is entered into effective the \_\_\_\_ day of \_\_\_\_\_, 200 , by and between Loopy Limited Partnership ("Landlord") and \_\_\_\_\_ ("Tenant").

### WITNESSETH:

1. Premises. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, subject to the terms, covenants and conditions of this Lease, those certain premises (the "Leased Premises") depicted by the cross-hatched area on the attached Exhibit "A" and designated as Suite \_\_\_\_\_. The premises consists of approximately \_\_\_\_\_ square feet of net rentable area (the "Net Rentable Area") situated in the building commonly known as The Jewel Building (the "Building"), located at \_\_\_\_\_, San Antonio, Texas 782 \_\_\_\_\_ as legally described on Exhibit "B" attached hereto (the "Property"). Tenant shall also have the nonexclusive right to use and enjoy the such corridors, lobbies, driveways, aisles, sidewalks, curbs, restrooms, parking areas, driveways, and all other similar appurtenances of the Building in common with other tenants (the "Common Areas"), and subject to Landlord's reasonable rules and regulations pertaining thereto.
2. Term. The Primary Term of this Lease shall be \_\_\_\_\_ months and commence on \_\_\_\_\_, 200 (the "Commencement Date") and terminate at 11:59 p.m. on \_\_\_\_\_, 200 (the "Primary Term"), unless sooner terminated as provided herein. The term "Lease Year" shall mean the twelve calendar month period commencing on the first (1<sup>st</sup>) day of the first (1<sup>st</sup>) full calendar month period in the Primary Term and each successive twelve (12) calendar month period thereafter during the Primary Term. Possession of the Leased Premises shall be delivered to Tenant on the Commencement Date. If for any reason, the Premises are not ready for occupancy by Tenant on or before the Commencement Date, Landlord shall not be deemed to be in default hereunder, nor shall Landlord be liable or responsible for any claims, damages, or liabilities of Tenant in connection therewith or by reason thereof, and this Lease shall continue in full force and effect.
3. Expiration of Term. Tenant must notify Landlord in writing of their intent to vacate the premises 120 days before the end of the lease term. By failing to notify Landlord, Tenant will lose any and all security deposit held with Landlord. Upon any termination of this Lease, whether by expiration of the Term, lapse of time or otherwise, Tenant shall immediately surrender possession and vacate the Leased Premises and deliver possession thereof to Landlord in good repair and condition together with all keys to any locks therein, and Tenant hereby grants to Landlord full and free license to enter into and upon the Leased Premises, to expel or remove Tenant and any others who may be occupying or within the Leased Premises and to remove any and all property therefrom, without being deemed in any manner guilty of trespass or eviction, and without incurring any liability for any damage resulting therefrom (Tenant hereby waiving any right to claim damage for such re-entry and expulsion) and without relinquishing Landlord's right to Rent or any other right given to Landlord hereunder or by operation of law.
4. Use. It is understood that the Leased Premises are to be used for \_\_\_\_\_ purposes only and shall not be used for any other purpose without prior written consent of Landlord.
5. Rent
  - a. Base Rent: Tenant agrees to pay to Landlord base rental (the "Base Rent") payable in advance in equal monthly installments each year beginning on the Commencement Date and continuing on the first day of each and every month thereafter during the Primary Term of this Lease. The Base Rent for the first Lease Year shall be \$ \_\_\_\_\_ (\$ \_\_\_\_\_ per rentable square foot) payable in advance in equal monthly installments of \$ \_\_\_\_\_

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per month beginning on the Commencement Date and continuing on or before the first day of each succeeding calendar month thereafter until the end of the first Lease Year. At the end of the first Lease Year and at the end of every Lease Year thereafter during the Primary Term, the Base Rent for remaining Lease Years shall be adjusted as follows:

Lease Years 2	\$	per year plus Additional Rent
Lease Years 3	\$	per year plus Additional Rent
Lease Years 4	\$	per year plus Additional Rent
Lease Years 5	\$	per year plus Additional Rent

b. Additional Rent. During the Term of the Lease Tenant shall pay as Additional Rent (the "Additional Rent") Tenant's Proportionate Share (defined herein) of Operating Expenses (defined below) in accordance with the following:

- (i) For first Lease Year during the term of this Lease, Tenant shall pay to Landlord each month, on the first day of each month following the Commencement Date of Lease, an amount equal to Landlord's estimate of Tenant's Proportionate Share of Operating Expenses for the Lease Year divided by the number of months remaining in such Lease Year; and for each Lease Year thereafter Tenant shall pay to Landlord each month, on the first day of each month following the Commencement Date of the Lease, an amount equal to one-twelfth (1/12) of the then estimated Tenant's Proportionate Share of Excess Operating Expenses. The Additional Rent for Year One is estimated at \$0. per rentable square foot per month. The prorated monthly amount of \$ is in addition to the Base Rent.
- (ii) Operating Expenses for each Calendar Year shall be budgeted by Landlord, from which Landlord shall estimate Tenant's Proportionate Share of Operating Expenses, and written notice of such estimate of Tenant's Proportionate Share shall be given to Tenant as soon as reasonably possible on or before the beginning of each Calendar Year.
- (iii) If Operating Expenses increase during a Lease Year, Landlord may revise its estimate of Tenant's Proportionate Share of Excess Operating Expenses during such year by giving Tenant written notice to that effect, and thereafter Tenant shall pay to Landlord, in each of the remaining months of such Lease Year, an Additional Rental divided by the number of months remaining in such year.
- (iv) Within one hundred eighty (180) days after the end of each Calendar Year, Landlord shall prepare and deliver to Tenant a statement showing the actual amount of Tenant's Proportionate Share of Operating Expenses. If the actual amount of Tenant's Proportionate Share of Operating Expenses incurred in respect of any Lease Year exceeds the estimate of Tenant's Estimated Proportionate Share of Operating Expenses for such Lease Year, then Tenant shall pay to Landlord the amount of such difference within ten (10) days following receipt of notice from Landlord setting forth the actual amount of Tenant's Proportionate Share of Operating Expenses in respect of such Lease Year. If the actual amount of Tenant's Proportionate Share of Operating Expenses in respect of any Lease Year is less than the estimate of Tenant's Proportionate Share of Operating Expenses for such Lease Year, there will be an adjustment of the Tenant's additional. Landlord shall have no obligation to refund to Tenant such difference. If the last Lease Year is a fractional calendar year, then Landlord shall adjust the Proportionate Share of Operating Expenses to reflect the number of months (including fractional months) in such fractional Lease Year, as appropriate to reflect any proration of Operating Expenses.

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- (v) Any delay by Landlord in delivering any estimate or statement pursuant to this Section shall not relieve Tenant of its obligations pursuant to this Section except that Tenant shall not be obligated to make any payments based on such estimate or statement until ten (10) days after receipt of such estimate or statement.
- (vi) Additional Rental shall also include, and Tenant shall pay as Additional Rental, a reasonable charge determined by Landlord for any services required to be provided by Landlord by reason of any use by Tenant of any services customarily provided by Landlord to all other tenants in the Building or by reason of any recurrent use of the Premises by Tenant at any time other than Normal Business Hours. Tenant shall pay for any additional or unusual janitorial services required by reason of Tenant's use of the Premises or by reason of improvements in the Premises other than Building Standard Improvements and any repairs required to be made to the Building due to the use of the Building by Tenant or its agents or invitees within ten (10) days of being billed by Landlord. If improvements in the Premises other than Building Standard Improvements or Tenant's use or the conduct of business on the Premises or in the Building, whether or not with Landlord's consent and whether or not otherwise permitted by this Lease, results in any increase in ad valorem taxes (not separately assessed) or in premiums for the fire and liability insurance or any other insurance coverage carried by Landlord with respect to the Building or its contents, Tenant shall pay as Additional Rental any such increase in taxes or premiums (as reasonably allocated by Landlord) within ten (10) days after being billed by Landlord.

"Operating Expenses" means all actual costs and expenses incurred in connection with the management, ownership, operation or maintenance of the Building (including, without limitation, the Premises and all other tenant space):

Operating Expenses include, without limitation: (i) wages, salaries, bonuses and labor costs of all persons directly engaged in the management, operation or maintenance of the Building (whether employees or contract laborers), including benefits, taxes, unemployment and disability insurance, worker's compensation insurance and social security taxes; (ii) all supplies, tools, equipment and materials used in the management, operation or maintenance of the Building; (iii) costs of all utilities for the Building or any part thereof, including all costs of operation and repair or replacement of heating, ventilating and air conditioning services, plumbing, electrical and lighting; (iv) costs of all maintenance and service agreements for the Building, including without limitation security service, window cleaning, elevator maintenance and janitorial service; (v) costs of repairs and general maintenance relating to the Building, Building site, Parking Lot and Landscaping; (vi) improvements to the Property or the Building which are required by governmental authority, (vii) the cost of all insurance relating to the Building and Landlord's personal property used in connection with the Building; (viii) all taxes, assessments and governmental charges with respect to the Property and the Building, other than federal income taxes, franchise taxes and taxes imposed with respect to any change of ownership of the Building, provided that taxes based directly on gross rentals shall constitute Operating Expenses; and (ix) advertising costs and leasing commissions.

