



This is the 1st Affidavit of Jonathan S. Jemison in this proceeding and was made on January 7, 2021

No. S-2010103
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED**

AND

**IN THE MATTER OF THE CANADA BUSINESS CORPORATIONS ACT, R.S.C., 1985, c. C-44
AND THE BUSINESS CORPORATIONS ACT, S.B.C. 2002, Ch. 57**

AND

**IN THE MATTER OF SUNNIVA INC., SUNNIVA MEDICAL INC., 11111035 CANADA INC.
AND 1167025 B.C. LTD**

PETITIONERS

AFFIDAVIT #1 OF JONATHAN JEMISON

I, Jonathan S. Jemison, 101 JFK Parkway, Short Hills, New Jersey, United States, HEREBY
SWEAR THAT:

1. I am a partner at Dentons US LLP ("**Dentons**"). Dentons represents Sun CA Holdings, Inc. ("**Sun CA**") and CP Logistics, LLC ("**CPL**"), each of which is a direct or indirect subsidiary of one of the Petitioners, Sunniva Inc. ("**SI**"), in connection with the arbitration arising from CPL's rights as the tenant under a Conditional Build to Suit Lease dated October 20, 2017. I have been directly involved in the arbitration matter, serving as the primary contact at Dentons and managing the firm's representation of CPL in the arbitration matter, including the work performed in connection with the matter. Dentons also provides certain counsel and advice to SI as it relates to certain US law issues. Accordingly, I have personal knowledge of the facts deposed to in this Affidavit except where stated to be based on information and belief, in which case I verily believe the information and resulting statements to be true.

2. I am an attorney at law in the United States of America, licenced to practice law in the states of New York and New Jersey, as well as the United States District Courts for the Southern and Eastern Districts of New York, the District of New Jersey and the Second and Third Circuit Court of Appeals.

3. I provide this affidavit to provide information related to the arbitration proceedings. No legal advice is referred to in this Affidavit, and CPL and Dentons strictly reserve all rights in respect of solicitor-client privilege.

A. BACKGROUND OF THE DISPUTE

4. CPL entered into a Conditional Build to Suit Lease dated October 20, 2017 (the “**Lease**”) with Sunniva Production Campus LLC, n/k/a Ramon Road Production Campus LLC (the “**Initial Developer**”). The Lease governs the construction and eventual occupancy by CPL of the completed facility.

5. Various disputes arose in connection with the construction of the facility, and in particular CPL’s rights as a tenant under the Lease. As described further in this Affidavit, those disputes resulted in CPL, in December 2019, commencing an arbitration administered by JAMS Arbitration, a private alternative dispute resolution organization specifically selected by the parties in the dispute resolution provisions of the Lease.

6. Under the Lease, the Initial Developer would be responsible for the construction costs, except where tenant-requested changes resulted in a change order – those change order costs would be attributable to CPL.

7. During the construction of the facility, disputes arose between CPL and the Initial Developer regarding the extent to which purported change orders were attributable to changes requested by CPL. CPL contends that a large portion of the purported change orders were cost overruns on the original scope of work and that these overruns resulted from mismanagement of the project by the Initial Developer or its general contractor, and that such costs are not properly the subject of change orders or attributable to CPL.

8. CPL’s records reflect that in an effort to defer the dispute and keep construction moving, CPL paid a number of disputed change order costs under protest and subject to an audit that was to be conducted upon completion of the project. CPL’s records show that CPL invested roughly US\$23 million to pay

change orders and finance the acquisition and installation of sophisticated equipment needed to operate the facility, much of which involved the disputed change order costs. These include paying under protest approximately US\$8 million in disputed change orders.

9. In November 2019, the Initial Developer delivered an alleged default notice purporting to remove CPL as tenant on the basis that CPL had failed to pay certain change orders. The Initial Developer stated that if the default was not cured, the Lease would terminate in 30 days. CPL disputed the default notice on both substantive and procedural grounds, and in December 2019 commenced arbitration proceedings seeking, among other things, specific performance of the Lease and a declaration that there has been no default and that the Lease remains in full force and effect. Attached and marked as **Exhibit "A"** is a true copy of the original Demand for Arbitration. Among the arguments made by CPL includes that the default and termination provisions of the Lease do not come into effect until after the building is completed and CPL occupies the premises, neither of which has happened as of the date of this Affidavit.

10. CPL and the Initial Developer selected a three-person Tribunal in accordance with the terms of the dispute resolution provision in the Lease and the applicable JAMS procedural rules. However, the proceedings stagnated after selection of the panel for a number of reasons including the immediate impacts of the COVID-19 pandemic beginning in March 2020 (approximately 3 months after CPL began the arbitration).

11. On May 28 2020, CPL delivered an Amended Demand for Arbitration seeking additional monetary and declaratory relief against the Initial Developer. Attached and marked as **Exhibit "B"** is a true copy of the Amended Demand for Arbitration.

12. On June 12, 2020, CPL learned that the ownership of the Initial Developer changed due to a foreclosure on the membership interests in the Initial Developer. This caused a delay in the arbitration since, after this ownership change, the Initial Developer changed counsel. The new legal counsel requested and received additional time to submit formal responses to the Amended Demand for Arbitration.

13. On July 30, 2020, the Initial Developer filed a general denial in response to the Amended Demand for Arbitration. Thereafter, the parties ordinarily would have proceeded to conduct an Initial

Conference with the Tribunal. That conference was adjourned by consent, but was scheduled to be conducted on October 16, 2020. For the reasons set out below, the conference did not proceed at that time and, as of the date of this Affidavit, no new date has been set.

14. On or about September 1, 2020, Bobs LLC, which had provided the Initial Developer with a secured loan for construction, conducted a Trustee's Sale on its security interests, which I understand was pursued because of the Initial Developer's payment default on its loan. At Trustee's Sale, Bobs LLC submitted the lone bid and, as a result, became the owner of the property and the landlord under the Lease, which it took subject to CPL's rights as a tenant provided in the Lease and a Subordination and Non-Disturbance and Attornment Agreement ("SNDA") that was signed and recorded at the time the construction financing was provided to the Initial Developer. The SNDA, among other things, requires that Bobs LLC honour CPL's rights under the Lease.

15. On October 1, 2020, CPL filed a motion for permission to join Bobs LLC to the pending arbitration as successor in interest to the Initial Developer. Attached and marked as **Exhibit "C"** is a true copy of the proposed Second Amended Demand for Arbitration that CPL submitted with this motion, including a claim for rent abatement and/or damages attributable to delays in construction of the facility.

16. As noted above, after several adjournments by consent, CPL and the Initial Developer were scheduled to proceed with an Initial Conference before the Tribunal on October 16, 2020.

17. On October 13, 2020, the Tribunal advised that due to the bankruptcy of the Initial Developer, the Arbitration was stayed. Accordingly, the Tribunal did not issue a ruling on the motion to add Bobs LLC as a party to the arbitration and the October 16, 2020 Initial Conference did not proceed as scheduled. Attached and marked as **Exhibit "D"** is a true copy of the Tribunal Order.

18. Bobs LLC has since indicated that it disputes CPL's rights as tenant under the Lease and will not comply with the SNDA unless and until the issue is adjudicated.. Bobs LLC's actions in this regard are detailed in the proposed Second Amended Demand for Arbitration attached as Exhibit C.

19. I note that, as of the date of this Affidavit, Bobs LLC has not taken any affirmative steps to extinguish CPL's rights under the Lease and SNDA.

B. POTENTIAL NEXT STEPS AND TIMING

20. To date, Bobs LLC has failed to acknowledge CPL's rights under the Lease and SNDA, but given its actions to date, CPL intends to protect and promote those rights as appropriate, and presently intends to pursue the claims it attempted to pursue when it sought permission to be joined as a party to the pending arbitration against the Initial Developer.

21. CPL could ask the current arbitration panel to adjudicate its motion to join Bobs LLC as successor-in-interest and to dismiss, without prejudice, the claims against the now bankrupt Initial Developer to avoid the impacts of the automatic stay. Alternatively, CPL can commence a new arbitration proceeding against Bobs LLC based on the Lease and the rights afforded to CPL under the SNDA.

22. At this time, CPL intends to commence a new arbitration proceeding against Bobs LLC to assert the claims set out in its prior motion to amend and to specifically obtain declaratory relief as to CPL's rights under the lease, including a declaration that the prior alleged default and termination notices by the Initial Developer are null and void, that CPL remains the tenant under the Lease and that Bobs LLC is obligated to honour the Lease and CPL's rights as tenant.

23. Because the claims have already been drafted in connection with the previous motion, CPL will be prepared to commence the new Arbitration proceeding promptly upon securing the necessary financing and any approval required in the CCAA proceedings.

24. Under the applicable JAMS rules, once a new arbitration is commenced, one of the first steps is to select a panel. The parties will likely use JAMS resources to provide potential arbitrators from which to select and, once the panel is selected, the Tribunal will schedule an Initial Conference to set a schedule for the arbitration. Absent obstruction from Bobs LLC, we expect the process to select a Panel and conduct the Initial Conference to take between 1-2 months. The arbitration with the Initial Developer was delayed because of, among other things, the COVID-19 pandemic disrupting normal operations of proceedings and uncertainty regarding the ownership of the Initial Developer and the threat of foreclosure (which was ultimately concluded in September 2020).

25. At the Initial Conference, the Tribunal will likely set the hearing dates, detail the scope of discovery that will be allowed, set deadlines for the exchange of relevant information and establish other ground rules for the arbitration. Based on my experience, I anticipate that the Tribunal will press the parties to commence a hearing within one year of this Initial Conference and set a discovery schedule so that fact discovery can be completed within 6 months. The Tribunal will also likely provide the parties with an opportunity to engage in expert discovery should the parties determine that expert testimony is needed.

26. Under the JAMS Arbitration rules, the Tribunal is obligated to issue an award within 30 days of the close of the hearing, so if the above schedule is adopted and achieved, it is possible that the arbitration will have a decision by May/June 2022 assuming the arbitration is started by the end of February 2021.

27. Notwithstanding CPL's current planned course of action, circumstances may dictate CPL taking different and/or parallel actions to protect its rights, but in all events the expectation is to pursue the most efficient and cost-effective means possible to secure its investment in the Property and its rights as Tenant under the Lease.

C. EXPECTED COSTS

28. As of the date of this Affidavit, it is difficult to provide a reliable cost estimate. Arbitration costs are inherently unpredictable, particularly in the absence of a case schedule or understanding of the scope of discovery that might be allowed. That said, I currently estimate it will cost approximately US\$1.4 million in legal fees from commencement of the arbitration through issuance of an award. Based on the information at hand and my experience in similar matters, I believe this preliminary estimate is realistic one at this juncture, although it remains subject to change as events transpire. I understand that CPL is in the process of securing financing to prosecute its claims, protect its Lease rights and position CPL to occupy the building as tenant once the facility is complete and ready for commercial operation.

SWORN BEFORE ME at
SHORT HILLS, NJ, on the 7th
day of January 2021.

Karina Boto

A Notary Public

KARINA BOTO
NOTARY PUBLIC OF NEW JERSEY
COMMISSION EXPIRES: 5/18/23

118725365: v5

DEUTONS US LLP
101 JFK PARKWAY
SHORT HILLS, NJ 07078

[Signature]
JONATHAN S. JEMISON

This is **Exhibit "A"** referred to in Affidavit #1 of Jonathan S. Jemison made before me on the 7th day of January 2021

A handwritten signature in cursive script, reading "Karina Boto", is written over a horizontal line.

A Notary Public

KARINA BOTO
NOTARY PUBLIC OF NEW JERSEY
COMMISSION EXPIRES: 5/8/23

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6 Attorneys for Claimant

CP LOGISTICS, LLC

8 JAMS -- CATHEDRAL CITY, CALIFORNIA

11 CP LOGISTICS, LLC, a North Carolina
limited liability company,

13 Claimant,

14 vs.

15 SUNNIVA PRODUCTION CAMPUS,
LLC, a Delaware limited liability
company,

16 Respondent.

DEMAND FOR ARBITRATION AND NOTICE
OF CLAIMS

JAMS Reference No.

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
213 623 9300

Claimant CP Logistics, LLC (“CP Logistics”) hereby gives notice of its claims against Respondent Sunniva Production Campus, LLC and demands arbitration to be held before JAMS in Cathedral City, California. In support of this Notice and pursuant to applicable JAMS rules, CP Logistics states as follows:

FACTUAL BACKGROUND

1. Sunniva, Inc. is a publicly-traded Canadian company that desired to enter the California cannabis growing market. Toward that end, Sunniva, Inc. acquired a US entity, CP Logistics – the Claimant. CP Logistics identified and acquired real property (the “Property”) in Cathedral City, California (the “City”) and applied to the City for cultivation licenses and a Conditional Use Permit (“CUP”) to build and operate a glasshouse/growing facility on the property. At the time of it was acquired by Sunniva, Inc., CP Logistics had applied to the City for approximately four cultivation licenses. Sunniva, Inc. worked side by side with CP Logistics’ original owners to apply to the City for additional cultivation licenses and to submit the CUP application.

2. During its search for a financing partner, CP Logistics came into contact with Barker Pacific Group (“BPG”), a real estate development company controlled by Michael Barker. In an effort to reduce its risk by relying upon BPG’s professed experience and skill as a developer, CP Logistics discussed transactions with BPG by which BPG would take ownership of the real property and agree to build a specialized facility upon the Property and lease it to CP Logistics.

3. In connection with the anticipated construction and subsequent lease, BPG formed a single purpose vehicle called Sunniva Production Campus, LLC (hereinafter, “SPC” or “Respondent”) to be responsible for all aspects of the construction and serve as landlord under the anticipated lease. Although BPG created confusion by choosing to use “Sunniva” in SPC’s name, SPC is not part of Sunniva, Inc.

4. On or around October 20, 2017, SPC as the Landlord and CP Logistics as the Tenant entered into a Conditional Build to Suit Lease Agreement (the “Lease”)¹ involving real property at

¹ A true and correct copy of the Lease is attached hereto and incorporated by reference herein as **Exhibit A**.

69375 Ramon Road, Cathedral City, CA (the “Property”), pursuant to which SPC agreed to construct a facility designed to meet CP Logistics’ specific needs (the “Project”).

5. While the Lease was signed in October 2017, pursuant to Section 2.1 of the Lease the parties agreed that the “Lease Commencement Date” would be “the first to occur of (a) the date Tenant takes occupancy of the Premises for the conduct of Tenant’s intended business therein, or (b) the date which is five (5) calendar days following Substantial Completion of Landlord’s Work.” The parties would then enter into a separate agreement “specifying the Lease Commencement Date and Rentable Area,” (Lease Section 2.3.) That date would mark the start of the 15-year initial Lease Term (Section 1.7), after which CP Logistics would commence occupancy to use the Property for its intended purpose (Section 4.1), and begin paying Rent (Section 3.1).

6. The Lease specifically provides that the CP Logistics shall occupy and use the Property for the “Permitted Use” of, among other things, cultivating, harvesting, packing, storing and distributing medical marijuana in accordance with applicable medical marijuana licenses and other Governmental Regulations (Section 4.1.) “Permitted use shall also include any future lawful cannabis use, including recreational cannabis but only to the extent that such use is in compliance with all California, and Cathedral City laws, ordinances rules and regulations.” (*Id.*) The Lease attached the Local Licenses in place and acknowledged that State Licenses were not yet available but in the process of being applied for by CP Logistics.

7. While the Lease was “effective” as of October 20, 2017, the Lease Term could not commence until SPC erected the building. The construction of the building was governed by the Design Construction Agreement (also called the Work Letter Agreement) that was attached as Exhibit D-1 to the Lease (the “Construction Agreement”). Under the Construction Agreement, SPC was responsible “for all matters that must be accomplished to complete the construction of the building and all leasehold improvements to be initially constructed therein[.]” (Lease, Exhibit D-1(I)(C).) The Construction Agreement contained specific provisions governing the scope of the Landlord’s Work, including a process by which CP Logistics was entitled to request changes in the design of the building and a process for allocating the costs associated with such requested changes to CP Logistics. (Exhibit D-1, Section II.)

8. During construction, it was determined that the greenhouse cooling system was inadequate. What had originally been designed and specified in the plans was too small and would be incapable of keeping the greenhouse cool during the heat of summer in the desert environment of Cathedral City. This led to a Change Order on the project, referred to as CO #1.

9. CO #1 was not controversial at the time, but thereafter SPC began demanding that CP Logistics sign additional Change Orders.² As time went on, it became clear to CP Logistics that SPC was using "Change Orders" to absorb the cost overruns on the Project and improperly shift them to CP Logistics. CP Logistics is informed and believes that SCP did so because it grossly underestimated the construction costs and failed to properly manage the construction in a manner that appropriately controlled costs. Indeed, the original budget of \$54 million has now reportedly ballooned to over \$110 million.

10. Beginning with CO #3, SPC became increasingly aggressive in attributing unrelated costs to the Change Orders and demanding their payment while CP Logistics continued to push for transparency in the numbers and scrutinized the additional costs. While CP Logistics succeeded in getting SPC to withdraw payment demands for certain items, SPC refused to do so for many other disputed cost items. SPC repeatedly cautioned that the failure to pay the Change Orders would result in the contractors SPC hired to suspend work, putting the construction of the building at risk. Faced with that threat and given its desire to get the Project completed so that it could occupy the Property and produce revenue, CP Logistics was left with little choice but to accede to SPC's payment demands and reserve rights to recover monies wrongfully assessed later. Consequently, CP Logistics began including language in the Change Orders that payments were being made under protest and the assessment of costs would be subject to an audit at the end of construction.

11. Starting with CO #3, CP Logistics at times borrowed money from SPC to pay the Change Order amounts. The parties engaged in a course of conduct in which the loans were renewed and updated several times, and eventually the loans were consolidated into a single note.

² The term Change Orders is used here only because that is how SPC labeled them. In reality, they are not true change orders because they reflect costs that were already incurred prior to any request that CP Logistics authorize the additional work allegedly performed and contain charges that do not relate to any change in the plans initiated by CP Logistics.

12. In October 2019, CP Logistics paid \$1.7 million to SPC. SPC allocated most of that amount to the payment of Change Orders and credited \$263,000 against the note balance. As late as November 6, 2019, SPC made no claim CP Logistics was in default on the payment of Change Orders. Instead, SPC stated that it “basically kicked any reimbursement to us for C.O. costs down the road...”