Operating Expenses do not include: (i) principal and interest payments on any mortgage; (ii) amortization or depreciation of the Building; (iii) costs of repairing damage for which Landlord is entitled to direct reimbursement from Tenant or other tenants; (iv) casualty losses of a type covered by standard fire and extended coverage insurance policies, to the extent such casualty losses exceed deductible amounts for the Building; (v) any expense to the extent actually paid or reimbursed from insurance proceeds; (vi) any expenses which relate directly to specific tenants for which those tenants are responsibility for; (vii) remodeling costs for new or existing tenants; and (viii) electric,

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air conditioning or heating costs or other expenses which are separately billed to specific tenants.

“Tenant's Proportionate Share” means all proportionate parts of the particular item in question calculated by multiplying the sum in question times a fraction the numerator of which is the Net Rentable Area of the Premises, and the denominator of which is the total rentable area of the Building stipulated herein to be square feet. Tenant and Landlord agree that Tenant's Proportionate Share as of the Commencement Date of this Lease is \_\_\_\_%. If total rentable area of the Building should change during this Lease term, Landlord shall notify the Tenant in writing of the revised Tenant Proportionate Share. The revised Tenant Proportionate Share will be used in all future calculations determining the Tenant's Base and Additional Rent.

- c. Accrual and Payment of Rent. All rentals shall be delivered to the mailing address set forth for Landlord above (or such other mailing address as Landlord may from time to time designate), free from all claims, demands, set offs, or counterclaims against Landlord of any kind or character. In the event any installment of Rent or any other sum payable by Tenant to Landlord under the provisions of this Lease is not received by Landlord within five (5) days of the date it is due, Tenant shall pay to Landlord an additional sum (“Late Charge”) equal to five percent (5%) of the amount due or \$25.00, which ever is greater. An additional 5% “Late Charge” of the total amount due shall be paid to Landlord if rent is not received within 10 days from the due date. In addition to any other charges permitted herein, if Tenant makes a payment to Landlord by check and said check is returned to Landlord by Tenant's bank for any reason, then an additional charge of \$25.00 per check shall be paid by Tenant to Landlord. If Tenant's possession commences on a date other than the first day of the month, Tenant shall occupy the Leased Premises under the terms, conditions and provisions of this Lease, and the pro-rata portion of the monthly rent for said month shall be paid in addition to the monthly rent for the next month.
  - d. Independent Covenant. The obligation of Tenant to pay Rent is an independent covenant, and no act or circumstances whatsoever, whether such act or circumstances constitutes a breach of a covenant by Landlord or not, shall release Tenant of the obligation to pay Rent.
  - e. Audit Rights. Tenant may, at its cost, obtain copies of the documents, which reflect the Operating Expenses (“Operating Expense Records”) and perform or cause to be performed audits of costs and charges submitted by Landlord. In the event Tenant shall elect to audit such Operating Expense Records and the audit reveals a discrepancy which reflects an over-payment by Tenant of more than twenty percent (20%) of the sums paid or reimbursed by Tenant to Landlord as Additional Rent under the terms of Lease for the Lease Year in which such were invoiced to Tenant, Landlord shall reimburse Tenant for all costs and expenses incurred in carrying out the audit plus the amount of any over-payment by Tenant.
  - f. Interest. All sums, including Base Rent and Additional Rent, not paid by Tenant to Landlord when due shall bear interest at the lesser of twelve percent (12%) per annum, or the highest lawful rate under applicable law which may be charged for such sums which are due, from the date due until paid.
  - g. Rental. Wherever the term "Rental" or “Rent” is used under the terms of this Lease it shall be deemed to refer to the Base Rental due hereunder as well as the Additional Rental due hereunder unless the context specifically states otherwise.
6. Security Deposit. Upon the execution of this Lease, Tenant agrees to pay Landlord the sum of \_\_\_\_\_ and \_\_\_\_/100s (\_\_\_\_), which sum shall be retained by Landlord without liability for interest as security for the payment by Tenant of the Rent and for the faithful performance by Tenant of the covenants of this Lease. Tenant has previously deposited the sum of \_\_\_\_\_ with Landlord. The remainder of the \_\_\_\_\_ Security Deposit shall be due

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and payable upon execution of this Lease. If at any time Tenant shall be in default under any of the provisions of this Lease, Landlord shall have the right to use the security deposit, or so much thereof as may be necessary in payment of any Rent or of any damages incurred by Landlord by reason of such default by Tenant, or at the Landlord's option, the same may be retained by Landlord in liquidation as part of the damages suffered by Landlord by reason of default by the Tenant. Should all or any portion of the security deposit be appropriated and applied by Landlord under the terms of this Section 6, Tenant shall, within five (5) days following written demand by Landlord, remit to Landlord a sufficient amount of cash to restore the security deposit to the original sum deposited. If Tenant shall have fully and faithfully performed all of its obligations under this Lease, the security deposit shall be refunded to Tenant not later than 30 days from the expiration of the Lease Term or Tenant's complete move-out, whichever is later. In the event of a sale or transfer of Landlord's interest in the Property, Landlord shall have the right to transfer the security deposit to such purchaser or transferee, in which event Tenant shall look only to the new Landlord for the return of the security deposit and Landlord shall thereupon be released from all liability to Tenant for the return of the security deposit.

7. Laws, Rules and Regulations. Tenant hereby covenants and agrees to comply at its sole cost and expense with all of the ordinances, rules, regulations and laws of the city, county or state and federal authorities having jurisdiction over the Leased Premises, including all environmental laws and regulations, and with the building rules and regulations which are listed in Exhibit "C" of this Lease (the "Rules and Regulations"). Landlord shall at all times have the right to change the Rules and Regulations or to amend them in such reasonable manner as may be deemed advisable for the safety, protection, care, and cleanliness of the Property and appurtenances and for preservation of good order therein, all of which rules and regulations, changes and amendments will be forwarded to Tenant in writing and shall be complied with and observed by Tenant. Notwithstanding the foregoing, this Lease shall prevail in the event of any conflicts between the Rules and Regulations and the main body of this Lease.
8. Signs. Landlord shall provide and install, at Tenant's sole expense, all letters or numerals at the entrance to the Leased Premises and a strip containing a listing of Tenant's name on the Building directory. All such letters and numerals shall be in the Building Standard graphics.
9. Landlord Services. Landlord will provide the following services to the Premises and the Building throughout the term of this Lease unless otherwise stated in Exhibit G-Special Provisions at the end of this lease:
  - a. Maintenance of the roof, exterior walls and foundations;
  - b. Grounds and landscaping maintenance and Parking lot maintenance and sweeping;
  - c. Janitorial services to the Leased Premises and public areas of the Building ( ) times per week, excluding holidays. Landlord shall not provide maid service to kitchens or storage areas included in the Leased Premises; Landlord shall cause the exterior windows of the Building to be cleaned on a regular basis.
  - d. Maintenance of the HVAC within the Building and specifically including the Premises.
  - e. Central heat and air conditioning, at such times as Landlord normally furnishes these services to all tenants of the Building and at such temperatures and in such amounts as are reasonably considered by Landlord to be standard; provided, however, heating and air conditioning service at times other than "Normal Business Hours" for the Building (which are 6:30 a.m. to 6:30 p.m. on Monday through Friday) shall be furnished to Tenant at \$45.00 per hour with a minimum of 2 hours. Tenant will be invoiced separately.
  - f. Landlord shall furnish standard building electric current for fluorescent lighting, computers, electrical typewriters, copying machines and other similar light office equipment suitable for a professional office, but

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not including special lighting in excess of Building standard, and any other item of electrical equipment which (singly) consumes more than two (2) kilowatts at rated capacity or requires a voltage other than 120 volts single phase.

In addition, Landlord shall furnish, supply and maintain the Common Areas, such as the restrooms, and shall furnish water and sewage disposal in the building in which the Leased Premises are located. All costs of Landlord for providing the services set forth in this Article shall be deemed Operating Expenses and subject to the Additional Rent provisions in Section 5 and shall be payable as therein provided. Landlord does not warrant that any service or any equipment or machinery provided by Landlord (if any) will be free from interruption caused by repairs, renewal, improvements, changes of service, alterations, strikes, lockouts, labor controversies, accidents, inability to obtain fuel or power at a reasonable cost or other causes beyond Landlord's control. No such interruption shall be deemed an eviction or disturbance of Tenant's use and possession, shall not provide an abatement of rent, or relieve Tenant from any obligation under this Lease, provided that Landlord shall reasonably restore such interrupted service. In the event Tenant becomes aware of any needed repairs, Tenant shall give immediately written notice to Landlord of the need for repairs or corrections and Landlord use reasonable diligence to commence to make such repairs or corrections. If Landlord fails to commence such repairs within a reasonable time, but not more than five (5) days after such notice, and prosecute the work diligently, Tenant may make such repairs and credit Tenant's cost relating thereto against any sums of rent otherwise due hereunder.

10. Care of Leased Premises Tenant, by it's occupancy hereunder, accepts the Leased Premises as being in good repair and condition. Tenant shall maintain the Leased Premises and every part thereof in good repair and condition, ordinary wear and tear excepted. If Tenant fails to maintain the Leased Premises as required in this Lease, Landlord may maintain and make necessary repairs without liability to Tenant for any loss or damage that may occur to Tenant's property or business, and Tenant shall be liable to Landlord for all costs incurred in making such repairs.
11. Alterations. Tenant shall not make or suffer to be made any alterations, additions or improvements to or of the Leased Premises or any part thereof without prior written consent of Landlord. In the event Landlord consents to the proposed alterations, additions, or improvements, the same shall be at Tenant's sole cost and expense, and Tenant shall hold Landlord harmless on account of the cost thereof. Any such alterations shall be made at a time and in a manner as not to unreasonably interfere with the occupation, use and enjoyment of the remainder of the building by any other tenants. Any alterations, additions or improvements to the Leased Premises (other than moveable equipment or furniture owned by Tenant) shall at once become the property of the Landlord and shall be surrendered to the Landlord upon the termination of this Lease. If required by Landlord, such alterations shall be removed by Tenant upon the termination of the Lease Term and Tenant shall repair damage to the Leased Premises caused by such removal, all at Tenant's sole cost and expense. Landlord shall not be liable for, and the Leased Premises and/or Property shall not be subject to any mechanics, materialman's or other liens and Tenant shall keep the Leased Premises and the Property free from any such liens and shall indemnify Landlord against and satisfy any such liens which may arise as a result of acts of Tenant. Further, if required by Landlord, Tenant shall furnish such waiver or waivers of lien or payment or performance bonds in form and with surety satisfactory to Landlord before commencing any work on such alterations, additions or improvements, including trade fixtures. All construction work done by Tenant within the Leased Premises shall be performed in a good and workmanlike manner, in compliance with all governmental requirements, and in such manner as to minimize interference with other construction in progress and with the transaction of business at the Property. Tenant agrees to defend, indemnify and hold Landlord harmless from costs of compliance with requirements of the Americans with Disabilities Act of 1990, Title III.
12. Quiet Enjoyment. So long as Tenant shall observe and perform all of it's obligations under this Lease, Tenant shall peacefully and quietly have and enjoy possession of the Premises without any unreasonable encumbrance or hindrance by, from or through Landlord and any mortgage will be subordinate to this Lease or will contain non-

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disturbance provisions which will assure that in the event of foreclosure Tenant will have the right to occupy the premise and enjoy all benefits of the Lease, subject to its provisions. Nothing in this Section 12 shall prevent Landlord from performing alterations or repairs on other portions of the Property not leased to Tenant, nor shall performance of such alterations or repairs be construed as a breach of the covenant made by Landlord.

13. Entry by Landlord. Tenant covenants and agrees with Landlord upon prior written notice to permit Landlord or its agents or representatives to enter any part of the Premises at all reasonable hours (and in emergencies at any time without notice) to inspect the same, or to show the Premises to prospective purchasers, mortgagees, or insurers, to clean or make repairs, alterations or additions thereto, as Landlord may deem necessary or desirable, and Tenant shall not be entitled to any abatement or reduction of rent by reason thereof.
14. Parking. Landlord shall provide Tenant with \_\_\_\_\_ random parking spaces out of the \_\_\_\_\_ parking spaces within the Building's parking lot (the "Parking Lot"). A location of \_\_\_\_\_ reserved spaces shall be set forth on the attached Exhibit "D". Tenant shall have non-exclusive right to use the unreserved parking spaces in common with the other Tenants in the Building. Landlord shall take reasonable steps to avoid over subscription to parking rights and to avoid interference with the parking privileges of Tenant's employees. Landlord may in its reasonable discretion re-locate or eliminate the Tenant's reserved spaces within the Parking Lot from time to time with notice to Tenant. It is agreed and understood that Landlord is not responsible for policing the parking lot for reserved parking space violations. It is agreed and understood that Landlord shall not be liable to Tenant for any loss or damage suffered by any person or to any property including automobiles owned and operated by Tenant's employees and invitees in or upon the Property.
15. Nuisance. Tenant covenants and agrees with Landlord to conduct its business and control its agents, employees, invitees, and visitors in such manner as not to create any nuisance, or interfere with, annoy, or disturb any other tenant or Landlord in its operation of the Building.
16. Landlord Not Liable. Landlord shall not be liable to Tenant or Tenant's agents, employees, invitees or to any person claiming by, through or under Tenant for any injury to person, loss or damage to property, or for loss or damage to Tenant's business occasioned by or through the acts or omissions of Landlord or any other person, or by any other cause whatsoever. Landlord shall also not be liable for any loss or damage that may be occasioned by or through the acts or omissions of other tenants of the building or of any other persons whomsoever. Landlord shall not be liable for any damage or loss resulting from business interruption at the Leased Premises and Tenant does hereby expressly release Landlord of and from any and all liability for such damages or loss. **IT IS INTENDED THAT THIS WAIVER PROVIDE A WAIVER OF LIABILITY FOR ALL ACTS OF THE LANDLORD OR ITS AGENTS, SERVANTS OR EMPLOYEES, INCLUDING ACTS OR OMISSIONS OF ACTUAL NEGLIGENCE, COMPARATIVE NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT ATTRIBUTABLE TO THE LANDLORD OR ITS AGENTS, SERVANTS OR EMPLOYEES. IT IS INTENDED THAT THIS WAIVER COMPLY WITH THE EXPRESS NEGLIGENCE STANDARDS OF THE STATE OF TEXAS.**
17. Insurance.
  - a. Landlord Insurance. Landlord shall at all times during the Term (i) maintain a policy providing commercial general liability insurance coverage on an occurrence basis in the minimum amount of \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate limit, which policy must insure against bodily injury, death, and property damage and (ii) insure the Property against all risk of direct physical loss in an amount and with such deductibles as Landlord considers appropriate; provided Landlord shall not be obligated in any way or manner to insure any personal property (including but not limited to any furniture, machinery, goods or supplies) of Tenant upon or within the Leased Premises, any fixtures installed or paid for by Tenant upon or within the Leased Premises or any improvements which Tenant may construct on the Leased Premises.

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Tenant shall have no right in or claim to the proceeds of any policy of insurance maintained by Landlord even if the cost of such insurance is borne by Tenant as provided herein.

- b. Tenant Insurance. Tenant, at all times during the Term, shall, at its own expense, keep in full force and effect comprehensive general liability (public and premises) insurance with personal injury coverage and contractual liability coverage, with minimum limits of \$ \_\_\_\_\_ on account of bodily injuries to, or death of, one or more than one person as the result of any one accident or occurrence and \$100,000.00 on account of damage to property. Tenant shall also at all times during the Term, carry insurance against damage or loss by fire and water and such other risks as are from time to time included in Standard All-Risk Insurance (including coverage against vandalism and malicious mischief) for the full insurable value of Tenant's merchandise, trade fixtures, furnishings, wall coverings, carpeting, drapes, equipment and all items of personal property of Tenant located on or in the Leased Premises. Landlord shall be a named additional insured on said policy or policies. All insurance policies or duly executed certificates for the same required to be carried by Tenant under this Lease, together with satisfactory evidence of the payment of the premiums therefore shall be deposited with Landlord on the Commencement Date, and upon renewals of such policies, not less than fifteen (15) days prior to the expiration of the term of such coverage. All insurance required to be carried by Tenant under this Lease shall be in form and content, and written by insurers acceptable to Landlord in its sole discretion. If Tenant shall fail to comply with any of the requirements contained relating to insurance, Landlord may obtain such insurance, and Tenant shall pay to Landlord on demand, as Additional Rental hereunder, the premium costs thereof.
  
  - c. Release and Waiver of Subrogation. Anything in this Lease to the contrary notwithstanding, Landlord and Tenant hereby waive and release each other of and from any and all right of recovery, claim, action or cause of action against each other their agents, officers and employees for any loss or damage that may occur to the Leased Premises, the Property or personal property within the Leased Premises or the Property by reason of fire or the elements that is covered by or required herein to be covered by insurance provided by Landlord or Tenant hereunder, regardless of cause or origin, including negligence of Landlord or Tenant and their agents, officers, and employees. Landlord and Tenant agree immediately to give their respective insurance companies which have issued policies of insurance covering all risk of direct physical loss written notice of the terms of the mutual waivers contained in this Section, and to have the insurance policies properly endorsed, if necessary, to prevent the invalidation of the insurance coverages by reason of the mutual waivers.
  