13. By this time, CP Logistics had invested an additional \$23 million in the Project over and above the original budget of \$54 million (including \$8 million in direct payment to vendors for equipment). Without warning and in an apparent effort to abscond with CP Logistics’ investment and freeze it out of a project that CP Logistics had brought to SPC in the first place, SPC wrongfully claimed CP Logistics was in default of the Lease. And, SPC did so on trumped up grounds.

14. More specifically, in a November 25, 2019 letter sent by its outside counsel (the “Termination Notice”), SPC claimed that CP Logistics was in default on payment of an unspecified amount of Change Order costs (SPC’s notice failed to provide any details regarding the sums allegedly due and owing, or when such amounts were due and owing) and had failed to obtain various licenses to operate its business which, in reality are not required until the building is occupied and business commences. The latter ground is especially specious given that Lease says nothing regarding a date by which the licenses must be obtained, the completion of the building is already a year and a half overdue, and a realistic estimate for completion is November 2020. The Termination Notice stated that the Lease would be terminated effective December 30, 2019 notwithstanding the fact that the Termination provisions (Lease, Section 11), apply only during the Lease Term and there is no dispute the Lease Term has not commenced given that the building has yet to be completed and is not ready for occupancy.

15. On December 5, 2019, counsel for CP Logistics responded to the Termination Notice outlining the reasons why the Termination Notice was invalid. SPC never responded and, to date, SPC has refused to withdraw the Termination Notice. Consequently, CP Logistics was forced to file this action.

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ARBITRATION AGREEMENT

16. As set forth above, this case arises out of SPC's anticipatory breach of the Lease and improper attempts to pass unrelated costs disguised as Change Order Costs to CP Logistics, thereby further breaching the terms of the Lease.

17. The parties have agreed to waive their rights to a jury trial and to resolve disputes through binding arbitration before JAMS. More specifically, the Lease provides:

Waiver of Right to Jury Trial. To the extent now or hereafter permitted by law, Landlord and Tenant waive their respective rights to a trial by jury of any contract or tort claim, counterclaim, cross-complaint, or cause of action in any action, proceeding, or hearing brought by either party against the other on any matter arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, or Tenant's use or occupancy of the Premises, including any claim of injury or damage or the enforcement of any remedy under any current or future law, statute, regulation, code or ordinance. (Section 35.1.)

JAMS. Any dispute that is required by the express terms of this Lease to be resolved by arbitration, shall be resolved by neutral binding arbitration before a panel of three arbitrators in accordance with the commercial/real estate and/or construction (as is applicable) rules of JAMS arbitration. Judgment on the award rendered by the arbitrators may be entered in any Court having jurisdiction over the dispute. (Section 35.2.)

Venue. Any arbitration hearings shall be held in Cathedral City, California, or any other venue mutually agreed by both parties in writing. (Section 35.4.)

CLAIM I – ANTICIPATORY BREACH OF CONTRACT

18. CP Logistics incorporates the allegations in paragraphs 1 through 17 by this reference.

19. As alleged herein, a contract (i.e., the Lease) existed between CP Logistics and SPC for the construction and long-term occupancy of a customized facility that met CP Logistics specialized needs on a unique piece of real property in a municipality that allows for the specific use contemplated by the Lease.

20. CP Logistics has performed, or was excused from performing, all or substantially all of the significant things that the Contract required it to do.

21. All the conditions required for SPC's performance under the contract have occurred or been waived and/or excused. CP Logistics has demanded that SPC perform its contractual obligations.

22. SPC has failed and refused, and continues to fail and refuse, to honor its contractual obligations and has repudiated the Contract by wrongfully attempting to terminate it. Accordingly, SPC has anticipatorily breached the Contract.

23. Due to the uniqueness of the real property in which CP Logistics has an interest and the specialized needs the business the parties agreed CP Logistics was permitted to conduct on such real property, CP Logistics' remedies at law are inadequate. Accordingly, CP Logistics seeks specific performance of the Lease.

24. In the alternative, and only in the event the Arbitration Panel determines specific performance is not appropriate, CP Logistics seeks damages in accordance with proof, including without limitation the \$23 million it has invested in the Building to date and CP Logistics' lost profits.

CLAIM II – DECLARATORY RELIEF

25. CP Logistics incorporates the allegations in paragraphs 1 through 17 by this reference.

26. An actual controversy has arisen and now exists between CP Logistics and SPC concerning their respective rights and obligations under the Contract. CP Logistics contends, and SPC denies, that SPC had delayed and mismanaged the Project and billed CP Logistics for costs for which it is not responsible. CP Logistics desires a judicial determination of the respective rights and duties of the parties under the Lease as follows:

The requirements for the creation of valid Change Orders were not observed;

- The Change Orders included amounts that were not properly chargeable to CP Logistics and those amounts should be returned;
- Amounts paid by CP Logistics under the guise of Change Orders were not properly due and owing and should be returned;

- As of the initial deadline for Project completion, there were no contractual commitments for completion by the SPC's General Contractor or its subcontractors working on the Project;
- As of the initial deadline for Project completion, there were no completed drawings, no permits, and no commitments from local utility companies for water or gas, and no updated project schedule or coordinated construction schedule since April 2018; and
- Substantial Completion has not been achieved to date as a result of the delays occasioned by the mismanagement of the Project by SPC, entitling CP Logistics to rent abatement upon commencement of the Lease.

PRAYER FOR RELIEF

WHEREFORE, CP Logistics prays for relief and judgment in its favor and against SPC as follows:

1. Specific performance by SPC of the Lease.
2. In the alternative, and only in the event the Arbitration Panel determines that specific performance of the Lease is inappropriate, for damages according to proof.
3. For a declaration of the parties' rights and obligations under the Lease;
4. For judgment for costs of arbitration, including attorney's fees and interest to the extent permitted by law; and
5. For such other relief as is fair, just, and equitable.

Dated: December 23, 2019

DENTONS US LLP

By: 

Christian D. Humphreys
Carol Yur

Attorneys for Defendant
CP LOGISTICS, LLC

EXHIBIT A

**69375 Ramon Road,
Cathedral City, CA 92234**

LANDLORD:

SUNNIVA PRODUCTION CAMPUS, LLC
a Delaware limited liability company

and

TENANT:

CP LOGISTICS, LLC

a North Carolina limited liability company

Dated: October 20 2017

69375 Ramon Road,
Cathedral City, CA 92234

SUMMARY OF BASIC LEASE INFORMATION

This Summary of Basic Lease Information (the "Summary") is hereby incorporated into and made a part of the attached Build to Suit Lease (this Summary and the Build to Suit Lease to be known collectively as the "Lease") which pertains to the "Project" (as that term is defined in the Lease) located at 69375 Ramon Road, Cathedral City, CA 92234. Each reference in the Lease to any term of this Summary shall have the meaning as set forth in this Summary for such term. In the event of a conflict between the terms of this Summary and the Lease, the terms of the Lease shall prevail. Any capitalized terms used in this Summary and not otherwise defined herein shall have the meaning as set forth in the Lease.

TERMS OF LEASE

(References are to the Build to Suit Lease)

DESCRIPTION

1. Date: October 20, 2017
2. Landlord: SUNNIVA PRODUCTION CAMPUS, LLC, a Delaware limited liability company
 - 2.1 Address of Landlord
c/o Barker Pacific Group, Inc.
626 Wilshire Blvd, Suite 900
Los Angeles, CA 90017
3. Address of Tenant:
 - 3.1 Address for Notices: CP LOGISTICS, LLC,
a North Carolina limited liability company

1755 E. Palm Canyon Drive
Suite 110-261
Palm Springs, CA 92264

Attention: Duncan Gordon
(Prior to Commencement Date)

and

69375 Ramon Road,
Cathedral City, CA 92234

Attention: Duncan Gordon

4. Tenant: (After Commencement Date)
CP LOGISTICS, LLC,
a North Carolina limited liability company
6. Property; Premises (Article 1):
- 6.1 Property: 69375 Ramon Road,
Cathedral City, CA 92234
- 6.2 Premises: Phase I shall consist of 325,599 rentable square feet of space, as set forth in Exhibit "A" with the parties acknowledging an additional approximately 162,000 rentable square feet which may be constructed as Phase II at a later date, with such construction requiring an addendum hereto upon completion of a Phase II facility.
7. Lease Term (Article 3):
- 7.1 Duration: One-Hundred and Eighty (180) calendar months calculated from the first day of the calendar month following the Lease Commencement Date. If the Lease Commencement Date is other than the first day of a calendar month then, solely for purposes of determining the Duration (as opposed to the commencement of the Lease Term, which shall nevertheless commence on the Lease Commencement Date), the partial month commencing on the Lease Commencement Date and ending on the last day of said calendar month shall be disregarded in computing the length of the Lease Term and in determining the Lease Expiration Date. Month 1 of the Lease Term shall be the first full calendar month following the Lease Commencement Date. Notwithstanding anything to the contrary in the foregoing, Base Rent and any applicable Additional Rent shall be payable for said partial month (prorated as provided in the Lease) in the same amount as is due and payable hereunder for the first full calendar month of the Lease Term for which Base Rent is payable and any Rent Abatement Period shall commence with Month 1 of the Lease Term as determined in

accordance with this Paragraph.**7.2 Lease Commencement Date:**

The lease commencement is the date of delivery of the Premises with Tenant improvements in substantial completion and with a certificate of occupancy for the Premises; provided, however, in all events the Lease Commencement Date shall be any earlier date that Tenant occupies the Premises, for the purposes of doing business, whether such business is conducted in a portion of the Premises or the entirety of the Premises, and whether or not a certificate of occupancy for the entire Property has been provided at the time Tenant occupies for purposes of conducting business. Landlord shall grant Tenant access to the Premises two (2) weeks prior to Lease Commencement Date for installation of systems, furniture, data and telecommunications cabling and equipment.

7.3 Lease Expiration Date:

The last day of the one-hundred and eightieth (180th) full calendar month of the Lease Term, unless renewed as set forth in the Lease.

8. Base Rent:

Tenant's Base Rent will be calculated based on the budget of fifty-four million dollars (\$54,000,000.00).

Lease Years:	Monthly Rental Rate per Rentable Square Foot:	Monthly Installment of Base Rent:
Months 1 through Month 4 (the "Rent Abatement Period")	\$1.19	\$387,462.81
Month 4 through the end of the Lease Year 5	\$2.38	\$774,925.62
Month 61 through the end of Lease Year 10	\$2.62	\$853,069.38
Month 121 through the end of Lease Year 15	\$2.88	\$937,725.12

As used in this Lease, "Lease Year" shall mean each consecutive twelve (12) month calendar period during the Lease Term, with the first Lease Year commencing as provided in Item 7.2 of this Summary.

9. Additional Rent:

9.1 Base Year: NNN

9.2 Tenant's Percentage Share of Operating Expenses 100%

10. Security Deposit: \$1,610,000.00

11. Parking: Intentionally Omitted.

12. Brokers: None.

13. Permitted Use: Greenhouse cultivation, harvesting, storage, transportation, sale, dispensary, medical clinic, extraction and manufacturing, of medicinal cannabis (subject to requisite approvals by state and local regulators), dispensary and office facility in compliance with California and Cathedral City laws, ordinances, rules and regulations. Permitted use shall also include any future lawful cannabis use, including recreational cannabis but only to the extent that such use is in compliance with all California, Federal and Cathedral City laws, ordinances rules and regulations.

CONDITIONAL BUILD TO SUIT LEASE AGREEMENT

This Conditional Build To Suit Lease Agreement (the "Lease") is executed as of the 20th day of October, 2017 by and between **SUNNIVA PRODUCTION CAMPUS, LLC**, a Delaware limited liability company ("Landlord"), and **CP LOGISTICS, LLC**, a North Carolina limited liability company, ("Tenant"). The Landlord and Tenant are collectively referred to as (the "Parties") and individually as ("Party").

- A. Landlord is anticipated to be the fee simple owner of certain real property consisting of approximately 19.14 acres of certain land located at 69375 Ramon Road, Cathedral City, CA 92234 (the "Property"), as described in **Exhibit A** ("Property") attached hereto and incorporated by reference; and
- B. Subject to the Design and Construction Agreement contained in Exhibit D, attached hereto and incorporated by reference, Landlord desires to develop, alter and construct improvements to the Property, as depicted on the site plan attached hereto as **Exhibit A** and to then lease a portion of the Property with such improvements to Tenant as described herein; and
- C. Tenant desires to lease such improved portions of the Property as defined herein as the Premises, to conduct agreed upon commercial activities as provided in this Lease;
- D. Landlord and Tenant expressly agree and acknowledge that the following conditions precedent must be satisfied in order for this Lease to take effect and that the Lease will be effective as of the date of full satisfaction of the following (the "Effective Date"):
 - a. Landlord acquires fee simple title to the Property; and
 - b. Landlord has received lender approval of the terms of this Lease; and
 - c. Landlord has closed and received funding for its financing relative to the development of Phase I of the Property, as those terms are defined herein;
 - d. Board approval by Sunniva Inc for the Lease and Guaranty;
 - e. Assignment to the Landlord of all contracts for land, building and equipment currently held by the Tenant and/or its Affiliates;
 - f. Reimbursement of all mutual agreed prior development expenses related to the land, building and equipment currently held by the Tenant and/or its Affiliates;
 - g. and completed/mutually approved attachment of all outstanding Exhibits and Schedules referenced in this Lease within thirty (30) days of execution.

NOW, THEREFORE, with reference to the above recitals, which are incorporated by reference, and on the terms and conditions contained in this Lease, Landlord and Tenant agree as follows:

ARTICLE 1

Premises, Term and Renewal Options

1.1 Lease of Premises. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises containing approximately 325,599 rentable square feet on the Property as depicted on the Site Map attached hereto as Exhibit A (sometimes referred to as "Phase I Premises"), with a Targeted Completion date as indicated in Exhibit D-2. Landlord and Tenant expressly acknowledge and understand that an additional to-be-constructed property shall consist of an additional one (1) building containing approximately 162,000 additional square feet ("Phase II Premises") with the scope of work for the Phase II Premises being addressed via a supplemental addendum or amendment to Lease on substantially the same terms and conditions as set forth in this Lease. The total Premises square footage for Phase I and Phase II is anticipated to be approximately 487,599 square feet at the completion of phases one and two of construction (as further described in Exhibits B and D, attached hereto) (the "Buildings") to be constructed in accordance with Exhibit D attached hereto. The parties expressly acknowledge that, while the approximate square footage for Phase I and Phase II Premises may have been used in the marketing and negotiation for use of the Premises, the Base Rent stated herein is not tied to square footage and is not subject to adjustment, should the actual size of the Premises be determined to be different than the square footage estimated herein. The exact schedule for completion of the Phase I and Phase II Premises are contained in Exhibit B, attached hereto and incorporated by reference (and subject to change based on written agreement of the Parties); and Exhibit D. The Buildings and all improvements described in Exhibits B and D and the square footage of the land otherwise described herein are hereafter collectively referred to as the Premises. It is anticipated that the Premises shall have the same address as the Property, once completed.

1.2 Condition. A condition to the effectiveness of this Lease is approval by the Parties and Approval by the City of plans and specifications covering construction of the Buildings and improvements, agreement between the Parties of a construction schedule, and issuance of Building Permits by the City and other applicable governmental agencies. "Approval" means that applicable governmental or quasi-governmental agency, body, or authority having jurisdiction over the subject matter in question voted or otherwise acted to approve such item or matter, and all administrative and judicial appeal periods for such Approval, if applicable, have expired without the filing of an administrative appeal or judicial proceeding, or if an administrative appeal or judicial proceeding was filed, that the administrative appeal or judicial proceeding has been resolved.

1.3 Title to Improvement: Title to all equipment, furnishings, and trade fixtures placed by Tenant on the Premises shall remain in Tenant's name, including all replacements, substitutions, and modifications thereof, except to the extent that an Event of Default causes such title to pass to Landlord or its assigns, in accordance with the terms set forth herein (including but not limited to those terms set forth in Article 5 of the Lease).

1.4 Tenant's Rights: Tenant shall have full and unimpaired access to the Premises and to other public and common areas, including the parking area, at all times during the Lease Term.

1.5 Site Plan. The Site Plan is attached hereto as Exhibit B. The parties agree that depending on pending governmental approvals, the site plan may be modified, however, it can only be modified by written agreement by both Parties. Tenant shall have the exclusive right to use and enjoy the Premises and all elements there, including the Buildings, parking areas and all landscaped and other exterior areas and facilities comprising the outside area.

1.6 Triple Net Lease. Tenant understands and agrees that this Lease is what is commonly referred to as a "Net, Net, Net" Lease, NNN, or triple net lease. Tenant recognizes and acknowledges, without limiting the generality of any other terms or provisions of this lease, that it is the intent of the Parties that in addition to the Rent due to the Landlord as set forth herein, Tenant shall also be responsible for and any and all expenses incurred in connection with the Premises, or in connection with the operations thereon, including any and all taxes, assessments, general or special, license fees, insurance premiums, public utility bills, and costs of repair, maintenance and operation of the Premises.

1.7 Lease Term. The Lease Term shall be 15 full Lease Years (defined herein) for a total of 180 full calendar months plus any partial months, starting on the Lease Commencement Date (defined below in Section 2.1). "Lease Year" shall mean each consecutive period of twelve (12) successive calendar months during the Lease Term, beginning on the Lease Commencement Date.

1.8 Option to Extend Term: Landlord grants Tenant three (3) options to extend the Lease Term ("Extension Option") for a period of five (5) years each ("Option Term"), on the same terms and conditions in effect under this Lease immediately prior to the Renewal Option, except that the Base Rent (as defined in Section 3.3) for each Renewal Option in effect at the expiration of the Lease Term shall be adjusted to reflect the current Base Rent, in further accordance with the terms set forth in **Exhibit H**, attached hereto and incorporated by reference. Tenant shall have no other right to extend the Lease Term after the end of the third Option. The rights contained in Section 1.8 may be exercised by the originally named Tenant or by any Landlord-approved and permitted sublessee or assignee of Tenant's interest in this Lease. If Tenant exercises the Renewal Option, such extension shall apply to the entire Premises. Tenant may exercise the Renewal Option only by giving Landlord irrevocable and unconditional written notice thereof (the "Renewal Notice") not later than four (4) months prior to the commencement date of the Renewal Period. At Landlord's discretion, Tenant shall not have the right to exercise the right to renew if at the time of the renewal Tenant is in material breach and has made no attempt to cure the breach. Upon delivery of the Renewal Notice, Tenant shall be irrevocably bound to lease the Premises for the Renewal Period. If Tenant shall fail to timely exercise the Renewal Option in accordance with the provisions of this Section 1.9, then the Extension Option shall terminate, and shall be null and void and of no further force and effect. If this Lease or Tenant's right to possession of the Leased Premises shall terminate in any manner whatsoever before Tenant shall exercise the Renewal Option, then immediately upon such termination the Renewal Option shall simultaneously terminate and become null and void. Time is of the essence with regard to this Section 1.8.