  - d. Violations of Insurance. Tenant covenants and agrees with Landlord not to occupy or use, or permit any portion of the Premises to be occupied or used for any business or purposes which are unlawful, disreputable, or deemed to be extra-hazardous on account Coverage of fire, or permit anything to be done which would in any way increase the rate of fire or liability or any other insurance coverage on the Building and/or its contents.
18. Destruction of Premises. (a) If, in the determination of Landlord, in Landlord's sole discretion, the Leased Premises should be totally destroyed by fire or other casualty, or if in the determination of Landlord, in Landlord's sole discretion, the Leased Premises should be damaged so that rebuilding cannot reasonably be completed substantially within one hundred and eighty (180) working days after Landlord's receipt of written notification by Tenant of the destruction, or if the Leased Premises are damaged or destroyed by casualty not covered by the standard broad form of fire and extended coverage insurance then in common use in the State of Texas, then, Landlord, at Landlord's sole option, may terminate this Lease and, in such event, the Rental shall be abated for the unexpired portion of the Term effective as of the date of the written notification. (b) If following damage or destruction to the Leased Premises by fire or other casualty, this Lease is not terminated pursuant to this Article, Landlord shall proceed, to the extent of insurance proceeds actually received by Landlord after the exercise by any mortgagee of the Property of an option, if any, to apply proceeds against Landlord's debt to such mortgagee, with reasonable diligence to rebuild or repair the Building or other improvements to substantially the same conditions in which they existed prior to the damage. If the Leased Premises are to be rebuilt or repaired and are

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untenantable in whole or in part following the damage, and the damage or destruction was not caused or contributed to by act or negligence of Tenant, its agents, employees, invitees or those for whom Tenant is responsible, the Base Rental payable under this Lease during the period for which the Leased Premises are untenantable shall be reduced to an amount determined by multiplying the Base Rent that would otherwise be payable but for this provision by the ratio that the Rentable Area of the portion of the Leased Premises not rendered untenantable bears to the total Rentable Area of the Leased Premises prior to the casualty. Landlord's obligation to rebuild or restore under this Section shall be limited to restoring the Leased Premises to substantially the condition in which the same existed prior to the casualty, exclusive of improvements for which Tenant is responsible under the terms of the Leasehold Improvements Agreement, if any, and Tenant shall, promptly after the completion of such work by Landlord, proceed with reasonable diligence and at Tenant's sole cost and expense to restore those improvements for which Tenant is responsible under the terms of such Leasehold Improvements Agreement to substantially the condition in which the same existed prior to the casualty and to otherwise make the Leased Premises suitable for Tenant's use for which Landlord is responsible.

- a. Condemnation. If, in the determination of Landlord, in Landlord's sole discretion, all or a substantial part of the Leased Premises are taken for any public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain, or by purchase in lieu thereof (collectively referred to as a "Condemnation Action"), and in the determination of Landlord, the taking would prevent or materially interfere with the use of the Leased Premises for the purpose for which it is then being used, this Lease shall, at the option of Landlord, terminate and the Rental shall be abated during the unexpired portion of the Term effective on the date physical possession is taken by the condemning authority. If, in the determination of Landlord, in Landlord's sole discretion, a portion of the Leased Premises shall be taken by Condemnation Action, and this Lease is not terminated as provided above, Landlord shall restore and reconstruct, to the extent of any condemnation proceeds (excluding any proceeds for land) actually received by Landlord after the exercise by any mortgagee of the Property of any option to apply such proceeds against Landlord's debt to such mortgagee, the Property and other improvements on the Leased Premises to the extent necessary to make it reasonably tenantable. The Base Rent payable under this Lease during the unexpired portion of the Term shall be reduced to an amount determined by multiplying the Base Rent that would otherwise be payable but for this provision by the ratio that the Rentable Area of the portion of the Leased Premises not rendered untenantable due to such taking bears to the total Rentable Area of the Leased Premises prior to the taking. All compensation awarded for any taking (or the proceeds of private sale in lieu thereof), whether for the whole or a part of the Leased Premises, shall be the property of Landlord (whether such award is compensation for damages to Landlord's or Tenant's interest in the Leased Premises), and Tenant hereby assigns all of its interest in any such award to Landlord; provided, however, Landlord shall have no interest in any award made to Tenant for loss of business or for taking of Tenant's trade fixtures and other personal property within the Leased Premises if a separate award for such items is made to Tenant.

19. Assignment and Sublease by Tenant

- a. General Prohibition. Except as otherwise herein provided, Tenant shall not assign this Lease or sublet any portion of the Premises without the prior written consent of Landlord, which such consent shall not be unreasonably withheld, conditioned or delayed. Any such assignment or subletting without the prior written consent of Landlord shall be void and constitute a breach of the Lease and shall, at the option of Landlord, terminate the Lease. Tenant shall not mortgage, pledge, or otherwise encumber its interest in this lease or in the Premises.
- b. Sublease by Tenant. Tenant may sublease all or any portion of the Premises with Landlord's consent, not to be unreasonably withheld, provided that (i) the sublease be not be on terms that are inconsistent with the terms of this Lease except for the rental which may be greater or less than the Rentals set forth in this Lease;

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(ii) the Tenant shall not be released from any of its obligations under this Lease, including but not limited to its obligation to pay Rentals; and (iii) at least ten (10) days prior to any sublessee taking possession of all or any portion of the Premises, Tenant shall provide Landlord with the name and address of the sublessee, the terms of such sublease, current financial statement of such sublessee, and a copy of the sublease document.

- c. Assignment by Tenant. Tenant may assign all or any portion of the Lease to any Affiliate (as defined below), or any entity or person acquiring all or substantially all of the assets of Tenant (collectively a "Related Party"), provided that in each case such Related Party has a financial net worth reasonably comparable to that of Tenant as of the date of this Lease, or guarantees the Lease to the satisfaction of Landlord, and Tenant furnishes written notice of such assignment to Landlord. In the event, Tenant desires to assign the Premises or any part thereof to anyone other than a Related Party, Tenant shall first obtain the written consent of Landlord, which such consent shall not be unreasonably withheld or delayed, provided that Tenant delivers to Landlord within fifteen (15) days prior to the date on which Tenant desires to make such assignment the name and address of the proposed assignee, the terms of such assignment, current financial statement of such assignee, and a copy of the assignment document. If Landlord consents the Assignment, Tenant shall thereafter be released from any future liability under the Lease, provided that (i) the assignee has assumed all of Tenants obligations under the Lease and (ii) Landlord reasonably determines after reviewing the assignee's financial statements that the assignee is financially capable of satisfying all of Tenants obligations under the Lease.
- d. Assignment by Landlord. Landlord shall have the right to transfer and assign, in whole or in part, any of its rights under this Lease and in the Building and Land referred to herein and Landlord shall, by virtue of such assignment, be released from all obligations hereunder.

20. Rights of Mortgagees and Purchasers. Tenant accepts this Lease subject and subordinate to any lease, mortgage, deed of trust lien or security interest presently existing or hereafter encumbering the Property and to all existing ordinances and recorded restrictions, covenants, easements and agreements with respect to the Property. Landlord is hereby irrevocably vested with full power and authority to subordinate Tenant's interest under this Lease to any mortgage, deed of trust lien or security interest hereafter placed on the Property provided that such mortgagee or beneficiary agrees not to disturb Tenant's rights under this Lease. Upon any foreclosure, judicially or non-judicially, of any such mortgage, or the sale or conveyance of the Property in lieu of foreclosure, or any other sale, transfer or conveyance of the Property or Landlord's interest in the Property, whether or not in connection with a mortgage, Tenant hereby does, and hereafter agrees to, attorn to the purchaser at such foreclosure sale or to the grantee under any deed in lieu of foreclosure or to any other grantee or transferee of the Property or of Landlord's interest, and shall recognize such purchaser, grantee, or other transferee as Landlord under this Lease, and no further attornment or other agreement shall be required to effect of evidence Tenant's attornment to and recognition of such purchaser or grantee as Landlord hereunder. Such agreement of Tenant to attorn shall survive any such foreclosure, sale, trustee's sale, conveyance in lieu thereof, or any other sale, transfer or conveyance of the Property or Landlord's interest in the Property. Tenant, upon request, at any time, before or after any pledge or encumbrance of the Property or any foreclosure sale, trustee's sale or conveyance in lieu thereof, or other sale, transfer or conveyance shall execute, acknowledge, and deliver to the prospective transferee and/or mortgagee a Subordination, Non-Disturbance and Attornment and any additional written instruments and certificates evidencing such attornment as the mortgagee or other transferee or purchaser may reasonably require, and Tenant hereby irrevocably appoints Landlord as Tenant's agent and attorney-in-fact for the purpose of executing, acknowledging, and delivering any such instruments and certificates, and Landlord may proceed to execute, acknowledge and deliver said documents upon Tenant's failure to deliver same within five (5) days after Landlord's request therefore.

21. Estoppel Certificates. Tenant agrees to furnish, from time to time, within ten (10) days after receipt of a request from Landlord or Landlord's successor or mortgagee (i) a statement containing and certifying, if applicable, all or

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some of the following: Tenant is in possession of the Leased Premises; the Lease is in full force and effect; the Lease is unmodified (except as disclosed in such statement); Tenant claims no present charge, lien, or claim of offset against the Rental; the Rental is paid for the current month, but is not prepaid for more than one (1) month and will not be prepaid for more than one (1) month in advance; there is no existing default by reason of some act or omission by Landlord; Landlord has performed all inducements required of Landlord in connection with this Lease, including construction obligations, if any, and Tenant accepts the Leased Premises as constructed; (ii) an acknowledgment of the assignment of Rentals, if any, and other sums due hereunder to a mortgagee and an agreement to be bound thereby; (iii) an agreement requiring Tenant to advise the mortgagee of damage to or destruction of the Leased Premises by fire or other casualty requiring reconstruction; (iv) an agreement by Tenant to give the mortgagee written notice of Landlord's default hereunder and to permit the mortgagee to cure such default within a reasonable time after such notice before exercising any remedy Tenant might possess as a result of such default; and (v) such other matters as may be reasonably required by Landlord or Landlord's successor or mortgagee. Tenant's failure to deliver such statement, in addition to being a default under this Lease, shall be deemed to establish conclusively that this Lease is in full force and effect except as declared by Landlord, that Landlord is not in default of any of its obligations under this Lease, and that Landlord has not received more than one (1) month's rent in advance.

22. INDEMNIFICATION. LANDLORD SHALL NOT BE LIABLE TO TENANT OR TO TENANT'S CUSTOMERS, EMPLOYEES, AGENTS, GUESTS OR INVITEES OR TO ANY OTHER PERSON FOR ANY INJURY TO SUCH PERSONS, DAMAGE TO PROPERTY OR ANY LOSSES OF ANY SUCH PERSONS ON OR ABOUT THE LEASED PREMISES OR THE PROPERTY, INCLUDING, WITHOUT LIMITATION, CONSEQUENTIAL DAMAGES (1) CAUSED BY ANY ACT OR OMISSION OF TENANT, ITS EMPLOYEES, SUBTENANTS, LICENSEES, INVITEES AND CONCESSIONAIRES OR OF ANY OTHER PERSON ENTERING THE PROPERTY OR THE LEASED PREMISES BY EXPRESS OR IMPLIED INVITATION OF TENANT, OR (2) ARISING OUT OF THE USE OF THE LEASED PREMISES OR THE PROPERTY BY TENANT ITS EMPLOYEES SUBTENANTS LICENSEES CONCESSIONAIRES OR INVITEES, OR (3) ARISING OUT OF ANY BREACH OR DEFAULT BY TENANT IN THE PERFORMANCE OF ITS OBLIGATIONS HEREUNDER, OR (4) CAUSED BY THE IMPROVEMENTS LOCATED IN THE LEASED PREMISES BECOMING OUT OF REPAIR OR (5) CAUSED BY A BURGLARY, THEFT, VANDALISM, MALICIOUS MISCHIEF, OR OTHER ILLEGAL ACTS PERFORMED IN, AT, OR FROM THE LEASED PREMISES, OR (6) BY DEFECT IN OR FAILURE OF EQUIPMENT, PIPES OR WIRING, OR BY BROKEN GLASS, OR BACKING UP OF DRAINS, OR BY GAS, WATER, STEAM, ELECTRICITY OR CHEMICALS LEAKING, ESCAPING OR FLOWING INTO THE LEASED PREMISES OR PROPERTY, OR (7) ARISING OUT OF THE FAILURE OR CESSATION OF ANY SERVICE PROVIDED BY LANDLORD (INCLUDING SECURITY SERVICE AND DEVICES), OR (8) CAUSED BY A FORCE MAJEURE CONDITION, OR (9) CAUSED BY OR THROUGH THE ACTS OR OMISSIONS OF OTHER TENANTS OF THE PROPERTY OR OF ANY OTHER PERSONS, EXCEPTING ONLY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF DULY AUTHORIZED EMPLOYEES AND AGENTS OF LANDLORD ACTING WITHIN THE SCOPE OF THEIR AUTHORITY. TENANT HEREBY AGREES TO INDEMNIFY LANDLORD AND HOLD LANDLORD HARMLESS FROM ANY LIABILITY, LOSS, EXPENSE OR CLAIM (INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS FEES) ARISING OUT OF ANY DAMAGE OR INJURY CAUSED BY OR ARISING OUT OF THE MATTERS DESCRIBED IN SUBPARAGRAPH (1) THROUGH (5) OF THIS SECTION. IT IS THE EXPRESS INTENTION OF THE PARTIES HERETO THAT THE INDEMNITY PROVIDED FOR IN THIS LEASE AGREEMENT, INDEMNIFY AND PROTECT LANDLORD FROM THE CONSEQUENCES OF THE ACTS OR OMISSIONS OF LANDLORD, INCLUDING ACTS OF NEGLIGENCE OR ALLEGED NEGLIGENCE, AND INCLUDING WHERE SAME IS A SOLE OR CONTRIBUTING CAUSE OF THE CLAIM.

23. Default.

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- a. Default by Tenant. The following shall be deemed to be events of default (an “Event of Default”) by Tenant under this Lease: (a) default in the payment of Rent or any other sums payable by the Tenant herein, and such default shall continue for a period of ten (10) days without notice by Landlord; (b) default in the performance of any other covenants or agreements of this Lease and such default shall continue for a period of thirty (30) days after written notice thereof provided that, if such default cannot reasonably be cured within such thirty (30) day period, as long as Tenant has commenced actions to cure such default within said thirty (30) day period and at all times thereafter diligently pursues such cure of any such default, Tenant shall not be in default; or (c) Tenant or any guarantor of Tenant's obligations hereunder shall file a voluntary petition in bankruptcy, be adjudged bankrupt, be placed in or subjected to receivership, or make an assignment for the benefit of creditors.
- b. Remedies for Tenant’s Default. Upon the occurrence of any Event of Default, Landlord shall have the option to pursue any one or more of the following remedies without any additional notice or demand:
- i. Without declaring the Lease terminated, Landlord may enter upon the Leased Premises, in which event Tenant shall immediately surrender the Leased Premises to Landlord, and if Tenant fails to surrender the Leased Premises, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in Rental, take possession of the Leased Premises by picking or changing locks if necessary, and lock out, expel or remove Tenant and any other person who may be occupying all or any part of the Leased Premises without being liable for any claim for damages, and relet the Leased Premises on behalf of Tenant and receive the rent directly by reason of the reletting. Tenant agrees to pay Landlord on demand any deficiency that may arise by reason of any reletting of the Leased Premises; further, Tenant agrees to reimburse Landlord for any expenditures made by it in order to relet the Leased Premises, including, but not limited to, remodeling and repair costs.
  - ii. Without declaring the Lease terminated, and without notice, Landlord may enter upon the Leased Premises, by picking or changing locks if necessary, without being liable for any claim for damages, and do whatever Tenant is obligated to do under the Terms of this Lease. Tenant agrees to reimburse Landlord on demand for any expenses which Landlord may incur in effecting compliance with Tenant's obligations under this Lease; further, Tenant agrees that Landlord shall not be liable for any damages resulting to Tenant from effecting compliance with Tenant's obligations under this Lease even when caused by the negligence of Landlord or otherwise.
  - iii. Landlord may terminate this Lease, in which event Tenant shall immediately surrender the Leased Premises to Landlord, and if Tenant fails to surrender the Leased Premises, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in Rental, enter upon and take possession of the Leased Premises, by picking or changing locks if necessary, and lock out, expel or remove Tenant and any other person who may be occupying all or any part of the Leased Premises without being liable for any claim for damages. Tenant agrees to pay on demand the amount of all loss and damage which Landlord may suffer for any reason due to the termination of this Lease under this Section 23(b), including (without limitation) loss and damage due to the failure of Tenant to maintain and/or repair the Leased Premises as required hereunder and/or due to the inability of Landlord to relet the Leased Premises on satisfactory terms or otherwise.
- c. Optional Acceleration of Rental. If Landlord elects to terminate this Lease Agreement, or terminate Tenant's right to possession without termination of this Lease Agreement, then at Landlord's election in Landlord's sole and unfettered discretion, there shall immediately become due and payable the amount by which the present value (determined using a discount rate of eight percent (8%) per annum) of the total Rental and other

benefits which would have accrued to Landlord under this Lease for the remainder of the Term if the terms and provisions of this Lease had been fully complied with by Tenant exceeds the total fair market rental value (also determined using a discount rate of eight percent (8%) per annum) of the Leased Premises for the balance of the Term (it being the intention of both parties hereto that Landlord shall receive the benefit of its bargain). In addition, there shall be recoverable from Tenant: (A) the cost of restoring the Leased Premises to same condition as existed prior the Lease, normal wear and tear excepted, (B) all accrued, unpaid sums, plus interest at the rate set forth in this Lease Agreement for past due sums up to the date of termination, (C) Landlord's cost of recovering possession of the Leased Premises, (D) rent and sums accruing subsequent to the date of termination pursuant to the holdover provision of this Lease Agreement, and (E) any other sum of money or damages owed by Tenant to Landlord.