1.9 Non-Transferable Renewal Options Renewal Options are not transferable unless otherwise consented to by Landlord as set forth in Section 18.3, which consent shall not be

unreasonably withheld. Landlord further agrees that time is of the essence and will not unreasonably delay in providing consent.

1.10 Holdover. If Tenant retains possession of any portion of the Premises after the Termination Date, then Landlord shall be entitled to exercise all remedies that may be available under this Lease or at law or in equity, and Tenant shall (a) be a tenant at sufferance only, (b) be liable to perform all of the obligations of Tenant set forth in this Lease, and (c) pay Base Rent at a rate of one hundred twenty-five percent (125%) of the monthly Base Rent in effect immediately prior to the Termination Date, prorated on a daily basis. "Termination Date" means the date on which this Lease terminates for any reason, including expiration of the Term. The provisions of this Section 1.11 shall not operate as a waiver by Landlord of any right of re-entry provided in this Lease.

1.11 Landlord's Right of Entry: To the extent that the Landlord has any rights of entry to the Leased Premises under this Lease, Landlord agrees to exercise such rights in strict conformity with all local and state regulations and laws. Landlord agrees and understands that Landlord is permitted to enter the limited access areas of the Leased Premises only with authorized Tenant personnel.

Article 2 Lease Commencement Date

2.1 Lease Commencement. The "Lease Commencement Date" shall be the first to occur of (a) the date Tenant takes occupancy of the Premises for the conduct of Tenant's intended business therein, or (b) the date which is five (5) calendar days following Substantial Completion of Landlord's Work (as defined in Exhibit D-1 attached hereto).

2.2 Early Access: The Tenant shall be entitled to access the Premises 12 days prior to the date of Substantial Completion as identified in the Construction Schedule, for the purpose of installing Tenant's systems furniture, telecommunications cabling and other fixtures and equipment that Tenant determines, in Tenant's sole discretion, is necessary for Tenant's business operations.

2.3 Lease Commencement Agreement. On the Lease Commencement Date (or such later date as Landlord or Tenant may reasonably request, which request will not be unreasonably withheld), Landlord and Tenant shall promptly enter into a supplementary written agreement in substantially the form attached hereto as Exhibit E, or in such other form as Landlord or Tenant shall prescribe in writing, thereby specifying the Lease Commencement Date and Rentable Area.

2.4 Re-measurement. Prior to the date hereof, Landlord has delivered to Tenant a calculation of the rentable area of the Building prepared by Landlord's Architect, based on the Approved Base Building Plans (as defined in Exhibit D-1), which calculation was made in accordance with the Building Owners & Manager's Association International and the Society of Industrial and Office Realtors, "Industrial Buildings: Standard Methods of Measurement" (ANSI Z65.2-2012) approved by the American National Standards Institute, Inc. (the "BOMA Standard"). Such

calculation of the rentable area of the Building shall be re-measured and verified by Landlord's Architect in accordance with the BOMA Standard, at such time as the Building is Substantially Completed. As of such re-measurement and verification by Landlord's Architect, the Landlord and Tenant shall be deemed to accept such measurement for all purposes of this Lease. The measurements as certified by Landlord's Architect in accordance with the BOMA Standard shall be referred to as the "Rentable Area" for purposes of this Lease, and shall not be changed unless the Building is thereafter physically expanded or contracted, which must be approved by Landlord.

ARTICLE 3 Rent, Taxes and Operating Expenses

3.1 **Base Rent.** Starting on the Lease Commencement Date and continuing through the end of the "Occupancy Period", which means the period starting on the Lease Commencement Date throughout the Term and thereafter as long as the Tenant remains on the Leased Premises in accordance with the terms of this Lease, Tenant shall pay to Landlord the ("Base Rent"), payable in equal monthly installments, at the rate of 17.2% on all Project Costs annually. The base rent is determined by the Budget, attached hereto as Exhibit D-4 (as the same may be amended from time to time), which is currently an estimated fifty-four million dollars (\$54,000,000.00). The base rent is estimated to be Two and 38/100 Dollars (\$2.38) per rentable square foot, per month for the first (1st) Lease Year, which Base Rent is on a triple net basis, and which shall be increased every fifth (5th) Lease Year thereafter by ten percent (10%) of the previous Lease Year's Base Rent. The Base Rent for the first (1st) Lease Year being calculated for such purposes as if the first Lease Year was exactly twelve (12) full calendar months following the Lease Commencement Date, regardless of the actual length of the first Lease Year). Notwithstanding the foregoing, Tenant shall be entitled to fifty percent (50%) rental abatement for the first four (4) months of the Lease Term, in accordance with the Base Rent table set forth in the Summary of Lease Terms.

3.2 **Payment of Base Rent and Additional Rent.** Tenant shall pay to Landlord the monthly Base Rent in advance or on before the first (1st) day of every calendar month during the Occupancy Period. Tenant shall pay to Landlord on the Lease Commencement Date the prorated Base Rent for any partial calendar month at the beginning of the Term. Base Rent due for any partial calendar month at the end of the Occupancy Period shall also be prorated and paid on the first day of such calendar month. Tenant shall pay to Landlord all items of Rent (as defined below), without deduction or offset and without notice or demand (except as specifically provided in this Lease in respect of Additional Rent. **"Additional Rent" means the all other amounts payable by Tenant to Landlord in accordance with this Lease, other than Base Rent.** Base Rent and Additional Rent are collectively referred to in this Lease as Additional Rent ("Rent").

3.3 Expenses and Taxes. Tenant shall pay all Operating Expenses and Taxes directly relating to the Leased Premises during the Occupancy Period.

3.3.1. Payment of Operating Expenses. "Operating Expenses" means all costs and expenses incurred with respect to the ownership, maintenance and operation of the Premises, with the exception of maintenance and repair of roofs, walls, or foundation, but including and not limited to: all insurance, maintenance, repair and replacement of the heating, ventilation, air conditioning, plumbing, electrical, mechanical, utility and safety systems, paving and parking areas, roads and driveways; maintenance of exterior areas such as gardening and landscaping, signage; painting; lighting; cleaning; refuse removal; any additional required security; utilities for, or the maintenance of, outside areas; Lease Premises personnel costs; personal property taxes; rentals or lease payments paid by Landlord for rented or leased personal property used in the operation or maintenance of the Lease Premises; and fees for required licenses and permits. Tenant will pay directly all Operating Expenses allocable to the Occupancy Period in a timely manner. In the event that Tenant fails to pay any Operating Expenses within fifteen (15) days after written notice by Landlord to Tenant, and without being under any obligation to do so and without hereby waiving any default by Tenant, Landlord may pay any delinquent Operating Expenses. Any Operating Expenses paid by Landlord and any expenses reasonably incurred by Landlord in connection with the payment of the delinquent Operating Expenses may be billed immediately to Tenant, or at Landlord's option and upon written notice to Tenant, may be deducted from the Security Deposit.

3.3.1(i) Exclusion from Operating Expenses: Operating Expenses shall not include:

- (a) Depreciation, interest or ground lease payments;
- (b) Legal fees incurred in negotiating and enforcing the Lease or any obligations thereunder;
- (c) Costs of any items for which Landlord receives reimbursement from insurance proceeds or a third party.
- (d) Costs of capital improvements, unless such capital improvements are requested by Tenant in writing and any such capital improvements shall be amortized over the useful life of such capital improvements; or
- (e) Interest or Penalties incurred by Landlord resulting from Landlord's late payments

3.3.2 Payment of Tax Expenses. Tenant will pay directly all Taxes and Tax Expenses (with the exception of Excluded Taxes as identified below) allocable to the Tenant during the Occupancy Period in a timely manner and prior to delinquency on any activity carried on by Tenant under this Lease. Further, Tenant shall remit to Landlord evidence of such timely payment of each respective tax payment within thirty (30) days of its applicable due date. Tax Expenses ("Tax Expenses") means all federal, state, county or local government or municipal taxes, fees, charges or other impositions of every kind (whether general, special, ordinary or extraordinary) that are paid or incurred by Landlord during any Expense Year, because of or in connection with the ownership, leasing and operation of the Premises. These expenses include taxes, fees and charges such as real property taxes, general and special assessments, transit taxes and leasehold taxes.

3.3.2(i) Excluded Taxes: The following shall be excluded from Tax Expenses:

(a) all excess profits taxes, franchise taxes, gift taxes, capital stock taxes, inheritance and succession taxes, estate taxes, federal and state income taxes and other taxes applied or measured by Landlord's general or net income (as opposed to rents, receipts, or income attributable to operations of the Premises)

3.3.3 Tenant's Right to Contest Taxes. Tenant shall have the right, at Tenant's sole cost and upon reasonable prior notice to Landlord, to initiate and prosecute any proceeding for the purpose of contesting the assessed valuation of the Premises for tax purposes; provided, that this right to contest shall not be deemed or construed to relieve, modify or extend Tenant's obligation to pay any Taxes allocable to the Occupancy Period in a timely manner and prior to delinquency. Tenant shall indemnify and defend Landlord and save Landlord harmless from all costs, liabilities and expenses incurred in connection with such proceedings.

3.4 Non-waiver for Delayed Billing The parties hereto acknowledge that Tenant shall be responsible for paying Taxes and Tax Expenses directly to the appropriate third parties. However, to the extent that any Taxes are received by Landlord as unpaid by Tenant, any delay or failure of Landlord in billing any Taxes shall not constitute a waiver of or in any way impair the continuing obligation of Tenant to pay such Taxes hereunder. Landlord shall have the same rights and remedies for non-payment of said additional rent as if same were non-payment of rent under this Lease.

3.5 Tenant's Personal Taxes. Tenant shall be liable for all taxes levied or assessed against personal property or fixtures placed in the Premises and for all rental sales and use taxes or other similar taxes in connection with Tenant's use of the Premises. If any such taxes are levied or assessed against Landlord or Landlord's property, and (a) Landlord pays the same, or (b) the assessed value of Landlord's property is increased by inclusion of such personal property and fixtures and Landlord pays the increased taxes, then, upon written demand and supporting documentation, Tenant shall pay to Landlord such taxes.

3.6 Payment Procedure. Each installment of Rent is due on or before the (1st) day of each calendar month for which payment is due and shall be paid by electronic funds transfer in accordance with instructions provided to Tenant by Landlord as modified by Landlord from time to time. The first two (2) payments of Rent in any calendar year that are not paid within five (5) calendar days after Landlord gives Tenant written notice that such payment is overdue shall bear a late fee of five percent (5%) of the overdue amount and interest calculated on the amount of such payment due calculated as commencing on the day immediately following the day on which such payment was due and ending on the day on which Tenant pays to Landlord such payment at the rate of the lesser of 12% per annum or the maximum lawful rate of interest and shall be deemed due to Landlord and payable with the owed Rent or Additional Rent for said period. All payments of Rent due to Landlord under this Lease will be made by Tenant without any deductions or set-offs (except if otherwise provided in this Lease), and without demand, to Landlord as set forth herein.

3.7 Security Deposit. Concurrently with Tenant's execution of this Lease, Tenant shall deposit the Security Deposit with Landlord in the amount equal to the first and last month's Base Rent for the Lease Term, currently estimated to be One-Million and Six-Hundred and Ten Thousand and 00/100 cents (\$1,610,000.00), which shall be deposited as follows: 1.) fifty-percent (50%) of the Security Deposit shall be deposited into an escrow account no later than 30 days prior to the commencement of construction; and 2) 50% shall be deposited into the same escrow account upon issuance of a certificate of occupancy for the first phase construction (as described in Exhibits B and D). The Security Deposit shall be made as security for the faithful performance by Tenant of all of its obligations under this Lease. If Tenant defaults with respect to any provisions of this Lease, including, but not limited to, the provisions relating to the payment of Rent, Taxes or Tax Expenses, or the removal of property and the repair of resultant damage, Landlord may, with written notice to Tenant, but shall not be required to, apply all or any part of the Security Deposit for the payment of any Rent or any other sum in default and Tenant shall, upon demand therefor, restore the Security Deposit to its original amount. Notwithstanding the foregoing, Landlord and Tenant agree that, upon issuance of a certificate of occupancy from Cathedral City relative to the first phase of construction, Landlord agrees to apply the Security Deposit toward monthly Base Rent until such time as the Security Deposit has reached an amount equal to one (1) month of then-scheduled Base Rent.

Landlord shall hold the Security Deposit in trust in the following separate interest-bearing account. Interest earned on that account shall be distributed quarterly to Tenant. Upon Tenant being entitled to reduce the Security Deposit as provided hereinabove, all interest accrued to date on the Security Deposit shall be paid to Tenant.

3.7.1 Return of Security Deposit: Any unapplied portion of the Security Deposit shall be returned to Tenant, or, at Tenant and Landlord's mutual instruction, to the last assignee of Tenant's interest hereunder, within thirty (30) days following the expiration of the Occupancy Period.

3.8 Utilities. Effective as of the Lease Commencement Date, all utilities for the Premises shall be transferred directly to accounts in Tenant's name (subject to Tenant's reimbursement for Landlord deposits associated with the set-up of such accounts) and Tenant shall pay directly to all utility providers all charges respecting the Premises incurred during the Term. In furtherance of the foregoing and for the avoidance of doubt, it is the intent of the Parties that Tenant arrange for and pay directly to the applicable utility providers the cost of all electricity, gas and other utility charges used in the Building and at the Leased Premises, and that this Lease therefore be considered to be absolute net of such costs. Tenant shall pay on a timely basis to the appropriate utility or other supplier all charges for gas, steam, electricity, light, heat, power, telephone, water, metered or unmetered sprinkler, sewerage and all other utility and communication services, used, rendered and/or supplied upon or in connection with the Premises to the extent not paid by Landlord and reimbursed by Tenant as a part of the Operating Expenses. In the event that Landlord is informed there is a default with the payment of any utilities, upon written request from Landlord, Tenant shall promptly furnish Landlord with copies of all paid receipts for such utilities charges. All such utility charges shall be appropriately adjusted

between the Parties as of the Lease Commencement Date, and again as of the expiration or sooner termination of this Lease.

3.9 Annual Reconciliation Statement and Tenant's Audit Rights. Landlord will deliver to Tenant, within one hundred twenty (120) calendar days after the end of each applicable Operating Year, a statement for such Operating Year (the "Statement") showing the actual amount of Operating Expenses and Taxes for the Operating Year just ended. If, after thirty (30) days of Landlord's delivery of the Statement, Tenant does not respond to or dispute the substance of the Statement, Tenant shall be deemed to have accepted the Statement as accurate and waives all future rights to dispute. If after inspection of the Statement and within thirty (30) days of delivery of the Statement, Tenant disputes the amounts therein, Landlord and Tenant shall "meet and confer" and attempt in good faith to resolve the dispute. If the Parties are unable to resolve the dispute within sixty (60) days after completion of Tenant's inspection, then Tenant shall have the right to submit the dispute to arbitration; this right shall be exercised, if at all, by delivering a written notice of election to arbitrate to Landlord not later than forty-five (45) days after the meet and confer efforts by the Parties are unsuccessful. Landlord and Tenant agree that within fifteen (15) days after Tenant's delivery of the arbitration election, to retain an arbitrator who shall be an unaffiliated real estate attorney with at least ten (10) years experience representing landlords and tenants in the leasing of office space in Cathedral City. This arbitrator shall have the right to retain, as an expert to consult regarding the dispute, an unaffiliated, reputable certified public accountant who is a member of a reputable independent nationally or regionally recognized certified public accounting firm and who has experience in reviewing financial operating records of office building landlords. The arbitrator's decision shall be limited to determining the appropriate amount of Operating Expenses and Taxes. The arbitrator's decision shall be delivered simultaneously to Landlord and Tenant and shall be delivered no later than ten (10) business days following the conclusion of the arbitration. The arbitrator's decision shall be final and binding on the Landlord and Tenant.

If the Tenant does not dispute the Statement, then Tenant will pay Landlord, within forty-five (45) calendar days of the receipt of any Statement, such amounts as may be necessary to adjust Tenant's payments (if any) of the estimated Operating Expenses and Taxes for such preceding Operating Year so that such payments (if any) will equal the actual amount of any such Operating Expenses or Taxes payable by Tenant for such Operating Year. If any Statement shows that the estimated Operating Expenses or Taxes paid by Tenant exceed the actual Tenant's Share of such Operating Expenses or Taxes for any Operating Year, then Landlord will credit the overpayment made by Tenant to the next months Base Rent due, without interest. Failure of Landlord to provide any Statement within the time prescribed will not relieve Tenant of its obligations under this Paragraph. The Parties' obligation to make payment for any overpayment or underpayment of estimated compared to actual Operating Expenses and Taxes during the final Operating Year shall survive expiration or termination of this Lease.

Within forty-five (45) calendar days after delivery of the arbitrator's decision regarding the correct amount of Operating Expenses and Taxes, the appropriate party shall pay to the other party, the deficiency or overpayment.

All costs and expenses of the arbitration shall be born by Tenant, unless the arbitrator determines that the Landlord overstated any Operating Expenses or Taxes, at which point, all costs shall be born by the Landlord.

3.10 Intentionally Omitted.

3.11 Application of Payment. If Tenant is in arrears in the payment of Base Rent or Additional Rent or any other payment hereunder, Tenant waives its rights, if any, to designate the items in arrears against which any payments made by Tenant are to be credited, and Landlord may apply any of such payments to any such items in arrears as Landlord, in its sole discretion, shall determine irrespective of any designation or request by Tenant as to the items against which any such payment shall be credited.

3.12 No Accord and Satisfaction. No payment by Tenant nor receipt by Landlord of a lesser amount than may be required to be paid to Landlord under the terms of the Lease shall be deemed to be other than on account of any such payment, nor shall any endorsement or statement on any check or any letter accompanying any check tendered as payment be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such payment due or pursue any other right or remedy in this Lease or otherwise provided.

3.13 Returned Payment. If any check tendered by Tenant for any item of Base Rent or Additional Rent should be dishonored or shall fail collection, Landlord without waiving any other remedies it may have (including, without limitation, the imposition of late charges) shall be entitled to: (a) charge a \$200.00 processing fee; and/or (b) require that all subsequent Base Rent and Additional Rent be paid by a certified or bank cashier's check for a period of twelve (12) months.

3.14 Intentionally Omitted.

Article 4

Permitted Use, Compliance with Governmental Requirements and Hazardous Materials

4.1 Permitted Use. Tenant shall use and occupy the Premises solely for the "Permitted Use" as identified below. Tenant shall not use or occupy or permit the Premises to be used or occupied for any other purpose without Landlord's prior written consent, which consent shall not be unreasonably withheld. "Permitted Use" shall mean Tenant's cultivation, harvesting, packaging, storage, future extraction (subject to zoning approval, licensure, and any applicable insurance increases related to such use), future manufacturing (subject to zoning approval, licensure and any applicable insurance increases related to such use), recreational, storage, transportation, sale, dispensary, medical clinic, and distribution of medical marijuana, and industrial and office uses accessory thereto. Permitted use shall also include any future lawful cannabis use, including recreational cannabis but only to the extent that such use is in compliance with all California, and Cathedral City laws, ordinances rules and regulations. Tenant's permitted use shall be conducted in accordance and consistent with the following:

a. The entitlements, conditions, and legal requirements set forth by the municipality governing the Premises, and Tenant's Permitted Use of the Leased Premises (the "Municipal Approvals") as attached hereto as Exhibit C-1;

b. The medical marijuana license issued to the Tenant by the municipality governing the Premises allowing Tenant to engage in the Permitted Use on the Premises (the "Local License") as attached hereto as Exhibit C-2;

c. The medical marijuana license to be issued by the State of California to the Tenant allowing Tenant to engage in the Permitted Use on the Premises. The parties understand that the State of California has not yet begun issuing licenses. Tenant is in the process of submitting applications for obtaining State of California licenses and once Tenant obtains such licenses, they shall be attached as Exhibit C-3 to this Lease and shall be incorporated herein., and

d. All other Governmental Requirements (as defined below).

4.1.1 Governmental Requirements. "Governmental Requirements" means all applicable state and local laws and regulations from any state and local governmental authority with jurisdiction related, regulating or impacting Tenant's ability to legally conduct the Permitted Use on the Premises, that become effective before and during the Occupancy Period (collectively, "Governmental Requirements"), including but not limited to laws and regulations governing the use and disposal of hazardous materials, licensing of medical cannabis operators and personnel and the like. The Parties hereby agree and stipulate that any illegality of Tenant's Permitted Use on a Federal Level is not a valid defense to any claim arising from the lease and that the Parties hereby affirmatively stipulate and waive the right to assert, present or make any claim or defense related to the status of cannabis under Federal Law, other than a claim by Tenant to enforce the terms of the Lease where Landlord is prohibited from doing so as a result of Federal intervention in the Property.

4.1.2 Tenant Compliance with General Requirements. Tenant, at Tenant's sole cost and expense, shall promptly comply with: (a) any and all present and future laws, rules, orders, ordinances (including zoning ordinances), regulations and requirements applicable to the Tenant's Local and State License, Municipal Approvals, the Premises, or any part thereof, and the Permitted Use, now or hereafter enacted or promulgated by any state or municipal governmental authority claiming jurisdiction over the Premises (collectively, the "Governmental Requirements") without regard to the nature of the work required to be done, extraordinary as well as ordinary, foreseen and unforeseen, affecting the maintenance, Permitted Use or occupancy of the Premises.

4.1.3 Tenant Parties. "Tenant Parties" shall mean any of Tenant's officers, members, employees, agents, shippers, suppliers, vendors, contractors and invitees who are invited by Tenant to enter the Premises in the course of Tenant's Permitted Use operations. Tenant shall solely be responsible for and shall use all best efforts to ensure that the conduct of all Tenant Parties is in strict conformance with the Permitted Use, and the requirements of the Local License, State License, Municipal approvals and Governmental Requirements, which by way of

example only may include conducting criminal background investigations of employees, restricting access of non-employees to areas where cannabis is kept ("Access Requirements").

4.1.4 Landlord Rights and Remedies for Failure to Comply with Governmental Requirements. Tenant's failure to maintain or comply with any Governmental Requirements or Tenant's failure to maintain in good standing its Local License, State License and Municipal Approvals due to Tenant or any Tenant Parties, shall be grounds for termination of this Lease by Landlord; provided, however, that Tenant shall continue to be liable for all Rent and other charges reserved in this Lease through the date of such termination and, without exception, through and including the date upon which Tenant has complied in full with the surrender and restoration obligations, which shall include any Governmental Requirements pertaining to dismantling and restoration of the Leased Premises following the cessation of the Permitted Use. Any material and continuing violation of any California state law or Municipal Law or regulation regarding the Permitted Use by the Tenant shall be considered a material breach of this Lease and subject Tenant to all rights and remedies of Landlord in the event of a breach.

Nothing herein contained is intended as a representation or warranty by Landlord that the Premises may legally be used and operated for the uses permitted herein or for any use made of the Leased Premises by Tenant, it being agreed that Tenant is fully satisfied with Tenant's own investigation of such matters.

4.2 Use of Hazardous Materials: Tenant shall not cause or permit nor allow any Tenant Parties to cause or permit any Hazardous Material, as defined in Section 4.2, below, to be generated, brought, stored, manufactured, released, recycled, treated, disposed, handled or used on or about the Premises, except for such substances that are required in the ordinary course of Tenant's business conducted on the Premises or are otherwise approved in writing by the Landlord, which approval shall not be unreasonably withheld, Tenant shall do the following:

(a) Use, store and dispose of all such Hazardous Material in strict compliance with all applicable local and municipal statutes, ordinances, and regulations in effect during the Lease Term that relate to public health and safety and protection of the environment including those Environmental Laws identified in Section 4.3, below and

(b) Comply at all times during the Lease Term with all Environmental Laws.

4.3 Hazardous Materials. "Hazardous Materials" includes but is not limited to any of the following, in any amount: flammables, explosives, corrosive materials, materials capable of emitting toxic fumes, hazardous wastes, toxic wastes or materials, and other similar substances, petroleum products and derivatives, and any substance or chemicals, materials or substances, whether solid, liquid or gas, defined as or included in the definitions of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "solid waste," at any concentration that is or becomes regulated by the State of California or any local government authority having jurisdiction over the Building or the Premises. Tenant shall not, and shall not permit Tenant

Parties to, at any time, handle, use, manufacture, store, or dispose of Hazardous Materials in or about any portion of the Premises.

4.3.2 Hazardous Materials Notification:

4.3.4 Right of Entry by Landlord. At all times, Landlord agrees to comply with all state and local licensing laws regarding Landlord's right of entry. In accordance with regulatory rules, Landlord must be accompanied by authorized Tenant personnel while inspecting limited access areas. If the Landlord receives written notice from the State of California or any local government having jurisdiction over the Building or Premises that Tenant or a Tenant Party's use of Hazardous materials is in violation of Section 4.2, above, then Landlord may enter the Premises or Building with two (2) days' written notice to Tenant to perform any inspections. If Landlord chooses to perform an inspection, at all times, Landlord shall be accompanied by authorized Tenant Party. Notwithstanding the foregoing, Landlord shall also have the general right of access, with or without notice of Hazardous materials, to enter the Premises with 48 hour written notice, during the last three (3) months of the Term to show the Premises to prospective ground lessors, tenants or purchasers, however, such right of access shall not extend to limited access areas and Landlord shall have no right of entry to those limited access areas.

4.3.5 Remediation. If either the Tenant or Landlord is notified in writing by any state, local or municipal governmental authority that Tenant or a Tenant Party has brought or is using hazardous material in violation of this Lease, then Tenant, at its sole cost and expense, shall immediately notify Landlord in writing of the remediation that Tenant will perform and Tenant will perform such remediation at Tenant's sole cost and expense and after completion of such remediation will provide Landlord with written notice that such remediation has been completed

4.4 Tenant Representations Regarding Use. Tenant shall not use or knowingly allow any person to use the Premises for any purpose that is contrary to the Rules and Regulations that violate any State, local or municipal governmental entity that has jurisdiction over the Premises or in violation of any zoning laws. If any such prohibited use shall occur, then Tenant, following written notice from Landlord, agrees promptly to take all lawful steps which may be necessary to compel the discontinuance of such use and/or to oust and remove any subtenants or other occupants of the Premises causing or responsible for such unlawful use or conduct.

4.4.1 Disclosure and Warning Obligations. Tenant acknowledges and agrees that all reporting and warning obligations required under Hazardous Materials Laws, including but not limited to the California Safe Drinking Water and Toxic Enforcement Act of 1986, also known as 'Proposition 65' resulting from or in any way relating to Tenant's use of the Premises or are Tenant's sole responsibility, regardless whether the Hazardous Materials laws and regulations permit or require Landlord to report or warn.

4.5 Indemnification. Tenant shall protect, defend, (with counsel reasonably acceptable to Landlord) indemnify and hold Landlord, Landlord's agents, employees and contractors harmless from all actions claims, liabilities, damages, losses, costs and expenses whatsoever, including, without limitation, remedial or enforcement actions of any kind, and administrative or

judicial proceedings and orders or judgments), costs, claims, damages (including punitive damages), expenses (including attorneys , consultants and experts fees and court costs), investigation costs, amounts paid in settlement, fines, or other civil, administrative penalties, injunctive or other relief, liabilities or losses arising from a breach of this Article 4 by the Tenant or Tenant Parties, including, without limitation, remedial or enforcement actions of any kind, and administrative or judicial proceedings and orders or judgments;; costs; claims; damages (including punitive damages); expenses (including attorneys , consultants and experts fees and court costs); investigation costs; amounts paid in settlement; fines; forfeitures or other civil, injunctive or other relief; liabilities or losses arising or resulting, in whole or in part, directly or indirectly, from the violation of any Environmental Laws or the presence, treatment, storage, transportation, disposal, release or management of Hazardous Materials in, on, under, upon or from the Premises that Tenant brings upon, keeps, generates or uses on the Leased Premises. Tenant's obligations under this Section include, without limitation and whether foreseeable or unforeseeable, (i) the costs of any required or necessary repair, cleanup, detoxification or decontamination of the Premises or the Project; (ii) the costs of implementing any closure, remediation or other required action in connection therewith as stated above; (iii) the value of any loss of use and any diminution in value of the Premises or the Project, if any, as determined by a Court of competent jurisdiction, and (iv) consultants' fees, experts' fees and response costs. The Tenant's obligations under this section survive the expiration or earlier termination of this Lease.

4.5.1 Tenant's indemnification obligation in section 4.5, above, shall not apply to any Claim caused by or arising out of the active or passive negligence of Landlord or any of Landlord's agents, employees or contractors, or to the extent that a Claim against the Landlord actually or allegedly arises out of the willful misconduct of the Landlord or any agent, contractor or employee of Landlord.

4.6 Remediation of Mold. If either the Tenant or Landlord is notified in writing by any state, local or municipal governmental authority that there is mold within the Premises or Building, then Tenant, at its sole cost and expense, shall immediately notify Landlord in writing of the remediation that Tenant will perform and Tenant will perform such remediation at Tenant's sole cost and expense and after completion of such remediation will provide Landlord with written notice that such remediation has been completed.

4.7 Load Factor. Tenant shall not place, nor permit or suffer to be placed, a load upon any floor of the Leased Premises exceeding the floor load per square foot area which it was designed to carry, as indicated on the applicable building plans and specifications submitted to Cathedral City for approval, and which is allowed by law.

4.8 Tenant Rights and Remedies Regarding Governmental Requirements. Tenant shall have the right to contest by appropriate legal proceedings, in the name of Tenant or Landlord or both, but without cost or expense to Landlord, the validity or application of any Governmental Requirements referred to in this Article 4, and if by the terms of any such Governmental Requirement, compliance therewith may legally be held in abeyance without the incurrence of any lien, charge or liability of any kind against Landlord's interest in the Premises or any part thereof and without subjecting Tenant or Landlord to any criminal, civil or other liability for

failure so to comply therewith, Tenant may postpone compliance therewith until the final determination of any proceedings, provided that all such proceedings shall be prosecuted with due diligence and dispatch, and if any lien or charge is incurred by reason of noncompliance, Tenant may nevertheless make the contest aforesaid and delay compliance as aforesaid. Tenant covenants that Landlord shall not suffer or sustain any costs, expenses or liability by reason of any act or thing done or omitted to be done pursuant to this Section 4.6.

4.9 Insurance Requirements.

4.9(a) Landlord shall procure and maintain at all times during the Term, at Tenant's sole cost and expense, insurance as follows: (a) All Risk property insurance in an amount not less than one hundred percent (100%) of the full replacement value of the Premises and all alterations, additions, partitions and improvements installed or placed on the Premises by Landlord, , including all equipment and other machinery, equipment, trade fixtures and fixtures and any other personal property of the Landlord located on or in the Premises (but excluding Tenant's furniture, fixtures and equipment used directly in the Permitted Use of [cultivation, packaging, extraction, manufacturing, sale and distribution of medical marijuana and Tenant's medical marijuana inventory and marijuana-related products and by-products]; (b) Commercial General Liability Insurance, including blanket contractual liability, products liability, premises liability, fire legal liability, medical expense and personal injury, including "bodily injury" and "property damage" coverage, with coverage with coverage amounts and an umbrella reasonably determined by Landlord, and fire legal liability for full replacement value, and written on an occurrence basis, covering such risks outside the Leased Premises; (c) A Special Perils property policy, formerly known as all risk property insurance, including coverage for named storms, flood and earthquake, in an amount equal to not less than the full replacement cost of the Building with no co-insurance (except with regard to flood and earthquake in which event the limit shall be \$_,000,000). Such policy shall include coverage for equipment breakdown and annual rental income which includes real estate taxes; and (d) Such other insurance as Landlord deems necessary and prudent or required by Landlord's beneficiaries or mortgagees of any deed of trust or mortgage encumbering the Leased Premises, all to the extent then customary for property owners of similar property in the vicinity of the Leased Premises. Despite the provisions of this section, the coverage and amounts of insurance carried by Landlord in connection with the Building and Premises, shall at a minimum be comparable to the coverage and amounts of insurance that are carried by reasonably prudent landlords of comparable buildings and workers compensation coverage as required by applicable law. On inquiry by the Tenant from time to time, Landlord shall provide tenant documentation evidencing such insurance coverage.

4.9(b) Tenant will procure and maintain at all times during the Term, at Tenant's sole cost and expense, insurance as follows:(a) All Risk property insurance covering Tenant's furniture, fixtures and equipment used directly in the cultivation, packaging and distribution of medical marijuana and Tenant's medical marijuana inventory and marijuana-related products and by-products located on or in the Leased Premises from time to time, in an amount not less than one hundred percent (100%) of the full replacement value of the same;; (b) Commercial General Liability Insurance, including blanket contractual liability, products liability, premises liability, fire legal liability, medical expense and personal injury, including "bodily injury" and "property

damage" coverage, with coverage with a combined single limit for bodily injury and property damage of not less than \$1,000,000 and fire legal liability, and written on an occurrence basis; (c) Worker's Compensation in compliance with California law; and (d) Business interruption insurance with extended indemnity endorsement in such amounts to reimburse Tenant for direct or indirect loss attributable to all perils commonly insured against by prudent tenants or attributable to prevention of access to the Premises as result of such perils, which coverage shall be for a minimum of twelve (12) months of net revenues and expenses, including but not limited to Base Rent and Additional Rent following the casualty. In addition to the foregoing, Tenant agrees to procure and maintain any and all insurance required by state and local cannabis regulations.

4.9(c) The insurance required of Tenant under Section 4.9 shall be effected under valid enforceable policies issued by insurers of recognized responsibility and licensed to do business in the State of California with a rating of "A- VIII" or better by A.M. Best Company, Inc. and reasonably satisfactory to Landlord. Upon the Lease Commencement Date, of this Lease, the certificate(s) thereof shall be delivered to Landlord and if requested by Landlord, copies of endorsements adding Landlord as an additional insured. Prior to the expiration date of any policy, a certificate of insurance shall be delivered by Tenant to the holder of the expiring original policy, and certificates thereof shall be delivered as aforesaid. All insurance under this Article 4 shall be primary and non-contributing with any insurance which may be carried by any other Party.

4.9(d) All such policies shall contain agreements by the insurers that (a) such policies shall not be canceled except upon thirty (30) days' prior written notice to the Landlord, and (b) the coverage afforded thereby shall not be affected by (i) the performance of any work in or about the Premises, or (ii) any act or omission of Tenant. All policies referred to in this Lease shall be procured or caused to be procured for periods of not less than one (1) year. Tenant shall not obtain or carry separate insurance concurrent in form or contributing in the event of a loss with any insurance required to be carried under this Article 4, unless same is in compliance with the requirements of this Article 4. In the event that any policy of insurance required herein shall be or become unobtainable, Tenant shall be responsible for maintaining the type of insurance policies and limits of liability then customary for property owners of similar property in the vicinity.

4.9(e) Landlord, the holders of any mortgage of Landlord's interest as the interests of such holders may appear and any other party designated by Landlord shall be named additional insureds under the Commercial General Liability policy of insurance effected and maintained by Tenant under this Article 4.

4.9(f) Tenant and Landlord shall cooperate in connection with the collection of any insurance proceeds that may be due in the event of loss, and Tenant and Landlord shall execute and deliver such proofs of loss and other instruments which may be required for the purpose of obtaining the recovery of any such insurance proceeds.

4.9(g) Tenant shall not carry (nor shall Tenant permit any subtenant of Tenant to carry) any additional or separate insurance (other than liability insurance) concurrent in form or

contributing in the event of loss with that required by this Lease, or in excess of the amounts required by this Lease, unless Landlord, Tenant and the holder(s) of any mortgage of Landlord's interest are included therein as insureds with loss payable as provided in this Lease.

4.9(h) Mutual Waiver of Subrogation: Provided the respective insurance carriers recognize the waivers of the parties in this section 4.9(h), the parties release each other, and their respective Authorized Representatives, from any Claims for damage and/or injury to any part of the Premises, and the Improvements on the Premises that are caused by or result from risks insured against under any insurance policies carried by the parties and in force at the time of any such damage to the extent of the available insurance proceeds. Each party shall cause each casualty or property damage insurance policy carried by it to be written to provide that the insurance company waives all right of recovery by way of subrogation against either party in connection with any damage covered by any policy.