- d. Reletting of Leased Premises. If Landlord elects to terminate Tenant's right to possession without termination of this Lease Agreement, but elects not to pursue the remedies set forth in Section 23(c) above, Tenant shall continue to be liable for all Rental, including, without limitation, Base Rental and Additional Rental, and Landlord may relet the Leased Premises, or any part thereof, to a substitute tenant or tenants, for a period of time equal to or lesser or greater than the remainder of the Term on whatever terms and conditions Landlord, at Landlord's sole discretion, deems advisable. Tenant shall be given a credit against the Rental and sums due from Tenant to Landlord during the remainder of the Term, in the net amount of rent received from the new tenant; however, the net amount of rent received from the new tenant shall first be applied to: (A) the costs incurred by Landlord in reletting the Premises (including, without limitation, remodeling costs, brokerage fees and commissions, and attorneys fees), (B) the accrued Rental, plus interest and late charges, if in arrears, under this Lease, (C) Landlord's cost of recovering possession of the Premises, and (D) the cost of storing any of Tenant's property left on the Premises after re-entry. Notwithstanding any such reletting without termination of this Lease Agreement, Landlord may at any time thereafter elect to exercise its rights under Section 23(b) or 23(c) hereof for such previous breach. Notwithstanding any provision in this Section 23(d) to the contrary, upon the default of any substitute tenant or upon the expiration of the Lease Term of such substitute tenant before the expiration of the Term, Landlord may, at Landlord's election, either relet to still another substitute tenant, or exercise its rights under Section 23(c) hereof.
- e. Removal of Property. Any and all property which may be removed from the Leased Premises by Landlord pursuant to the authority of the Lease or the law, to which Tenant is or may be entitled, may be handled, removed and stored, as the case may be, by or at the direction of Landlord at the risk, cost and expense of Tenant, and Landlord shall in no event be responsible for the value, preservation or safekeeping thereof. Tenant shall pay to Landlord, upon demand, any and all expenses incurred in such removal and all storage charges against such property so long as the same shall be in Landlord's possession or under Landlord's control. Any such property of Tenant not retaken by Tenant from storage within thirty (30) days after removal from the Leased Premises shall, at Landlord's option, be deemed conveyed by Tenant to Landlord under this Lease as though by bill of sale without further payment or credit by Landlord to Tenant.
- f. Lockout. Landlord's exercise, following a default by Tenant under this Lease, of any right granted hereunder or under any applicable law to lock out or change the locks securing the Leased Premises shall not impose upon Landlord any duty to notify Tenant of the name and address or telephone number of the individual or company from whom a new key may be obtained, nor shall Landlord have any duty to provide Tenant with a new key or any other means of access to the Leased Premises. Landlord and Tenant agree that the parties hereto intend that all rights and remedies of Landlord under this Lease or otherwise available to Landlord under applicable law shall supersede any conflicting provisions of Chapters 92 and 93 of the Texas Property Code, and any amendments, modifications, recodification or other changes thereto.
- g. Remedies Cumulative. All rights and remedies of Landlord herein or existing at law or in equity are cumulative and the exercise of one or more rights or remedies shall not be taken to exclude or waive the right

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to the exercise of any other.

- h. Waiver. Pursuit of any of the remedies set forth in this Section shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law. Pursuit of any remedy herein provided shall not constitute a forfeiture or waiver of any rent due to Landlord hereunder or of any damages accruing to Landlord by reason of the violation of any of the terms, provisions and covenants herein contained. No waiver by Landlord of any violation or breach of any of the terms, provisions and covenants herein contained shall be deemed or construed to constitute a waiver of any other violation or breach of the terms, provisions and covenants herein contained. Forbearance by Landlord to enforce one or more of the remedies herein provided upon an Event of Default, or delay by Landlord in enforcing one or more of such remedies upon an Event of Default, shall not be deemed or construed to constitute a waiver of such default.
  - i. Default by Landlord. If Landlord defaults in the performance of any term, covenant or condition required to be performed by Landlord under this Lease, Landlord shall have thirty (30) days following the receipt of written notice from Tenant specifying such default to cure such default, provided that, if Landlord has commenced actions to cure such default within said thirty (30) day period, Landlord shall have all reasonable and necessary time to complete such cure.
  - j. Remedies for Landlord's Default. Upon the occurrence of any default by Landlord as set forth in this Lease, and the subsequent failure by Landlord to cure or commence actions to cure as provided herein, Tenant shall, as Tenant's sole remedy, have the right to maintain an action against Landlord for actual damages suffered as a result of Landlord's default.
24. Landlord's Lien. As security for payment of Rent and Additional Rent, damages and all other payments required to be made by Tenant under this Lease, Tenant hereby grants to Landlord a lien upon and security interest in all property of Tenant now or subsequently located upon the Leased Premises. If Tenant is in default of any provision of this Lease, Landlord may enter upon the Leased Premises by picking or changing locks if necessary, and take possession of all or any part of such property, and may sell all or any part of such property at a public or private sale, in one or successive sales, with or without notice, to the highest bidder for cash, and, on behalf of Tenant, sell and convey all or part of such property to the highest bidder, delivering to the highest bidder all of Tenant's title and interest in the property sold. The proceeds of the sale of such property shall be applied by Landlord toward the reasonable costs and expenses of the sale, including attorney's fees, and then toward the payment of all sums then due by Tenant to Landlord under the terms of this Lease. Any excess remaining shall be paid to Tenant or any other person entitled thereto by law. This Lease is intended as and constitutes a security agreement within the meaning of the Uniform Commercial Code of the state in which the Leased Premises are situated. Landlord, in addition to the rights prescribed in this Lease, shall have all of the rights, titles, liens, and interests in and to Tenant's property, now or hereafter located upon the Leased Premises, which may be granted a secured party (as that term is defined under such Uniform Commercial Code) under this Lease. Tenant will, on request, execute and deliver to Landlord a financing statement (or continuation statement) for the purpose of perfecting Landlord's security interest under this Lease or Landlord may file this Lease, a carbon photographic or other reproduction of this Lease, or a memorandum of this Lease as a financing statement. All of the above notwithstanding, any Landlord's Lien shall be subordinate to Tenant's trade creditors.
25. Holdover. Should Tenant continue to occupy the Premises after the expiration of the Term, ("Holdover Period") whether with or against the consent of Landlord, such tenancy shall be from month to month and under all the terms, covenants and conditions of this Lease, except that Tenant shall pay Landlord as Rental during the Holdover Period an amount equal to **one and one-half** times the Rental, as computed on a monthly basis, for the term of the Lease immediately preceding the Holdover Period. The Rental payable during the Holdover Period shall be payable to Landlord on demand. No holding over by Tenant whether with or without the consent of Landlord shall operate to extend the Term. Tenant shall indemnify Landlord against all claims made by any tenant or prospective tenant

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against Landlord resulting from delay in delivering possession of the Leased Premises to such other tenant or prospective tenant because of Tenant's occupancy of the Leased Premises after the Termination Date.

26. Limited Liability of Landlord. Tenant acknowledges and agrees that the liability of Landlord under this Lease shall be limited to its interest in the Property and any judgments rendered against Landlord shall be satisfied solely out of the proceeds of sale of its interest in the Property. No personal judgment shall lie against Landlord upon extinguishment of its rights in the Property and any judgment so rendered shall not give rise to any right of execution or levy against Landlord's assets. The provisions hereof shall inure to the benefit of Landlord's heirs, devisees, successors, assigns, administrators, executors, and/or personal representatives including any mortgagee. The foregoing provisions are not intended to relieve Landlord from the performance of any of the Landlord's obligations under this Lease, but only to limit the personal liability of Landlord in case of a judgment against Landlord; nor shall the foregoing be deemed to limit Tenant's rights to obtain injunctive relief or specific performance or to avail itself of any other right or remedy which may be awarded Tenant by law or under this Lease.
27. Notices. Any notices to be given hereunder shall be given by placing the notice in the United States Mail, certified or registered, properly stamped and addressed to the address shown below or such other addresses as the respective party may direct in writing to the other, or by personal delivery to such address, and such notice shall be deemed effective upon such placing in the mails, on the next business day following delivery to Federal Express, or upon such personal delivery:

To Landlord at:                    Loopy Limited Partnership  
   9033 Aero, Suite 202  
   San Antonio, Texas 78217

To Tenant at:

28. Independent Obligations. Tenant hereby acknowledges that Landlord has made no warranties to Tenant (or to any of Tenant's employees). Landlord hereby expressly disclaims any warranty (including any implied warranty) that the Leased Premises are suitable for Tenant's intent upon the condition of the Leased Premises or the performance by Landlord, and Tenant shall perform its obligations without abatement, its obligations under in this Lease.
29. Force Majeure. Landlord shall not be required to perform any covenant or obligation in this Lease, or be liable in damages to Tenant, so long as the performance or non-performance of the covenant or obligation is delayed, caused or prevented by a Force Majeure Condition or by Tenant. For purposes of this Section "Force Majeure Condition" shall mean strikes, lockouts, sitdowns, material or labor restrictions by any governmental authority, unusual transportation delays, riots, floods, washouts, explosions, earthquakes, fire storms, weather (including wet grounds or inclement weather which prevents construction), acts of the public enemy, wars, insurrections, and/or any other cause not reasonably within the control of Landlord or which, even by the exercise of due diligence, Landlord is unable wholly or in part, to prevent or overcome.
30. Attorney's Fees. If Landlord or Tenant defaults in the performance of any of the terms, covenants agreements or conditions contained in this Lease and, by reason of such default, later places in the hands of any attorney the enforcement of all or any part of this Lease, the collection of any Rental or other sums due or to become due or recovery of the possession of the Leased Premises, the prevailing party shall be entitled to recover its cost, including reasonable attorneys' fees, incurred in enforcing this Lease or its rights hereunder.