Article 5 Changes and Alterations Section

5.1 Alterations.

5.1(a) Tenant shall implement any and all alterations, additions and improvements in and to the Premises as are necessary for Tenant to conduct its business therein ("Alteration Work") and that same shall be at Tenant's sole cost and expense. Tenant shall furnish Landlord for its approval a complete set of architectural and engineering plans and specifications (if architectural or engineering plans are required by the City of Cathedral City and County of Riverside to obtain building permits) for all Alteration Work. Landlord shall approve such plans and specifications, or return them with advice as to what changes are required for its approval to be forthcoming within ten (10) business days of receiving same. Landlord shall act in good faith with respect to Tenant's proposed alterations and shall not unreasonably withhold or delay its consent to proposed alterations. In the event such plans and specifications are so returned to Tenant, Tenant shall promptly revise them to incorporate such changes as are reasonably required for Landlord's approval to be forthcoming and shall promptly resubmit such revised plans and specifications to Landlord. Such plan approval process shall continue until Landlord has approved a complete set of plans and specifications for the Alteration Work. Tenant, at its own cost and expense, will cause all work, including, without limitation, any Alteration Work, to be effected in a good and workmanlike manner, in accordance with Tenant's approved plans and specifications, in accordance with the provisions of this Article 5 and all other applicable provisions of this Lease, and in compliance with all applicable laws, rules and regulations. It is understood and agreed that Landlord shall have no responsibility for the performance of the contractor(s) carrying out Alteration Work (including matters of quality or timeliness), and in the event that for any reason Alteration Work is not completed in a timely fashion and/or there is any delay whatsoever, this Lease shall nevertheless continue in full force and effect. Within ten (10) days after completion of any Alteration Work, Tenant shall deliver to Landlord general releases from Tenant's architect, general contractors, subcontractors, vendors, suppliers or materialmen involved in the performance of the Alteration Work and the materials furnished in connection therewith, and a certificate from Tenant's independent licensed architect or contractor certifying that the Alteration Work was performed in a good and workmanlike

manner and substantially completed in accordance with the final plans and specifications approved by Landlord.

5.1(b) Except as otherwise expressly set forth herein, Tenant shall not have the right during the Term of this Lease, without having obtained Landlord's prior written consent to be given in Landlord's sole discretion (however, for requests to make changes which are nonstructural and which do not adversely affect any mechanical, plumbing, electrical, heating or other Building system, such consent shall not be unreasonably withheld, conditioned or delayed), to make improvements, additions, changes and alterations in or to the Building or to demolish all or any part of the Building or to replace same with other improvements (all such improvements, additions, changes, alterations, demolitions and replacements, collectively, "Alterations"). Notwithstanding anything to the contrary contained in this Lease, Tenant shall not be required to obtain Landlord's consent (but shall be required to deliver prior written notice to Landlord) to perform nonstructural alterations provided that such alterations: (a) do not affect any mechanical, plumbing, electrical, heating or other Building system; (b) do not require a building permit; (c) are cosmetic or decorative in nature; and (d) cost less than \$100,000.00 in the aggregate during any twelve (12) month period.

5.1(c) Each Alteration for which Landlord's approval is required under this Lease shall be made under the supervision of an architect reasonably approved by Landlord (but at the sole cost and expense of Tenant), if architectural or engineering plans are required by the City of Cathedral City and/or the County of Riverside to obtain building permits, and shall be made in accordance with plans and specifications prepared by such architect. Copies of such plans and specifications shall be delivered by Tenant to Landlord for the approval of Landlord pursuant to this Lease. Tenant acknowledges and agrees that Landlord's receipt of plans and specifications shall not constitute an opinion or agreement by Landlord that the plans and specifications are structurally sufficient or in compliance with law or this Lease, nor shall any such approval impose any liability on or waive any rights of Landlord hereunder or affect or diminish any of Tenant's obligations hereunder. Tenant, at its sole cost and expense, shall be responsible for obtaining all necessary approvals, permits and/or licenses in connection with any Alteration Work and Alterations. Landlord agrees to reasonably cooperate with Tenant, provided same is at Tenant's sole expense, and to execute any documents reasonably necessary in order for Tenant to obtain said approvals, permits and/or licenses, and Tenant shall indemnify Landlord against any loss, claim or damage which Landlord may suffer by reason of such cooperation.

5.1(d) Tenant shall furnish to Landlord or cause its contractors to provide such insurance coverage as may be reasonably required by Landlord, insuring Landlord against any risk of loss during the performance by Tenant of any Alteration Work or an Alteration.

5.1(e) Upon completion of any Alteration, Tenant shall give notice thereof to Landlord and furnish Landlord with appropriate evidence of completion of such Alteration, including, without limitation, as built plans, temporary and final certificates of occupancy for the Alteration and appropriate evidence including checks and receipted invoices that the cost thereof has been paid for in full.

5.1(f) Tenant shall pay its contractors, laborers, subcontractors, materialmen and suppliers in accordance with their respective agreements with Tenant and shall not cause or suffer any liens, mortgages or other title retention or security agreements to be placed on the Leased Premises or any improvements thereon. Nothing contained in this Article 5 or elsewhere in this Lease shall be construed in any way as constituting any consent by Landlord or authorization to Tenant to subject the Leased Premises to any lien or charge or otherwise. All contracts or agreements made by Tenant with any third party or parties in connection with an Alteration shall expressly provide that said third party or parties shall look solely to Tenant for any and all payments thereunder.

5.1(g) Tenant, at its own cost and expense, will cause all Alterations to be effected in a good and workmanlike manner, in accordance with approved plans and specifications, if same are required pursuant to this Article 5, in accordance with all other applicable provisions of this Lease and in compliance with all applicable laws, rules and regulations.

Article 6 Repairs and Maintenance

6.1 Tenant Requirements for Maintenance. Throughout the Term, Tenant covenants and agrees to maintain the Premises at its sole cost and expense (with the exception of reasonable wear and tear), including, without limiting the generality of the foregoing, the plumbing, heating, ventilating, air conditioning, electrical, lighting, sprinkler and other utility systems and fixtures and other equipment therein or serving the same and the appurtenances thereto, signs, gutters, water, sewer, gas and other utility connections, pipes and mains, and all other fixtures, machinery and equipment now or hereafter serving the same, and Tenant agrees to put, keep and maintain all of the foregoing in good order and condition, and make reasonably required repairs thereto and therein, ordinary and extraordinary, foreseen and unforeseen, as shall be necessary to keep and maintain the same in good order and condition and in compliance with all applicable state and local laws. Tenant shall not commit or suffer and shall use all reasonable precaution to prevent waste, damage or injury to the Premises or any part thereof. Further, Tenant, at its own cost and expense, covenants and agrees to keep the drain, waste and sewer pipes and connections with mains which are used by Tenant free from obstruction to the satisfaction of authorities having jurisdiction. Tenant will be responsible for expenses, losses and damages incurred by Landlord by reason of Tenant's operations which result in the obstruction of drains, waste and sewer pipes and mains in or servicing the Building, or any part thereof. Notwithstanding the foregoing, Landlord agrees to provide to Tenant any warranty coverage accrued to Landlord under the terms of any applicable contracts for purchase or lease of certain of the equipment described herein, as such contracts may relate to any warranty of parts or labor for the use or installation of such equipment.

6.1.1. Despite the foregoing, if Landlord is responsible for construction of the improvements, Tenant shall not be responsible for the repair of any latent defects in such improvements within the Building or the Premises to the extent that the defects existed on the Lease Commencement Date and were of such nature that Tenant could not normally discover

them in the exercise of reasonable diligence in Tenant's inspection of the Premises or the Building on or before the Lease Commencement Date.

6.2 Definition of Repairs. When used in this Lease, the term "repairs" shall include all reasonably necessary replacements, renewals, alterations and additions. All repairs to be made by Tenant shall be of at least equal quality and utility to the quality and utility of the utility systems, fixtures, machinery and equipment installed immediately prior to the repair date and shall be made in compliance with all Governmental Requirements and Insurance Requirements and the then applicable building code. Without limiting the generality of the foregoing, Tenant shall not clean or require, permit, suffer or allow any window of the Leased Premises to be cleaned from the outside in violation of any applicable law.

Article 7

Discharge of Liens; Bonds

7.1 No Liens or Encumbrances. Tenant shall not be the cause of any liens or allow such liens to exist, attach to, be placed on or encumber Landlord's or Tenant's interest in the Premises, Building or Real Property by operation of law or otherwise, except to the extent contemplated herein, with regard to Landlord's rights to file and/or assign a UCC lien on furniture, fixtures and equipment, as well as a UCC lien on applicable cannabis related licenses and permits. Notwithstanding the foregoing, Landlord has the right and obligation at all times to post and keep posted on the Premises any notice that it considers necessary for protection from such liens.

7.2 Tenant Obligation to Cause Liens or Encumbrances to be Removed. If any mechanic's, laborer's, real estate broker's, materialmen's or other lien at any time shall be filed or permitted to exist against the Premises or any part thereof, by reason of any work, labor or services performed or materials furnished, or claimed to have been performed or furnished, or any leasing or licensing of space within the Premises as a result of work done by the Tenant, or any subtenant or occupant of the Premises, Tenant, within thirty (30) days after the filing thereof, shall cause the same to be vacated or discharged of record by payment, deposit, bond (which bond shall be in an amount equal to 125% percent of the amount of the claim of lien,) order of a court of competent jurisdiction or otherwise. If Tenant shall fail to cause such a lien to be vacated or discharged within the period aforementioned, Landlord shall accept in lieu of discharge of liens a bond in the total amount of the cost to discharge such outstanding liens, subject to the approval of Landlord's lender.

Nothing contained in this Lease shall be deemed or construed in any way as constituting the consent of Landlord, express or implied, by inference or otherwise, to any contractor, subcontractor, laborer, materialman for the performance of any labor or services or the furnishing of any materials for any specific improvement, alteration to or repair of the Premises or any part thereof, nor as giving Tenant any right, power or authority to contract for or permit the rendering of any labor or services or the furnishing of materials that would give rise to the filing of any lien against the Premises or the estate or interest of Landlord. Further, nothing contained in this Lease shall grant or be deemed to have granted to Tenant any authority to bind Landlord to any contract or to create any other obligation binding on Landlord regardless of

whether such contract or obligation may be the foundation for any lien, mortgage or other encumbrance upon the estate of Landlord in the Premises.

Article 8

Right to Perform Covenants

8.1 Landlord's Right to Cure Tenant Default. If at any time Tenant shall fail to obtain, pay for, maintain or deliver any of the insurance policies required of Tenant pursuant to this Lease, or to perform any other act on its part to be performed under this Lease or under any other agreement in respect of the Leased Premises to which Tenant is a party, then Landlord, without waiving or releasing Tenant from any obligation contained in this Lease, in addition to any and all other remedies Landlord may have hereunder, may, but shall be under no obligation to (upon thirty (30) days' prior written notice to Tenant, unless there shall be unreasonable risk to the Premises and/or the required insurance coverage will cease within such 30-day period): (a) Take out, pay for and maintain any of the insurance policies provided for herein; or (b) Pay any other sums, costs, expenses, charges, payments or deposits payable by Tenant hereunder or perform any other act on Tenant's part to be made or performed as in this Lease set forth, and Landlord may enter upon the Leased Premises with forty-eight hours written notice to tenant and with authorized tenant personnel, for such purpose and take all such action with respect thereto as may be necessary therefor, subject to and in accordance with Governmental Requirements.

8.2 Landlord's Rights and Remedies. All sums paid by Landlord and all costs and expenses incurred by Landlord in connection with the performance of any act permitted by Section 8.1 above, together with interest thereon at the rate of ten percent (10%) per annum or the highest rate permitted by law (whichever is less) from the respective dates of Landlord's making of each such payment or deposit, shall be paid by Tenant to Landlord on demand. Any provision of this Article 8 shall not be nor be deemed to be a waiver or release of the breach or default of Tenant with respect thereto or of the right of Landlord to terminate this Lease, institute summary proceedings and/or take such other action as may be permissible hereunder or otherwise if an event of default by Tenant shall have occurred. Landlord shall also be entitled to recover, as damages for such breach, the uninsured amount of any loss and damage and the costs and expenses of suit, including, without limitation, reasonable attorneys' fees and disbursements sustained, suffered or incurred by Landlord by reason of damage to or destruction of the Premises or any part thereof, as a result of any act or omission of Tenant or Tenant Parties.

Article 9

Damage or Destruction

9.1 Casualty. If all or any part of the Premises shall be damaged or destroyed in whole or in part by fire or other casualty of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, and such casualty is not directly arising from Tenant's gross negligence ("Casualty") Tenant shall give Landlord immediate written notice thereof, and this Lease shall continue in full force and effect except as otherwise set forth. Landlord shall promptly and diligently restore the Premises, including all Tenant Improvements and alterations, to substantially the same condition as existed as of the Commencement Date. If Tenant requests that Landlord make any changes or modifications to the Tenant Improvements, Landlord shall not unreasonably withhold such

consent to make the requested modifications or changes. If the Premises are partially damaged or rendered partially unusable by the Casualty, then, the damages to the Leased Premises thereto shall be repaired by, and at the sole cost and expense of Landlord to the extent of the insurance proceeds received in connection with same, which proceeds shall be paid in accordance with a policy as defined in Section 9.5, which policy shall reflect a full replacement value for the Project. The Rent (including Additional Rent), until such repair shall be substantially completed, shall be abated from the date of the Casualty for the portion of the Premises that Tenant is unable to occupy. If the Premises are totally damaged or rendered wholly unusable by the Casualty, then the Rent (including Additional Rent) shall be proportionately paid up to the time of the Casualty and cease until the date when the Premises are repaired and restored by Landlord (or sooner reoccupied in part by Tenant, in which case the Rent shall be apportioned as provided above). Notwithstanding anything to the contrary contained in this Lease, Landlord shall not be obligated to repair or restore any personal property of Tenant or any Alterations made by Tenant. Landlord's obligation to restore or repair pursuant to this Article 9 shall mean to repair, restore, replace and rebuild, or cause to be restored the damaged or destroyed Leased Premises at least to the extent of the value, quality and condition and as nearly as possible to the character thereof existing as of the Commencement Date with such changes or alterations thereto as may be agreed to by the Parties.

9.2 Repair Period Notice. Landlord, shall within sixty (60) days of the Casualty, provide written notice to Tenant indicating the anticipated period for repairing the Casualty (Repair Period Notice). The Repair Period Notice shall be accompanied by a certified statement executed by a licensed contractor or architect, mutually approved by the Parties, certifying the contractor's or architect's opinion regarding the anticipated period for repairing the Casualty. Unless this Lease shall be terminated as provided in this Article 9, Landlord shall make the repairs and restorations provided above with all reasonable expedition, subject to delays due to adjustment of insurance claims, labor troubles and causes beyond Landlord's control. After any such Casualty, Tenant shall, subject to applicable State law, cooperate with Landlord's restoration by removing from the Premises as promptly as reasonably possible, all of Tenant's salvageable inventory and movable equipment, furniture and other property, but only to the extent that such removal is necessary for Landlord to effectuate repairs. Tenant's liability for Rent shall resume after written notice from Landlord that Landlord has substantially completed the work required by Landlord under this Article 9 and after confirmation by Tenant that Tenant is able to occupy the Premises for Tenant's Use. Notwithstanding anything contained herein to the contrary, in the event that the Casualty shall occur after the last day of the fourteenth (14th) Lease Year or the Casualty shall require the expenditure of more than fifty (50 %) of the total value of the Building, upon written agreement by both Landlord and Tenant, the Parties may elect to terminate this Lease rather than to complete the restoration. In the event that the Parties cannot agree as to termination, then provided that Tenant is not in default under this Lease, then within thirty (30) days of the Casualty event, Tenant may elect to exercise any unexercised option to Extend this Lease by providing written notice to Landlord's of Tenant's intent to exercise the Option to Extend. If Tenant exercises the Option to Extend, this Lease shall continue full force and effect.

9.3 Repair and Restoration Limitations. Notwithstanding anything to the contrary contained in this Lease, Landlord shall only be responsible to restore the Leased Premises to the extent that

Landlord receives the proceeds of insurance. The Parties rights with regard to insurance proceeds shall be subject and subordinate to the rights of any fee mortgagee of the Premises. Landlord shall have the sole right to adjust all property and casualty insurance claims and to compromise and/or settle any property or casualty insurance claims relating thereto.

9.4 Tenant's Termination Right If the repair cannot be made within two hundred and seventh (270) days from the date of the casualty, Tenant, at Tenant's sole discretion, may elect to terminate this Lease by providing written notice to Landlord within 30 days after receiving the Repair Period Notice.

9.5 Landlord's Insurance Requirements: Landlord shall procure such insurance coverage sufficient to cover any Casualty as defined in this Article 9. All policies of insurance procured by Landlord shall be issued by insurance companies with a rating of not less than A-VIII as rated in the most current Best's Insurance Reports and the insurer must be qualified to do business in the State of California. Landlord shall deliver the policy or policies of insurance, along with any endorsements to Tenant within forty-five (45) days following the execution of this Lease.

Article 10 Condemnation

10.1 Condemnation.

10.1.1 If at any time prior to or during the Term, the whole or a substantial portion of the Premises shall be taken for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of condemnation or eminent domain or by agreement between Landlord and those authorized to exercise such right, this Lease and the Term shall terminate and expire on the date of taking (as hereinafter defined) and the Rental payable by Tenant hereunder shall be apportioned and paid to the date of taking.

10.1.2 If the whole or a substantial portion of the Premises shall be taken or condemned as provided in this Article 10, and this Lease is terminated in accordance with clause (a) above, the aggregate of all awards and/or damages (collectively, the "award") made to Landlord and Tenant, and any other persons claiming by, through or under any of them, in respect of such taking shall be paid out and distributed solely to Landlord, and Tenant hereby waives, releases and relinquishes any and all claims on the award.

10.1.3 Tenant's Right to Compensation:

10.1.3(a) Tenant shall be entitled to receive fifty percent of any amount attributable to any excess of the market value of the Premises for the remainder of the Lease Term over the present value as of the Termination Date of the Rent payable for the remainder of the Lease Term (commonly referred to as the "bonus value" of the Lease) and

10.1.3(b) Tenant shall have the right to negotiate directly with the Condemnor and make a separate claim in the Condemnation proceeding for: (i) The taking of the unamortized or undepreciated value of any leasehold improvements owned by Tenant that Tenant has the right to

remove at the end of the Lease Term and that Tenant elects not to remove; (ii) Reasonable removal and relocation costs for any leasehold improvements that Tenant has the right to remove and elects to remove; (iii) Loss of goodwill; (iv) Relocation costs, the claim for which Tenant may pursue by separate action independent of this Lease; or (v) Any other amount in addition to the foregoing that does not reduce the amount of the Award payable to the Landlord.

10.1.4 In case of any taking and whether or not this Lease shall terminate by reason thereof, each of the parties agrees to execute any and all documents that may be required in order to effect and facilitate the collection by Landlord of the award.

For purpose of this Article 10, the term "date of taking" shall be deemed to be the date on which the whole or substantially all of the Leased Premises, or a part thereof, as the case may be, shall have vested in any lawful condemning authority, or the date on which actual possession thereof is acquired, whichever shall be earlier.

10.2 Intentionally Omitted

10.3 Partial Condemnation.

10.3(a) If less than a substantial portion of the Leased Premises (for purposes hereof, "substantial" shall mean fifty percent (50%) or more of the Leased Premises) shall be taken, this Lease and the Term shall continue. Notwithstanding the above, to the extent that the portion of the Premises taken materially affects Tenant's ability to conduct Tenant's business or the use of the Premises, then at Tenant's sole discretion, Tenant will notify Landlord in writing of Tenant's intent to termination that portion of the Lease that has been taken. The Rent and Additional Rent shall be recalculated on the basis of the gross leasable area of the Premises remaining following the taking and the restoration of such remaining portion) or of any of Tenant's other obligations hereunder. Subject to the provisions of this Article 10, Landlord, to the extent of the award received, shall proceed diligently to restore any remaining part of the Premises not so taken, so that the same shall be a complete, rentable, self-contained architectural unit and, to the extent practicable, of a size and condition substantially similar to the size and condition of, and having a character similar to the character of, the Premises existing as of the Commencement Date, in good condition and repair.

10.3(b) Award based on partial taking: The award in respect of such taking shall be paid out and distributed as follows, (i) There shall first be paid to Landlord an amount equal to 75% of the estimated cost of such restoration as may be required hereunder, to be held by Landlord for such purpose; (ii) Next, there shall be paid to Landlord the remainder of the award, if any (including any balance of that portion of the award paid to Landlord under clause (i) above remaining after completion of the restoration). The parties agree that any rights with regard to any award shall be subject and subordinate to the rights of any fee mortgagee of the Leased Premises. Each of the parties agrees to execute any and all documents that may be required in order to effect and facilitate collection of the award by Landlord.

10.4 No Condemnation. In case of any governmental action not resulting in the taking or condemnation of any portion of the Leased Premises but creating a right to compensation

therefor, such as the change or grade or widening of any street upon which the Leased Premises abut, this Lease shall continue in full force and effect without reduction or abatement of basic rent and additional rent and the entire award therefore shall belong to Landlord. Tenant hereby waives any and all claims, and releases and relinquishes all of its interest in and to any award, damages or other compensation of any kind resulting from or predicated upon a change of grade or street widening.

10.5 Termination or Expiration of Lease. If this Lease shall expire or terminate for any reason prior to the completion of the restoration and in accordance with the provisions of this Article 10, the amount of any award or payment allowed or retained for restoration of the Premises which shall not have been previously applied to that purpose shall be distributed as follows: (a) the pro-rate non-applied share of the value of the land and Building to the Landlord; (b) the pro-rate non-applied share of the value of the Improvements to the Tenants

10.6 Notice of Condemnation Restoration. Landlord shall notify Tenant in writing of any Condemnation within thirty (30) days after the earlier of (a) the filing of a complaint of condemnation or (b) the final agreement and determination by Landlord and Condemnor of the extent of the taking (Condemnation Notice)

Article 11

Events of Default; Conditional Limitations; Remedies, etc.

11.1 Events of Default. The occurrence at any time during the Term of the events set forth in this Section 11.1 shall constitute an "event of default" under the Lease:

(a) Failure to Pay Base Rent. Tenant's Failure to pay Rent or Additional Rent, or any other payment required to be paid by Tenant under this Lease when the same shall become due and payable, and such failure shall continue for a period of five (5) business days from the date such payment was due; or

(b) Abandonment. Tenant shall abandon the Premises for a period of more than thirty (30) consecutive days; or

(c) Unpermitted Transfers. In contravention of the applicable provisions hereof, this Lease or the estate of Tenant hereunder shall be assigned, transferred, mortgaged or otherwise encumbered in whole or in part or shall pass to or devolve upon any other person by operation of law or otherwise, or if the Premises or any part thereof shall be sublet, used or occupied in violations of the term hereof; or

(d) Failure to Maintain Required Licenses. Tenant shall fail to maintain the Required Licenses (as hereinafter defined) or any other licenses and permits, as required from state or local governments, from time to time required in full force and effect to enable Tenant to conduct its business under this Lease; or

(e) Seizure. All or any part of the Premises shall be seized and/or closed by any local or state governmental authority pursuant to any State or local laws, or similar laws or regulations, as a result of charges that said Leased Premises constituted a nuisance or a use for illegal purposes unless same is caused by Landlord or its agents; or

(f) Other Material Breach. Tenant shall fail to keep, observe or perform any of the nonmonetary terms, covenants, conditions or agreements of this Lease on Tenant's part to be kept, observed or performed and such default shall continue for a period of thirty (30) days after written notice by Landlord to Tenant specifying such default, unless such default requires work to be performed, acts to be done or conditions to be removed which cannot by their nature be performed, done or removed as the case may be within such thirty (30) day period, then if Tenant shall not have commenced curing the same within such thirty (30) day period or shall thereafter fail diligently and continuously to prosecute the same to completion within thirty (30) days thereafter; or

(g) Voluntary or Involuntary Bankruptcy

(i) Tenant shall make an assignment for the benefit of creditors; or (ii) Tenant shall file a voluntary petition under Title 11 of the United States Code, as the same may be amended, or Tenant shall file any petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal bankruptcy code or any other present or future applicable Federal or State or other statute or law, or shall seek or consent to or acquiesce in the appointment of any custodian, trustee, receiver, sequestrator, liquidator or other similar official of Tenant or of all or any substantial part of its property or of the Premises or any interest of Tenant therein; or (iii) Within sixty (60) days after the commencement of any proceeding against Tenant seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future Federal bankruptcy code or any other present or future applicable Federal or State statute or law, such proceeding shall not have been dismissed, or within sixty (60) days after the appointment, without the consent or acquiescence of Tenant of any custodian, trustee, receiver, assignee, sequestrator, liquidator or any other similar official of Tenant or of all or any substantial part of its properties or of the Premises or any interest of Tenant therein, such appointment shall not have been vacated or stayed on appeal or otherwise, or if within thirty (30) days after the expiration of any such stay, such appointment shall not have been vacated.

(ii) Upon the occurrence of any of the events of default set forth in Section 11.1(g), Landlord may at any time thereafter during the continuance of any such event of default serve upon Tenant a fifteen (15) day notice of termination of this Lease and upon the expiration of such fifteen (15) day period, this Lease and the Term shall cease, terminate and expire as fully and completely as if the expiration of such fifteen (15) day period were the date herein definitely fixed for the end and expiration of this Lease and the Term, and Tenant immediately shall quit and surrender the Premises; or if such termination shall be proscribed by any law applicable to the proceeding or stayed by order of any court having jurisdiction over the proceeding, then, following the expiration of any stay, or if the trustee appointed in any such proceeding, Tenant or Tenant as debtor-in-possession shall fail to assume this Lease in its entirety and all of the

covenants thereof within the period prescribed therefore by law or as may be allowed by the court, and/or said trustee, Tenant or Tenant as debtor-in-possession shall fail to provide adequate protection of Landlord's right, title and interest in and to the future performance of Tenant's obligations under this Lease, Landlord shall have the right, at its election, to terminate this Lease on fifteen (15) days- notice to Tenant, Tenant as debtor-in-possession or said trustee, and upon the expiration of said fifteen (15) day period this Lease shall cease and expire as fully and completely as if such date were the date herein definitely fixed for the end and expiration of this Lease and the Term, and thereupon neither Tenant nor any subtenant or statute or order of any court shall be entitled to the possession of the Premises, or any part thereof, and Landlord, in addition to the other rights and remedies given pursuant to this Article 11, or by virtue of any other provision in this Lease, or by virtue of any statute or rule of law, may retain or receive as partial damages any basic rent and additional rent, or other moneys received by it from Tenant or others on behalf of Tenant. If this Lease shall terminate and expire pursuant to the provisions of Section 11.1(g) Landlord shall be entitled to prove and recover in any such bankruptcy, insolvency, receivership, reorganization or dissolution proceeding all arrears in basic rent and additional rent and in addition thereto as damages an amount equal to the maximum allowed by statute or rule of law in effect at the time then governing the proceedings in which such damages are to be proved, whether or not such amount be greater or less than the amount referred to in this Section 11.

(h) Guarantor's Failure to Perform. If any Guarantor of Tenant's obligations under this Lease shall become insolvent, file a petition in bankruptcy, cease to pay its debts in the ordinary course of business, be in default of its obligations under said guaranty and only if such default continues for a period of thirty days after written notice from Landlord to Tenant.

11.2 Notice of Event of Default and Termination Right of Landlord. Upon the occurrence of any of the events of default set forth in Article 11, Landlord may at any time thereafter and during the continuance of any such event of default, if applicable, serve upon Tenant a thirty (30) day notice of termination of this Lease and upon the expiration of such thirty (30) day period, the Lease shall terminate and Tenant and any subtenants or other persons claiming through or under Tenant shall quit and surrender the Premises to Landlord, but Tenant shall remain liable as hereinafter provided.

11.3 Tenant Liability for Event of Default. If this Lease and the Term shall have terminated and expired as provided in Article 11, or if Landlord shall have re-entered the Leased Premises and/or shall have dispossessed Tenant by summary proceedings or otherwise as provided in Article 11: (a) Tenant shall pay to Landlord all outstanding Rent due and owing to Landlord and additional rent payable under this Lease to the date upon which this Lease and the Term shall have terminated, expired and come to an end or to the date of re-entry upon the Leased Premises by Landlord, as the case may be; (b) Landlord may repair, renovate, remodel and/or alter the Leased Premises or any part thereof in such manner as Landlord may deem necessary or advisable without thereby relieving Tenant of any liability, under this Lease or otherwise affecting any such liability, and/or Landlord may let or relet the Leased Premises or any part(s) thereof for the whole or any part of the remainder of the Term in Landlord's name, at such rental and upon such terms and conditions as Landlord shall deem appropriate, to any tenant it may deem suitable and for any use or purpose it may deem appropriate, and out of any rent and

other sums collected or received as a result of such reletting Landlord shall: first, pay to itself all costs and expenses of terminating this Lease (except for any costs and expenses for alterations and improvements required by such new tenant) including in such costs reasonable attorneys' fees; second, payment of any indebtedness other than rent due hereunder from Tenant, third pay to itself the reasonable costs and expenses sustained in securing any new tenants and other occupants, including in such costs, brokerage commissions fourth, to the payment of any outstanding rent due hereunder by Tenant. Landlord agrees to use its best efforts to mitigate damages by promptly seeking to re-let the premises. Notwithstanding Landlord's duty to mitigate damages, Landlord shall in no way be responsible or liable for any failure to relet the Premises or any part thereof, or for any failure to collect any rent due on any such reletting, and no such failure to relet or to collect rent shall operate to relieve Tenant of any liability under this Lease or otherwise; and any rents or other sums received by Landlord on a reletting in excess of the basic rent and additional rent reserved in this Lease shall belong solely to Landlord, however, Landlord's failure to mitigate damages by failing to use reasonable efforts to re-let the premises may be used as an affirmative defense or counter claim by Tenant in the event that the Landlord initiates any action against Tenant in a Court of Law.

11.4 Survival of Tenant Liability and Landlord's Rights Regarding Events of Default. No termination of this Lease pursuant to this Article 11 and/or reletting of the Premises or any part thereof shall relieve Tenant of its liabilities and obligations under this Article 11, all of which shall survive such expiration, termination, re-entry, repossession or reletting.

11.5 Non-Waiver of Landlord's Right to File Claims for Event of Default. Suit or suits for the recovery of damages, or for a sum equal to any installment or installments of Basic Rent and Additional Rent payable hereunder or any Deficiency or other sums payable by Tenant to Landlord pursuant to this Lease, may be brought by Landlord after an event of default and nothing herein contained shall be deemed to require Landlord to await the date whereon this Lease and the Term would have expired had there been no event of default by Tenant, re-entry or termination. Additionally, no failure by Landlord to insist upon the strict performance of any agreement, term, covenant or condition of this Lease or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial basic rent and additional rent during the continuance of any such breach, shall constitute a waiver of any such breach or of such agreement, term, covenant or condition. No agreement, term, covenant or condition of this Lease to be performed or complied with by Tenant, and no breach thereof, shall be or be deemed to be waived, altered or modified except by a written instrument executed by Landlord. No waiver of any breach shall affect or alter this Lease, but each and every agreement, term, covenant and condition of this Lease shall continue in full force and effect with respect to any other then existing or subsequent breach thereof. Each right and remedy of Landlord provided for in this Lease, and all documents executed by the parties contemporaneously herewith shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Landlord of any one or more of the rights or remedies provided for in this Lease, or such other documents or now or hereafter existing at law or in equity or by statute or otherwise, shall not preclude the simultaneous or later exercise by Landlord of any or all other such rights or remedies.

11.6 Attorneys' Fees and Expenses Related to Events of Default. Tenant shall pay to Landlord all reasonable costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by Landlord. Tenant shall also pay to Landlord all costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by Landlord in enforcing any of the covenants and provisions of this Lease or incurred in any action or proceeding brought by Landlord against Tenant on account of the provisions hereof. However, Tenant's obligations pursuant to this section are only triggered if Landlord is deemed a prevailing party by a court of competent jurisdiction or through arbitration.

Article 12 Cumulative Remedies - No Waiver

12.1 Non-Waiver of Cumulative Rights and Remedies. The specific remedies to which Landlord or Tenant may resort under the terms of this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which they may be lawfully entitled in case of any breach or threatened breach by either of them of any provision of this Lease. The failure of either party to insist in any one or more cases upon the strict performance of any of the covenants of this Lease, or to exercise any option herein contained, shall not be construed as a waiver or relinquishment for the future of such covenant or option. No waiver, change, modification or discharge by either party hereto of any provision in this Lease shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In addition to the other remedies in this Lease, each party shall be entitled to the restraint by injunction of the violation of any of the covenants, conditions or provisions of this Lease or to a decree compelling performance of any of such covenants, conditions or provisions.

Article 13 Surrender of Premises

13.1 Surrendering and Vacating Premises. On the last day of the Term or upon any earlier termination of this Lease, Tenant agrees to surrender to Landlord the Premises, together with all additions, alterations and improvements thereto and Equipment therein, in good order and in the condition and state of repair in which Tenant is obligated to maintain the same pursuant to Article 6, reasonable wear and tear, Casualty excepted, free and clear of all subleases and occupancies, liens and encumbrances (other than liens and encumbrances existing on the date hereof or which Landlord has consented to in writing). Notwithstanding anything herein, any equipment paid for or financed by the Tenant shall be the sole and exclusive property of the Tenant, except to the extent of an earlier termination of this Lease arising from Tenant's default, in which case such equipment shall be subject to the applicable UCC liens filed by Landlord as an additional security inducement for entering into this Lease.

13.2 Tenant's Obligation to Turn Over Documents and Licenses. Upon a material event of default or subsequent termination of this Lease or upon re-entry by Landlord upon the Leased Premises, Tenant agrees to deliver to Landlord such of the following as shall be in Tenant's possession or control: (a) service and maintenance records for the Premises; (b) all original leases, licenses and permits (including, but not limited to the conditional use permits associated with the Property) then pertaining to the Leased Premises that are permitted to be transferred to

Landlord under California law; (c) all certificates of the California Division of Fire Prevention and Control; (d) all warranties and guarantees then in effect which Tenant has received in connection with any work or services performed or fixtures installed in any part of the Premises, which will be Landlord's after the expiration or earlier termination of this Lease, together with a duly executed assignment thereof to Landlord; and (e) any and all other documents which may be reasonably necessary for the use, maintenance, operation and management of the Premises.

13.3 Holdover. If Tenant remains in the Premises after the expiration or sooner termination of the Term, without Landlord's express written consent, then in addition to any other rights or remedies of Landlord, Tenant shall pay to Landlord, as liquidated damages and not as a penalty, for each month or any portion thereof during which Tenant holds over after the expiration or sooner termination of the Term, a sum equal to one-hundred and twenty-five percent (125%) of the Rent and Additional Rent paid by Tenant during the Lease Year immediately preceding such expiration or sooner termination of the Term for the first one hundred twenty (120) days of the holdover period and thereafter, one-hundred and fifty percent (150%) of the Rent and Additional Rent paid by Tenant during the Lease Year immediately preceding such expiration or sooner termination of the Term thereafter.

13.4 Survival. The provisions of this Article 13 shall survive the expiration or termination of this Lease.

Article 14 **Quiet Enjoyment**

14.1 Quiet Enjoyment. Landlord covenants that if and as long as Tenant shall fully and timely observe and perform all of the terms, covenants and obligations to be performed by Tenant under this Lease, Tenant shall and may (subject, however, to the terms and conditions of this Lease) peaceably and quietly have, hold and enjoy the Leased Premises during the Term without molestation or disturbance by or from Landlord or anyone claiming through or under Landlord.

Article 15 **Notices**

15.1 Notices. All notices, demands and requests which may or are required to be given by either party to the other shall be in writing. All notices, demands and requests by Landlord to Tenant shall be deemed to have been properly given if sent by United States registered or certified mail, return receipt requested, postage prepaid, or by a nationally-recognized overnight courier, addressed to Tenant at its address set above in the Summary of Basis Lease Terms, Section 3.1 or at such other place as Tenant may from time to time designate in a written notice to Landlord. All notices, demands and requests by Tenant to Landlord shall be deemed to have been properly given if sent by United States registered or certified mail, return receipt requested, postage prepaid, or by a nationally-recognized overnight courier, addressed to Landlord at the address first set above in the Summary of Basic Lease Terms, Section 2.1, above, or at such other place as Landlord may from time to time designate in a written notice to Tenant, with a copy to:

- a). Barker Pacific Group, Inc.
626 Wilshire Blvd, Suite 900
Los Angeles, CA 90017
Attention: Michael Barker

All notices, demands and requests shall be deemed given on the date which is three (3) days after the same shall be mailed as aforesaid or on the date delivered by overnight courier.