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31. Successors and Assigns. This Lease shall bind and inure to the benefit of the Landlord's heirs, devisees, successors, assigns, administrators, executors, and/or personal representatives of the parties hereto.
32. Corporate Authority. If Tenant or Landlord executes this Lease as a corporation, professional association or a partnership (general or limited), each person executing this Lease on behalf of Tenant or Landlord hereby personally represents and warrants to the other that (i) it is a duly authorized and existing corporation, professional association or partnership (general or limited), (ii) is qualified to do business in the state in which the Premises are located, (iii) the corporation, professional association or partnership (general or limited) has full right and authority to enter into this Lease, and (iv) each person signing on behalf of the corporation, professional association or partnership (general or limited) is authorized to do so, and the execution and delivery of the Lease by Tenant and Landlord will not result in any breach of, or constitute a default under, any mortgage, deed of trust, lease, loan, credit agreement, partnership agreement, or other contract or instrument to which Tenant or Landlord is a party or by which Tenant or Landlord may be bound.
33. Tenant's Financial Statements and Personal Guaranty. Tenant represents and warrants to Landlord that, as of the date of execution of this Lease by Tenant, the financial statements of Tenant provided to Landlord prior to or simultaneously with the execution of this Lease accurately represent the financial condition of Tenant as of the dates and for the periods indicated therein, such financial statements are true and do not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements included therein not misleading and there has been no material adverse change in the financial condition or business prospects of Tenant since the respective dates of such financial statements. If there is a material adverse change in Tenant's financial condition, Tenant will give immediate notice of such material adverse change to Landlord. If Tenant fails to give such immediate notice to Landlord, such failure shall be deemed an event of default under this Lease. Landlord may in Landlord's sole discretion and to Landlord's sole satisfaction require personal lease guarantees if not satisfied with Tenant's financial statements at any time during the term of this Lease or in order to execute this Lease. A copy of the Guaranty of Lease is provided in Exhibit F.
34. Entire Agreement, Modification Severability. This Lease and any addenda's or exhibits signed or initialed by the parties containing all or part of the agreements and conditions between Landlord and Tenant may not be amended or modified unless set forth in a writing executed by both parties. The unenforceable, invalid or illegality of any provision of this Lease shall not be render any other provision herein unenforceable, invalid or illegal.
35. Construction of Language. Words of any gender used in this Lease, shall be held to include any other gender, and words in the singular shall be held to include the plural and the plural to include the singular, when the sense requires. The section headings and titles are not a part of this Lease and shall have no effect upon the construction or interpretation of any part hereof.
36. Hazardous Materials. Throughout the Term of this Lease, Tenant shall prevent the presence, use, generation, release, discharge, storage, disposal or transportation of any Hazardous Materials (as defined below) on, under, in, above, to or from the Leased Premises other than in strict compliance with all applicable Environmental Laws. Tenant agrees to indemnify and hold Landlord, its officers, employees or agents, harmless from all claims, demands, actions, liabilities, cost, damages, penalties, obligations and expenses, including but not limited to reasonable attorney fees of any nature arising from or a result of any contamination of the Property with Hazardous Materials, or otherwise arising from the use of the Leased Premises by Tenant. The foregoing indemnification and the responsibilities of Tenant shall survive the termination or expiration of this Lease. For purposes of this provision, the term "Hazardous Materials" shall mean and refer to any wastes, materials or other substances of any kind or character that are or become regulated as hazardous or toxic wastes or substances, or which require special handling or treatment, under any applicable Environmental Laws. "Environmental Laws," shall mean any federal, state or local statute, ordinance, regulation or other law of a government or quasi-

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governmental authority relating to pollution or protection of the environment or the regulation of the storage or handling of Hazardous Materials. Landlord represents and warrants to Tenant that as of the Effective Date of this Lease (i) it has received no written notice of and has no actual knowledge that the Real Property has been used for the manufacture, disposal, release or storage of Hazardous Materials in violation of any Environmental Laws (ii) it has not (nor permitted to be) manufactured, disposed, released or stored on the Property any Hazardous Materials in violation of any Environmental Laws.

37. Tenant Improvements. Landlord hereby agrees to give Tenant a finish out allowance (the "Allowance") of up to \$ \_\_\_\_\_ (\$ \_\_\_\_\_ per square foot) to be applied one time toward the costs of any approved leasehold improvements to the Premises, including without limitation, design and construction supervision expenses ("Leasehold Improvements"). Prior to commencing any such Tenant Improvements, Tenant shall have (i) complied with all of the requirements for making Alterations to the Premises as set forth in Section 11 above, (ii) submitted plans and specifications approved by Landlord, which such approval shall not be unreasonably withheld or delayed (iii) provided a copy of the construction contract covering the Tenant Improvements for approval by Landlord, which such approval shall not be unreasonably withheld or delayed. The construction of the Tenant Improvements shall be performed in a good and workmanlike manner, by Landlord approved contractors and in compliance with all laws and regulations, including but not limited to all building codes and fire codes. Within ninety (90) days following the completion of any approved Leasehold Improvements, Tenant shall submit to Landlord, an invoice (the "Invoice") for payment of the Tenant Improvements up to the amount of the Allowance, including a schedule of the work completed with all construction costs and a lien waiver and release executed by all contractors or suppliers who may have provided labor or materials in the completion of the Tenant Improvements. Landlord shall make payments of the Allowance on account of the Leasehold Improvements to Tenant within thirty (30) days following Tenant's submission of the Invoice and other required items set forth above. Tenant shall not be given a credit for any portion of the Allowance not utilized. Tenant shall bear the entire cost of the Leasehold Improvements in excess of the Allowance.
38. Relocation. Landlord may elect by notice to Tenant to substitute for the Premises other office space in the Building designated by Landlord and reasonably satisfactory to Tenant ("Substitute Premises"), provided that the Substitute Premises shall contain at least the same usable area as the Premises. Landlord shall, at Landlord's expense, be responsible for: (a) completion of all improvements to the Substitute Premises, (b) moving all of Tenant's property, (c) prompt reimbursement of all Tenant's reasonable out-of-pocket expenses incurred by Tenant in conjunction with Tenant's move from the Premises to the Substitute Premises provided such costs are approved by Landlord in advance, which approval shall not be unreasonably withheld. Tenant shall vacate and surrender the Premises and shall occupy the Substitute Premises within 5 days after Landlord has substantially completed the work to be performed by Landlord in the Substitute Premises pursuant to this Paragraph. Tenant shall pay the same Rent with respect to the Substitute Premises as was payable with respect to the Premises, notwithstanding that the usable area of the Substitute Premises may be greater than that of the Premises. This Lease shall remain in full force and effect, and the Substitute Premises shall thereafter be deemed the Premises.
39. Definition of "Affiliate." For purposes of this Lease, the term "Affiliate" shall mean (i) any person directly or indirectly controlling, controlled by or under common control with the Tenant; or (ii) any person that, directly or indirectly, owns or controls 50% or more of the outstanding voting securities or beneficial interests of such other person or entity.
40. American with Disabilities Act. Landlord does not guarantee or represent that the Building is in compliance with the Americans with Disabilities Act (ADA). However, Landlord agrees that any additional improvements made to the Building will comply with the ADA, to the extent required.
41. Time is of the Essence. The time of the performance of all of the covenants, conditions and agreements of this

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Lease is of the essence of this Lease.

42. Governing Law. The law of the State of Texas shall govern the interpretation, validity, performance and enforcement of this Lease and venue for any action brought hereunder shall be in Bexar County, Texas.
43. Counterparts. Signatures to this document conveyed by facsimile shall be fully valid. Further, this Agreement may be executed in several counterparts, all of which together shall constitute one and the same instrument.
44. Miscellaneous. Please refer to the following Exhibits attached hereto and incorporated herein by this reference:
- |             |                         |
|-------------|-------------------------|
| Exhibit "A" | Cross Hatch of Premises |
| Exhibit "B" | Legal Description       |
| Exhibit "C" | Rules and Regulations   |
| Exhibit "D" | Parking                 |
| Exhibit "F" | Guaranty of Lease       |
| Exhibit "G" | Special Provisions      |
45. Joint and Several Liability. All the terms, covenants and conditions contained in this Lease to be performed by Tenant, if Tenant shall consist of more than one person or organization, shall be deemed to be joint and several, and all rights and remedies of Landlord shall be cumulative and nonexclusive of any other remedy.

IN WITNESS WHEREOF, Tenant and Landlord have caused this Lease to be executed as of the date first written above, by their respective duly authorized officers or parties.