Article 16 Limitations of Liability

16.1 Limitation of Landlord's Liability. Except in the case of Landlord's gross negligence or willful misconduct, Landlord shall not in any event whatsoever be liable for any injury or damage to Tenant, any subtenant or any other person or to any property happening in, on or about the Premises or to any property belonging to Tenant, any subtenant or any other person which may be caused by any fire or breakage or by the use, misuse or abuse of the Premises (including, without limitation, any elevators, hatches, openings, installations, stairways, hallways or other common facilities), or equipment or which may arise from any other cause whatsoever. Additionally, except in the case of Landlord's gross negligence or willful misconduct, Landlord shall not be liable for any failure of or damages resulting from any failure of Utilities, nor for any injury or damage to Tenant, any subtenant or any other person or to any property or to the Premises or any part thereof caused by or resulting from gasoline, oil, hazardous substances, steam, gas, electricity, flood, wind or storms or similar disturbances or water, rain or snow which may leak or flow from any river or street or from any water, sewer, steam or gas mains, pipes, appliances or subsurface areas within the Premises or elsewhere or from leakage of gasoline or oil from pipes or appliances, or for any interference with light or air by any person or caused by any public or quasi-public work.

16.1.1. This exculpation clause shall not apply to claims against Landlord Parties to the extent that a final judgment of a court of competent jurisdiction or judgment of arbitrator establishes that the injury, loss, damages or destruction was proximately caused by the Landlord Parties gross negligence, fraud, willful injury to person or property or violation of law.

16.2 Limitation of Personal Liability: Notwithstanding any provision of this Lease to the contrary, it is expressly acknowledged and agreed that there shall at no time be or be construed as being any personal liability by or on the part of Landlord or Tenant with respect to the Lease or in any way related to the Premises. It being further agreed that Tenant and Landlord shall not enforce or seek to enforce any claim or judgment or any other matter for money or otherwise, personally or directly against any officer, director, stockholder, member, partner, joint venturer, principal or any other property of Landlord or Tenant, and no other assets or personal funds of Landlord or Tenant shall be subject to levy, execution or other judicial process for the satisfaction of any or all of either parties claims, judgments or remedies; such exculpation from personal liability as herein set forth to be absolute, unconditional and without exception of any kind.

Article 17 Estoppel Certificates

17.1 Estoppel Certificates. Tenant or Landlord, shall, at any time and from time to time upon not less than fifteen (15) days prior notice by either party (on a form substantially similar to the attached Exhibit I), execute, acknowledge and deliver to Landlord a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there have been modifications that the Lease is in full force and effect as modified and stating the modifications) and the dates to which the Basic Rent and Additional Rent and other charges have been paid, and stating whether or not to Tenant's knowledge Landlord or Tenant is in default in keeping, observing or performing any term, covenant, agreement, provision, condition or limitation contained in this Lease and, if Landlord or Tenant shall be in default, specifying each such default, it being intended that any such statement delivered pursuant to this Section 17.1 may be relied upon by Landlord and or any prospective transferee or mortgagee of Landlord's interest in this Lease or any assignee of any mortgage.

Article 18 Assignment, Subletting and Encumbrances

18.1 No Transfer. Except as specifically otherwise provided herein and in Section 18.4 below, Tenant shall not have the right, without having obtained Landlord's prior written consent which consent shall not be unreasonably withheld or delayed, to sublease or mortgage, pledge or otherwise encumber all or any part of the Premises, assign this Lease (by operation of law or otherwise) or permit the Premises to be used or occupied by persons other than Tenant. If the Landlord consents to the Transfer, as a condition thereto, which the parties agree is reasonable, Tenant shall pay Landlord reasonable attorneys fees that Landlord incurred in evaluating the assignment or sublease, which costs shall not exceed \$15,000. Notwithstanding the above, Landlord shall not charge Tenant any Transfer Fee for any Assignment that will result in a Change of Ownership.

18.1.1 Transfer of Ownership includes: (a) The voluntary transfer, within a twelve month period of sixty (60%) or more of the membership interests.

18.2 Transfer to Affiliate: Despite any other provision in this Lease, Landlord's consent is not required for any transfer to an Affiliate as defined in Section 18.2.1, below, as long as the following conditions are met: (a) Landlord received 30 days' advanced written notice of the transfer (as well as any documents or information reasonably requested by Landlord regarding the Transfer or Transferee) and (b) if the Transfer is an assignment, Transferee assumed in writing all of the Tenant's obligations under this Lease.

18.2.1 Affiliate means any entity that: (a) controls or is controlled by, or is under common control with the Tenant; (b) Results from the transfer of all or substantially all of Tenant's assets or stocks; (c) Results from the merger or consolidation of Tenant with another entity.

Control, as referred to in Section 18.2.1 means the direct or indirect ownership of more than fifteen percent (15%) of the voting securities of an entity or possession of the right to vote

more than twenty percent (20%) of the voting interest in the ordinary direction of the entity's affairs.

18.3 Landlord's Remedies in Event of Unpermitted Transfer. If this Lease is assigned or if the Premises or any part thereof be sublet or occupied by anybody other than Tenant, Landlord may do the following: (a) void the transfer and (b) declare Tenant in default. If Landlord declares Tenant in default, Tenant has twenty (20) days after receiving a notice of default from Landlord. If the default is not cured within the time period specified in this Section 18.3, Landlord can collect rent from the assignee, subtenant or occupant, and apply the net amount collected to the basic rent and other charges herein reserved, but no such assignment, subletting, occupancy or collection shall be deemed a waiver of Tenant's covenants under this Article 18 of the acceptance by Landlord of the assignee, subtenant or occupant as tenant hereunder or a release of Tenant from the further performance by Tenant of any of the terms, covenants and conditions of this Lease to be performed by Tenant.

18.4 Permitted Transfers.

18.4(a) If and so long as Tenant is not in default under this Lease, Landlord will not unreasonably withhold or delay its consent to a request to a proposed assignment or sublease of the Premises, provided that: (a) the proposed assignee or sublessee's financial condition is adequate to support the Lease obligations; (b) any sublessee shall have a financial standing, be of a character and be engaged in a business reasonably acceptable to Landlord, and use the Leased Premises for the Permitted Use as set forth in this Lease. The form of the proposed assignment or sublease shall be in reasonably satisfactory form and shall comply with the applicable provisions of this Article 18. Any subtenant shall be expressly subject and subordinate to all of the obligations of Tenant under this Lease. Any sublease shall end at the latest (1) day before the expiration date of this Lease or any extensions.

18.4(b) The merger or consolidation of a corporate lessee or sublessee where the net worth of the resulting or surviving corporation is less than the net worth of Tenant immediately prior to such transaction shall be deemed an assignment of this Lease or of such sublease. At any time and from time to time, within five (5) days after written request by Landlord, Tenant shall furnish to Landlord a written statement certified by an attorney or an independent certified public accountant or an affidavit sworn to by the chief executive officer or a general partner of Tenant, setting forth the identity of every holder of an interest, the type and character of each such interest (e.g., number of shares of common stock, general partnership interest, etc.) and the percentage of ownership of each such holder; provided, however, that the preceding sentence shall not apply to Tenant as long as Tenant is a publicly traded whose stock is traded through "over-the-counter market" or through any recognized stock exchange; further provided that regardless of Tenant's status as a publicly traded company, any subtenant of the Premises or a portion thereof will be bound by the provisions of this Article 18. Notwithstanding anything to the contrary contained herein, provided prior notice is given to Landlord and Tenant is not in default beyond the expiration of any applicable notice and grace period under any of the provisions of this Lease, interests in Tenant may be transferred to the existing interest holders or any family members of the existing interest holders (or to trusts for the benefit of any existing

interest holders or family members of any existing interest holders) without obtaining the consent of Landlord.

18.5 Landlord's Right to Consent to Transfer of Lease. In no event shall any sublessee permitted by Landlord thereafter assign or encumber its sublease, or further sublet all or any portion of the Premises, or otherwise suffer or permit the Premises or any part thereof to be used or occupied by others, without Landlord's prior written consent in each instance, which consent shall not be unreasonably withheld. A modification, amendment or extension of a sublease shall be deemed a sublease. If any lien is filed against the Premises for brokerage services claimed to have been performed for Tenant, whether or not actually performed, the same shall be discharged by Tenant within thirty (30) days after Tenant receives notice thereof, at Tenant's expense, by filing the bond required by law or otherwise, and Tenant agrees to indemnify Landlord and its agents and hold them harmless from and against any and all claims, losses or liability resulting from such lien for brokerage services rendered.

18.5.1 Reasonable grounds for Landlord to deny consent include only the following: (a) Transferee's financial condition is inadequate to support the Lease obligations of Transferee under the Transfer documents or (b) Transferee creates an unreasonably high security risk, which security risk is much greater than the one assumed by or created by Tenant for Tenant's permitted use.

18.5.2 **Tenant Waiver:** In no event shall Tenant be entitled to make, nor shall Tenant make, any claim, and Tenant hereby waives any claim, for money damages (nor shall Tenant claim any money damages by way of setoff, counterclaim or defense) based upon any claim or assertion by Tenant that Landlord has unreasonably withheld or unreasonably delayed its consent or approval to a proposed assignment or subletting as provided for in this Article 18. Tenant's sole remedy shall be an action or proceeding to enforce any such provision or for specific performance, injunction or declaratory judgment.

18.6 Tenant's Notice of Proposed Transfer. If Tenant requests Landlord's consent to a specific assignment or sublease, it shall submit in writing to Landlord (a) the name and address of the proposed assignee or sublessee, (b) a duly executed copy of the proposed agreement of assignment or sublet, (c) reasonably satisfactory information as to the nature and character of the business of the proposed assignee or sublessee and as to the nature of its proposed use of the Premises, and (d) banking, financial (certified by a certified public accountant) and other proofs and information relating to the proposed assignee or sublessee sufficient to enable Landlord to determine the experience, the reputation and the net worth and character of the proposed assignee or sublessee.

18.6.1 Within twenty (20) days after received the transfer information identified in Section 18.6 above, Landlord shall either approve or disapprove the proposed Transfer in writing to Tenant. If Landlord disapproves the transfer, Landlord shall provide a reasonably detailed, written explanation. If Landlord fails to respond within the required time, Landlord shall, at Tenant's option, be considered to have consented to the Transfer.

18.7 Tenant's Dispute. If Tenant disputes that Landlord's denial of consent is reasonable, either party may initiate arbitration of the dispute and Tenant may seek immediate Specific Performance and Damages in accordance with Article, 35, below. The arbitration shall conclude within thirty (30) days after it is initiated. The prevailing party will be entitled to recover reasonable attorneys fees and costs, including the arbitrators costs.

18.8 Conditions to Landlord Consent. Tenant understands and agrees that whether Landlord's written consent thereto is required or not required, no assignment or subletting shall be effective unless and until Tenant causes to be delivered to Landlord a duly executed copy of the assignment or sublease (unless it was theretofore delivered to Landlord). Any such sublease shall provide that the sublessee shall comply with all applicable terms and conditions of this Lease to be performed by Tenant hereunder insofar as the same relates to such sublessee's premises. Any such assignment of this Lease shall contain an assumption by the assignee of all of the terms, covenants and conditions of this Lease to be performed by Tenant from and after the effective date thereof.

18.9 No Right to Mortgage Leasehold. Tenant shall not have the right to mortgage the leasehold interest herein without having obtained Landlord's prior written consent (which consent may be withheld in Landlord's sole and absolute discretion).

18.10 Release of Guarantor. Landlord hereby agrees that upon the transfer of this leasehold interest to a permitted assignee, Landlord will automatically release Tenant and Tenant's guarantor from any further obligation under this Lease.

Article 19 Invalidity of Particular Provisions

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

Article 20 Broker

20.1 No Broker. Each of Landlord and Tenant represents and warrants that it has not dealt with any broker with respect to this Lease or the Leased Premises. Each party hereby covenants and agrees forever to defend, indemnify and hold the other party and its successors and assigns harmless from and against any and all claims, demands or judgments (and for any and all expenses, including, without limitation, reasonable attorneys' fees and expenses, incurred by such other party in connection therewith), for any commissions, fees or other compensation of any kind by or in favor of any broker or other party claiming to have acted in any capacity as a broker or finder in bringing about this Lease.

Article 21

No Recording of Lease

21.1 No Recordation. This Lease shall not be recorded. Notwithstanding anything to the contrary, Landlord acknowledges that the parent company, Sunniva Inc. is a publicly traded company and will be required to post a copy of this Lease and any amendment hereto and any ancillary agreement so that it is publicly available on www.sedar.com. Tenant shall post, file and/or record any documentation as is required to satisfy Canadian securities laws without Landlord's prior consent, but with reasonable prior notification.

Article 22

Covenants to Bind and Benefit Respective Parties; Modification

22.1 No Modification without Amendment. The covenants and agreements herein contained shall bind and inure to the benefit of Landlord and its successors, assigns and legal representatives and Tenant and its permitted successors and assigns. The terms and provisions of this Lease may not be altered, modified, waived or terminated except by an agreement in writing signed by both Parties. Neither this Lease nor any draft hereof shall be binding on Landlord or Tenant until same is fully executed and delivered by the parties hereto.

Article 23

Subordination

23.1 Subordination of Lease. This Lease, the leasehold estate of Tenant created hereby and all rights of Tenant hereunder are and shall be subject and subordinate to the encumbrances, conditions of title and other matters now affecting the fee title to the Leased Premises or any part thereof, and to all mortgages which may now or hereafter affect the fee title to the Leased Premises (or Landlord's interest in this Lease) and to all renewals, modifications, consolidations, replacements and extensions of any such mortgages. Notwithstanding that the subordination provisions of this Section 23.1 are self-operative and shall not require any further act or action by Tenant hereunder, Tenant agrees that upon request of Landlord it shall promptly execute all documents reasonably requested by Landlord or any mortgagee to confirm the subordination of this Lease as set forth herein, provided that pursuant to such documents such mortgagee agrees not to disturb Tenant's possession of the Leased Premises so long as no default exists under this Lease. Additionally, if in connection with obtaining financing or refinancing of a mortgage on Landlord's interest in the Premises, a mortgagee shall request reasonable modifications to this Lease as a condition to such financing or refinancing, Tenant will not unreasonably withhold, delay or defer its consent thereto, provided that such modifications do not increase the obligations of Tenant, increase Tenant's Rent or Additional Rent, limit in any way Tenant's use of the Premises for its Intended Use, or adversely affect the leasehold interest hereby created. In no event shall a requirement that Tenant give such Lender notice of Landlord's default hereunder and a reasonable opportunity to cure such default, be deemed to adversely affect the leasehold interest hereby created.

23.2 Non-Disturbance Agreement. No such subordination in Section 23.1 be effective unless and until Landlord obtains from the holder of the Encumbrance places against the premises a non disturbance agreement in recordable form, providing that in the event of any foreclosure or transfer or exercise of any remedy under such Encumbrance:

(a) Tenant's use of the Premises and enjoyment of the Premises shall not be disturbed, all Tenant's rights under this Lease shall be recognized and this Lease shall continue in full force and effect as long as Tenant is not in default; and

(b) This Lease shall automatically become a lease directly between any successor to Landlord's interest, as landlord and Tenant, as if that successor were the landlord originally named in the Lease.

Article 24 No Abatement of Rent

24.1 No Rental Abatement. Except as otherwise expressed in this Lease, there shall be no abatement, setoff, diminution or reduction of Basic Rent or Additional Rent payable by Tenant hereunder or of any the other obligations of Tenant hereunder under any circumstances whatsoever.

Article 25 Allocations of Additional Rent

25.1 Utility Expenses. Fuel charges (if any) shall be allocated to and payable by Tenant as Additional Rent as of the Commencement Date. It is agreed that the statement of any representative of the fuel company providing the fuel for the Premises will be conclusive as to the amount of the fuel.

25.2 Water Expenses.

25.2(a) If there is a water meter on the Premises which has not been read, nor the charge fixed to the Commencement Date, Tenant agrees to pay the same from and after the Commencement Date apportioned on the basis of the last reading;

25.2(b) If there is any retainer outstanding for services rendered or to be rendered for the procurement of a reduction of the assessed valuation of the Leased Premises for tax purposes for the tax year in which the Commencement Date occurs, Tenant shall assume such retainer, and any benefits derived therefrom, whether by way of protest, settlement or legal proceedings, upon presentation of attorneys' bills for same.

25.3 Utility and Water Adjustments. Adjustments pursuant to this Article 25 shall be made upon the execution and delivery of this Lease. However, the parties agree to correct adjustments based upon any mistakes or additional information noted by either party after the Commencement Date.

Article 26 Indemnification Obligations

26.1 Indemnification by Tenant. Tenant, to the fullest extent permitted by law, agrees to indemnify and save Landlord harmless from and against any and all claims, obligations, liabilities, suits, actions, proceedings, judgments, fines, damages, penalties, architects' and reasonable attorneys' fees and disbursements, of whatsoever kind or nature which may be asserted against, imposed upon or incurred by Landlord by reason or any of the following occurring during the Term, except and to the extent caused by the gross negligence or willful misconduct of Landlord: (a) any work performed by, or any other acts or omissions of Tenant, any subtenant or its or their respective agents, employees, contractors, licensees or invitees (collectively, "Agents") in, on or about the Premises or any part thereof, or the streets and sidewalks abutting the same; (b) any use, non-use, possession, occupation, repair, alteration, condition, operation, maintenance or management of the Premises or any part thereof, or any vaults, passageways or other space forming a part thereof, or the streets and sidewalks abutting the same; (c) any act, omission or negligence on the part of Tenant or any subtenant or their respective Agents in or about the Premises; (d) any accident, injury (including death) or damage to any person or property occurring in, on or about the Premises or any part thereof; (e) any failure on the part of Tenant to pay any basic rent or additional rent or to keep, observe, perform or comply with any of the other terms, covenants, agreements or conditions contained in this Lease on Tenant's part to be kept, observed, performed or complied with, or the exercise by Landlord of any remedy provided in this Lease with respect thereto; (f) any lien or claim which may be asserted against the Premises or any part thereof arising from any failure by Tenant to perform its obligations under this Lease (g) any failure on the part of Tenant to keep, observe and perform any of the terms, covenants, agreements, provisions, conditions or limitations contained in any subleases of any part of the Premises, or any other contracts or agreements affecting the Premises, on Tenant's part to be kept, observed or performed, except to the extent that compliance with such legal requirements is expressly made the responsibility of the Landlord; (h) any claims made and actions commenced by any subtenants of the Premises against Landlord, arising out of any acts or omissions by Tenant under the respective subleases. Notwithstanding anything contained in this Lease to the contrary, the obligations of Tenant under this Article 26 shall not be limited or affected in any way by the limits of insurance maintained hereunder or by the absence in any case of covering insurance or by the failure or refusal of any insurance carrier to perform any obligation on its part under insurance policies affecting the Premises or any part thereof.