TENANT:

BY: \_\_\_\_\_

LANDLORD:

LOOPY LIMITED

By: LOOPY MANAGEMENT, LLC  
Its General Partner

By: \_\_\_\_\_  
Mitchell E. Meyer, Manager

**EXHIBIT "A" TO LEASE AGREEMENT  
PREMISES**

**Premises layout to be provided under separate cover.**

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**EXHIBIT "B" TO LEASE AGREEMENT**  
**LEGAL DESCRIPTION**

**EXHIBIT "C" TO LEASE AGREEMENT**

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## RULES AND REGULATIONS

1. No sign, placard, picture, advertisement, name or notice shall be inscribed, displayed or printed or affixed on or to any part of the outside or inside of the Building, without first obtaining the written consent of Landlord and Landlord shall have the right to remove any such sign placard, picture, advertisement, name or notice without notice to and at the expense of Tenant.
2. All approved signs or lettering on doors shall be printed, painted, affixed or inscribed at the expense of Tenant by a person approved of by Landlord.
3. Tenant shall not place anything or allow anything to be placed near the glass of any window, door, partition or wall which may appear unsightly from outside the Premises; provided, however, that Landlord may furnish and install a Building standard window covering at all exterior windows. Tenant shall not without prior written consent of Landlord cause or otherwise sunscreen any window.
4. The sidewalk, halls, passages, exits, entrances, elevators and stairways shall not be obstructed by any of the tenants or used by them for any purpose other than for ingress or egress from their respective Premises.
5. Tenant shall not alter any lock or install any new additional locks or any bolt on any doors or windows of the Premises. Tenant will be charged a flat fee of \$150.00 if Landlord has to change locks in order to gain entry.
6. The toilet room, urinals, wash bowls and other apparatus shall not be used for any purpose other than that of which they were constructed and no foreign substance of any kind whatsoever shall be thrown therein and the expense of any breakage, stoppage or damage resulting from the violation of this rule shall be borne by the Tenant who, or whose employees or invites shall have caused it.
7. Tenant shall not overload the floor of the Premises or in any way deface the Premises or any part thereof.
8. No furniture, freight or equipment of any kind shall be brought into the Building without the prior notice to Landlord and all moving of the same into or out of the Building shall be done at such time and in such manner as Landlord shall designate. Landlord shall have the right to prescribe the weight, size and position of all safes and other heavy equipment brought into the Building and also the times and manner of moving the same in and out of the Building. Safes or other heavy objects shall, if considered necessary by Landlord, stand on supports of such thickness as is necessary to properly distribute the weight. Landlord will not be responsible for loss of or damage to any such safe or property from any cause and all damage done to the building by moving or maintaining any such safe or other property shall be repaired at the expense of Tenant.
9. Tenant shall not use, keep or permit to be used or kept any foul, noxious gas or substance in the Premises, or permit or suffer the Premises to be occupied or used in a manner offensive or objectionable to the Landlord or other occupants of the Building by reason of noise, odors and/or vibrations, or interfere in any way with other tenants or those having business therein, nor shall any animals or birds be brought in or kept in or about the Premises or the Building.
10. No cooking shall be done or permitted by any Tenant on the Premises, nor shall the Premises be used for storage of merchandise, for washing clothes, for lodging, or for any improper, objectionable or immoral purposes. Tenant shall be permitted to operate a refrigerator, microwave oven and coffee pot in the Premises.
11. Tenant shall not use or keep in the Premises or the Building any kerosene, gasoline or inflammable or combustible fluid or material, or any toxic material, or use any method of heating or air conditioning other than that supplied by Landlord.

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12. Landlord will direct electricians as to where and how telephone and telegraph wires are to be introduced. No boring or cutting for wires will be allowed without the consent of the Landlord. The location of telephones, call boxes and other office equipment affixed to the Premises shall be subject to the approval of Landlord.
13. On Saturdays, Sundays and legal holidays, and on other days between the hours of 7:00 P.M. and 8:00 A.M. the following day, access to the Building or to the halls, corridors, elevators or stairways in the Building, or to the Premises may be refused unless the person seeking access is known to the person or employee of the Building in charge and has a pass or is properly identified. The Landlord shall in no case be liable for damages for any error with regard to the admission to or exclusion from the Building of any person. In case of invasion, mob, riot, public excitement, or other commotion, the Landlord reserves the right to prevent access to the Building during the continuance of the same by closing of doors or otherwise for the safety of the tenants and protection of the Building and property in the Building.
14. Landlord reserves the right to exclude or expel from the Building any person who, in the judgment of Landlord, is intoxicated or under the influence of liquor or drugs, or who shall in any manner do any act in violation of any of the rules and regulations of the buildings.
15. No vending machine or machines of any description shall be installed, maintained or operated upon the Premises without the written consent of the Landlord.
16. Landlord shall have the right, exercisable without notice and without liability to Tenant, to change the name and street address of the Building of which the Premises are a part.
17. Tenant shall not disturb, solicit, or canvass any occupant of the Building and shall cooperate to prevent same.
18. Movement in or out of the Property of furniture or office supplies and equipment, or dispatch or receipt by Tenant of any merchandise or materials which required use of elevators or stairways, or movement through the Property entrances or lobby, shall be restricted to hours designated by Landlord. All such movement shall be under supervision of Landlord or representative and carried out in the manner agreed between Tenant and Landlord by prearrangement before performance. Such prearrangement will include determination by Landlord of the time, method and routing of movement and limitations imposed by safety or other concerns which may prohibit any article, equipment or any other item from being brought into the Property. Tenant assumes, and shall indemnify Landlord against all risks and claims of damage to persons and properties arising in connection with any said movement
19. Landlord shall have the right to control and operate the public portions of the Building, and the public facilities, and heating and air-conditioning, as well as facilities furnished for the common use of the tenants, in such manner as it deems best for the benefit of the tenants generally.
20. All entrance doors in the Premises shall be left locked when the Premises are not in use, and all doors opening to public corridors shall be kept closed except for normal ingress and egress from the Premises.
21. Parking areas shall be used only for parking by vehicles no longer than full size, passenger automobiles herein called "Permitted Size Vehicles". Vehicles other than Permitted Size Vehicles are herein referred to as "Oversized Vehicles".
22. Tenant shall not permit or allow any vehicles than belong to or are controlled by Tenant or Tenant's subtenants, employees, suppliers, shippers, customers, customers of subtenants, or invitees to be loaded, unloaded, parked in areas other than those designated by Landlord for such activities.
23. Users of the parking area will obey all posted signs and park only in the areas designated for vehicles parking.

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24. Unless otherwise instructed, every person using the parking area is required to park and lock his own vehicle. Landlord will not be responsible for any damages to vehicles, injury to persons or loss of property, all of which risks are assumed by the party using the parking area.
25. The maintenance, washing, waxing or cleaning of vehicles in the parking area, or common areas is prohibited.
26. Tenant shall be responsible for seeing that all of its employees, subtenants, agents, or invitees comply with the applicable parking rules, regulations, laws and agreements.
27. Landlord reserves the right to modify these rules and/or adopt such other reasonable and nondiscriminatory rules and regulations as it may deem necessary for the proper operation of the parking area.
28. Such parking use as is herein provided is intended merely as a license only and no bailment is intended or shall be created hereby.
29. Intentionally Deleted

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**EXHIBIT "D" TO LEASE AGREEMENT  
PARKING**

The Reserved parking space location(s) will be assigned under separate cover.

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**EXHIBIT "F" TO LEASE AGREEMENT  
GUARANTY OF LEASE**

**GUARANTY OF LEASE**

For and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and for the purpose of inducing Loopy Limited Partnership ("Landlord") to enter into that one certain Lease Agreement (the "Lease") between Landlord and \_\_\_\_\_ ("Tenant") for the lease of a portion of the real property described in Exhibit "A" attached hereto located in San Antonio, Bexar County, Texas ("Property"), ("Guarantor") does hereby unconditionally and absolutely guarantee the prompt and full payment and performance of all sums which may become due under the Lease to or for the benefit of Landlord..

This is an absolute, continuing and unconditional guaranty of payment and not of collection. This Guaranty and the Guarantor's obligations hereunder are irrevocable and, in the event of Guarantor's death, shall be binding upon Guarantor's estate.

Landlord may make demand upon and/or institute a legal proceeding and have recovery against Guarantor for the payment of Tenant's obligations under the Lease, as provided herein, without first proceeding in any way against Tenant and without enforcing or exhausting any rights or remedies under the Lease other than the notice and right to cure provisions which may be extended to Tenant under the terms of such Lease; and Guarantors may, at Landlord's sole option, be joined in an action or proceeding against the Tenant in connection with the failure of Tenant to pay its obligations under the terms of the Lease, up to the extent of the Guarantors obligations hereunder.

This Guaranty Agreement may not be modified, altered or terminated except pursuant to an instrument in writing executed by the Guarantors and Landlord. No waiver of any provision in this Guaranty of Lease shall be valid unless it is in writing and signed by Landlord.

All terms used in this Guaranty of Lease are hereby defined to have to the same meanings as such terms have pursuant to the provisions of the Lease.

If this Guaranty of Lease is given by more than one party, the parties executing this Guaranty of Lease shall be jointly and severally liable hereunder.

This Guaranty of Lease shall be binding upon Guarantors, their legal representatives, successors and assigns, and shall inure to the benefit of, and be enforceable by, Landlord, his legal representatives, successors and assigns.

The laws of the State of Texas shall govern the interpretation and effect of this Guaranty of Lease.

Executed effective this \_\_ day of \_\_\_\_\_, \_\_\_\_.

GUARANTOR:

\_\_\_\_\_

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**EXHIBIT "G" TO LEASE AGREEMENT  
SPECIAL PROVISIONS**

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