2.6.1.1. Tenant's indemnification in section 2.6.1, above, shall not apply to any Claim caused by or arising out of the active or passive negligence of Landlord Parties or to the extent that a Claim against Landlord Parties actually or allegedly arises out of the willful misconduct of Landlord Parties.

26.2 Landlord's Right to Demand and Approve Counsel. If any claim, action or proceeding is made or brought against Landlord by reason of any event with respect to which Tenant has indemnified Landlord hereunder, then, upon demand by Landlord, Tenant, at its sole cost and expense, shall resist or defend such claim, action or proceeding, in Landlord's name if necessary, and if such claim, action or proceeding is covered by insurance, by the attorneys for the

insurance carrier (which attorneys Landlord shall reasonably approve) or by such attorneys as Tenant or the insurance carrier (if applicable) shall select (as the case may be) and Landlord shall reasonably approve. Nothing herein contained shall prohibit Landlord, at its own expense, from participation in such claim, action or proceeding with counsel of its own choice. If Landlord chooses to participate in such claim, action or proceeding, then Landlord, at its sole cost and expense shall pay for its own counsel and Tenant shall have no further obligation to pay for Landlord's counsel but shall remain obligated to defend the claim with Tenant's own counsel.

26.3 Landlord's Indemnification of Tenant: Because Landlord is required to maintain insurance on the Building and Tenant compensates Landlord for such insurance as part of Tenant's Operating Expenses, Landlord shall, with counsel reasonably acceptable to Tenant, indemnify, defend and hold harmless Tenant and any officer, director, employee and invitee of Tenant, from and against any claims for damages to property outside the Premises to the extent that such claims are covered by such insurance (or would have been covered had Landlord carried the insurance required under this Lease). In addition, Landlord shall, with counsel reasonably acceptable to Tenant, indemnify, defend and hold harmless Tenant and any Tenant Party from and against all claims resulting from the negligent acts of Landlord Parties with respect to activities in or around the Property.

26.3 Survival. The provisions of this Article 26 shall survive the termination and expiration of this Lease.

Article 27 Extraction

27.1 Definition of Manufacture: The term "manufacture" and "manufacturing" for purposes of this Lease and, as allowed under the Tenant's Permitted Use shall mean and include all uses defined in Section 26001 of the California Business and Professions Code, subsection (ag), as may be amended, which at the time of the Lease include to "compound, blend, extract, infuse, or otherwise make or prepare a cannabis product."

27.2 Volatile and Non Volatile Solvents. Upon Tenant's receipt of all necessary local and state Medicinal and Adult-Use Cannabis Regulation and Safety Act licensing requirements ("MAUCRSA") and all municipal approvals, Tenant intends to engage in the extraction of cannabis through the use of "nonvolatile solvents" and "volatile solvents". For purposes of this Lease and Tenant's Permitted Use of manufacturing, the term "volatile solvent" and "nonvolatile solvent" shall have the same meaning as defined in MAUCRSA as may be amended, (unless otherwise provided by law or regulation). At the time of this Lease, MAUCRSA defines a "volatile solvent" as any "solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures... [e]xamples of volatile solvents include but are not limited to, butane, hexane, propane, and ethanol" and defines a "nonvolatile solvent" as any solvent used in the extraction process that is not a volatile solvent, including carbon dioxide."

27.3. Storage Tenant's storage, use and disposal of volatile and non-volatile solvents for the purposes of extraction shall be in accordance with the Hazardous Materials provision in Article 4.

27.4 Systems and Equipment. All extraction systems and equipment intended for use in volatile solvent extraction shall meet the standards detailed in MAUCRSA, included but not limited the use of a closed loop system when using volatile solvents, and all local requirements, included but not limited to include applicable fire division and shall be closed loop systems.

27.5 Change in Occupancy Rating. In the event Tenant's method of use of either Hazardous Materials (defined in Article 4) or volatile or non-volatile solvents results in a change of occupancy rating by any governmental authority having jurisdiction over the Premises, which differs from the Premises' anticipated rating of F upon completion of construction, Tenant and not the Landlord shall be responsible for all costs to construct the Premises and maintain the changed occupancy rating.

Article 28 Air Rights

28.1 No Air Rights. Tenant acknowledges that it has no rights to any development rights, "air rights" or comparable rights appurtenant to the Land and Building, and consents, without further consideration, to any utilization of such rights by Landlord and agrees, to promptly execute and deliver any instruments which may be requested by Landlord, including instruments evidencing such acknowledgment and consent. The provisions of this Section 28.1 shall be deemed to be and shall be construed as an express waiver by Tenant of any interest Tenant may have as a party in interest in the Land and Building. Notwithstanding the foregoing, Landlord hereby agrees that during the term of this Lease, Landlord shall not sell or otherwise transfer any air rights above the Premises and represents that Landlord did not previously sell any air rights to any other party.

Article 29 Equipment

29.1 Equipment. Tenant shall not, without the prior consent of Landlord in each instance, remove or permit the removal from the Premises of any machinery, equipment or trade and other fixtures used in the operation of the Premises or otherwise from time to time located thereon, including, without limitation, the items specified on Schedule 3 attached hereto and incorporated herein by this reference (collectively, "Equipment"), except for repairs, cleaning or other servicing, unless the same is promptly replaced by Equipment of like or better kind and quality, free of any and all liens, encumbrances or security interests, and Tenant shall, in any event, maintain such Equipment on the Premises as shall be necessary and sufficient to enable Tenant to perform all of its obligations under this Lease. Further, Tenant and Landlord acknowledge that Landlord shall have the right to file an applicable Uniform Commercial Code lien against any

and all furniture, fixtures and equipment on the Property and in the Buildings, as additional collateral, security, and inducement for Landlord to enter into the Lease, as further set forth in Section 33.1 below.

29.2 Tenant's Obligation to Maintain Equipment. Tenant agrees to keep and maintain all Equipment in good, safe condition and repair and whenever necessary shall make all required replacements thereof with items of similar or better utility, quality and value. Upon the expiration or earlier termination of this Lease, all Equipment shall be owned by and shall be the property of Landlord and shall not be removed from the Premises. Notwithstanding anything herein, any equipment that is paid for or financed by Tenant shall be the sole and exclusive property of Tenant and at the expiration or earlier termination of the Lease, Tenant will remove such equipment from the Premises.

Article 30 Signage

30.1 Tenant Signage Obligations. Tenant shall not install a sign at the Premises without obtaining Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. In the event Landlord grants its written consent, Tenant shall be required to comply with all applicable rules and regulations for the installation of said sign. Tenant covenants and agrees to provide Landlord with a rendering of the sign at the time that it requests Landlord's consent. Tenant, at Tenant's own cost and expense, shall keep such sign in good and working condition, shall procure any and all permits or licenses required for the maintenance thereof, shall comply with all governmental regulations applicable or pertaining to such sign including, without limitation, zoning laws, and shall pay any tax or other charges imposed by any governmental authority with regard to such sign. Upon the expiration or sooner termination of the Term, unless Landlord elects otherwise in writing, Tenant shall remove all signs from the Premises and shall repair any damage caused thereby. Tenant acknowledges and agrees that it shall not permit anyone other than Tenant to post or install any signage of any kind in, on or near the Premises without obtaining Landlord's written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

30.2 Advertising and Publicity. Tenant may use the name of the Building or pictures or illustrations of the Building in any advertising or other publicity during the Term of this Lease, provided that Tenant omit Landlord's name, logo, or affiliates from any such publicity or advertising, unless otherwise directed or requested by Landlord.

30.3 Notice of Publication. Notwithstanding anything to the contrary, to the extent that Canadian securities laws require Tenant's parent company, Sunniva Inc., to post, publish and/or file notifications, Tenant shall, without prior consent from the Landlord, provide updates in press releases, which updates may include the Landlord's name, logo or affiliates. Tenant shall provide Landlord reasonable notice prior to such publication.

Article 31 Consents and Approvals

31.1 Non-waiver of Landlord Rights. All consents and approvals which may be given under this Lease shall, as a condition of their effectiveness, be in writing. The granting of any consent or approval by Landlord to the performance of any act by Tenant requiring the consent or approval of Landlord under any of the terms or provisions of this Lease shall relate only to the specified act or acts thereby consented to or approved and, unless otherwise specified, shall not be deemed a waiver of the necessity for such consent or approval for the same or any similar act in the future, and/or the failure on the part of Landlord to object to any such action taken by Tenant without the consent or approval of Landlord shall not be deemed a waiver of its right to require such consent or approval for any further similar act. Wherever in this Lease Landlord's consent or approval is required, if Landlord shall delay, condition or refuse such consent or approval, Tenant shall be entitled to reasonable damages as well as specific performance, injunction or declaratory judgment. The prevailing party to any such claim will be entitled to reasonable attorney's fees and costs.

Article 32 Miscellaneous

32.1 Headings. The headings in this Lease are for convenience of reference only and are not to be deemed or construed in any way as part of this Lease or as supplemental thereto or amendatory thereof.

32.2 No Partnership. Nothing contained in this Lease or otherwise is intended to make Landlord a partner or associate of Tenant or a joint venturer with Tenant, or as making or rendering Landlord in any way liable or responsible for any debts, losses, liabilities or obligations of any kind incurred by Tenant, or for the acts or omissions of Tenant, its agents, officers, servants, employees, representatives, contractors, invitees, licensees or subtenants, it being expressly acknowledged, understood and agreed that the relationship between the parties is and shall remain solely that of Landlord and Tenant and not otherwise.

32.3 Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of California.

32.4 Binding Effect. The agreements and the terms, covenants and conditions herein contained shall be binding upon and shall inure to the benefit of Landlord and Tenant and their respective successors and permitted assigns.

Article 33 Landlord's Lien/Security Interest

33.1 Landlord's Security Interest. In addition to any statutory lien for rent in Landlord's favor, Landlord shall have and Tenant hereby grants to Landlord a continuing security interest for all rentals and other sums of money due or which may become due hereunder from Tenant. Tenant also hereby grants Landlord a security interest, and this Lease constitutes a security agreement,

within the meaning of and pursuant to the California law governing commercial liens, the Leased Premises are situated as to all of Tenant's property situated in, upon or used in connection with the Premises (except merchandise sold in the ordinary course of business) as security for all of Tenant's obligations hereunder, including, without limitation, the obligation to pay all Rent. Such encumbrance includes, without limitation, all goods, wares, trade and other fixtures, furniture, equipment and other personal property (but shall exclude furniture, fixtures and equipment used directly in the cultivation of medical marijuana and any medical marijuana inventory, and contract rights (but excluding accounts receivable and the proceeds thereof), now or hereafter situated at the Premises.

33.2 Landlord's Rights and Remedies under UCC. Upon a default hereunder by Tenant, in addition to all other rights and remedies provided in this Lease or otherwise, Landlord shall have all rights and remedies under the Uniform Commercial Code, including, without limitation, the right to sell the property described in this Article 43 at public or private sale

33.3 Landlord's Obligation to Execute UCC Filings. Landlord hereby agrees to execute and Tenant agrees to participate, to the extent required, in the execution of such instrument necessary under California law to perfect the security interest hereby created. Landlord and Tenant agree that this Lease and security agreement serves as a financing statement and that a copy, photographic or other reproduction of this portion of this Lease may be filed of record by Landlord and have the same force and effect as the original. Landlord shall execute such financing statements and file the same at Landlord's expense at the State and County Uniform Commercial Code filing offices and Landlord will renew the filing as is legally necessary to maintain a security interest in the subject property. This security agreement and financing statement also covers fixtures located at the Premises subject to this Lease and legally described in Exhibit B attached hereto and incorporated herein by this reference and may be filed of record by Landlord in the real estate records.

Article 34 Regulatory and Legislative Requirements

34.1 Termination Event. Subject to Section 34.2 below, either Landlord or Tenant shall have the right to terminate this Lease upon thirty (30) days written notice to the other party in the event that any of the following shall occur (each, a "Termination Event"): (a) The Permitted Use becomes illegal due to any revocation or modification of Section 14 or Section 16 of Article XVIII of the constitution of the State of California or any other applicable State law; (b) Governmental Requirements and/or the enforcement of such Governmental Requirements change such that Tenant cannot operate its business from the Leased Premises; (c) Governmental Requirements significantly impair or materially interfere with Tenant's use of the Leased Premises; or (d) The Permitted Use presents a material threat to Landlord's ownership interest in the Leased Premises, as evidenced by Landlord's receipt of a letter or similar communication from the Federal government or other governmental authority threatening seizure, confiscation or other similar impairment of Landlord's ownership interest in the Leased Premises; provided, however, Tenant shall not have the right to terminate this Lease if an act or omission of Tenant or default by Tenant under this Lease, including, without limitation, a violation by Tenant of any

Governmental Requirements caused the Termination Event. Upon any such termination, Tenant shall immediately vacate and surrender the Leased Premises, this Lease shall terminate and the parties shall be released hereunder, except for such obligations that expressly survive the expiration or earlier termination of this Lease.

34.2 Obligation to Negotiate Compliant Lease Following Termination Event. Upon the occurrence of any Termination Event which shall make this Lease unlawful in whole or in material part, the parties shall immediately enter into good faith negotiations regarding a lease arrangement which is consistent and in compliance with Governmental Requirements and approximates as closely as possible the economic position of the parties hereunder prior to the Termination Event. If the parties are unable to reach an agreement within fifteen (15) days following the occurrence of a Termination Event, then either party may terminate this Lease in accordance with and subject to the terms of Section 33.1.

Article 35

Dispute Resolution

35.1 Waiver of Right to Jury Trial. To the extent now or hereafter permitted by law, Landlord and Tenant waive their respective rights to a trial by jury of any contract or tort claim, counterclaim, cross-complaint, or cause of action in any action, proceeding, or hearing brought by either party against the other on any matter arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, or Tenant's use or occupancy of the Premises, including any claim of injury or damage or the enforcement of any remedy under any current or future law, statute, regulation, code or ordinance.

35.2 JAMS. Any dispute that is required by the express terms of this Lease to be resolved by arbitration, shall be resolved by neutral binding arbitration before a panel of three arbitrators in accordance with the commercial/real estate and/or construction (as is applicable) rules of JAMS arbitration. Judgment on the award rendered by the arbitrators may be entered in any Court having jurisdiction over the dispute.

35.3 Qualifications of Arbitrators. The arbitrators shall be licensed attorneys with a minimum of fifteen (15) years experience handling commercial lease matters and shall also have familiarity with Medicinal and Adult-Use Cannabis Regulation and Safety Act licensing requirements.

35.4. Venue: Any arbitration hearings shall be held in Cathedral City, California, or any other venue mutually agreed by both parties in writing.

35.5 Powers and Duties of Arbitrator: The arbitrators shall have the power to grant legal and equitable remedies, and award damages, that may be granted or awarded by a judge of the Superior Court of the State of California. The arbitrators shall be required to follow California law, including all relevant precedential and statutory authority, in rendering their decision. The arbitrators shall prepare and provide to the parties a written decision on all matters subject to the arbitration, including factual findings and the reasons that form the basis of the arbitrators'

decision. The arbitrators shall not have the power to commit errors of law or legal reasoning, and the award of the arbitrators shall be vacated or corrected for any such error or any other grounds specified in *Code of Civil Procedure* §1286.2 or §1286.6. The award of the arbitrators shall be mailed to the parties no later than thirty (30) days after the close of the arbitration hearing.

35.6 Court Reporter: The arbitration proceedings may be reported by a certified shorthand reporter.

35.7 Discovery: The parties shall be permitted to conduct discovery in accordance with Code of Civil Procedure §§1283.05 and 1283.1.

35.8 Application of California Evidence Code: The provisions of the California evidence Code shall apply to the arbitration hearing.

35.9 Costs and Fees: Costs and fees of the arbitrations shall be borne equally by the parties.

35.10. Attorneys Fees: The prevailing party shall be awarded reasonable attorney fees, expert and nonexpert witness expenses, and other costs and expenses incurred in connection with the arbitration.

35.11 NOTICE: BY INITIALING IN THE SPACE BELOW, YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THIS ARTICLE 35 DECIDED BY NEUTRAL ARBITRATION PURSUANT TO CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR A JURY TRIAL. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTOOD THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THIS ARTICLE 35 TO NEUTRAL ARBITRATION.

 _____
Landlord's initials

Tenant's Initials

Article 36 Attorney's Fees

If either Landlord or Tenant institutes any action or proceeding (including an arbitration proceeding) against the other relating to the provisions of, or any default under, this Lease, the nonprevailing party in such action or proceeding shall reimburse the prevailing party for the reasonable expenses of attorney fees and all costs and disbursements incurred therein by the prevailing party, including, without limitation, any such fees, costs, or disbursements incurred on

decision. The arbitrators shall not have the power to commit errors of law or legal reasoning, and the award of the arbitrators shall be vacated or corrected for any such error or any other grounds specified in *Code of Civil Procedure* §1286.2 or §1286.6. The award of the arbitrators shall be mailed to the parties no later than thirty (30) days after the close of the arbitration hearing.

35.6 Court Reporter: The arbitration proceedings may be reported by a certified shorthand reporter.

35.7 Discovery: The parties shall be permitted to conduct discovery in accordance with *Code of Civil Procedure* §§1283.05 and 1283.1.

35.8 Application of California Evidence Code: The provisions of the California evidence Code shall apply to the arbitration hearing.

35.9 Costs and Fees: Costs and fees of the arbitrations shall be borne equally by the parties.

35.10. Attorneys Fees: The prevailing party shall be awarded reasonable attorney fees, expert and nonexpert witness expenses, and other costs and expenses incurred in connection with the arbitration.

35.11 NOTICE: BY INITIALING IN THE SPACE BELOW, YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THIS ARTICLE 35 DECIDED BY NEUTRAL ARBITRATION PURSUANT TO CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR A JURY TRIAL. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTOOD THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THIS ARTICLE 35 TO NEUTRAL ARBITRATION.

Landlord's initials

Tenant's initials

Article 36 Attorney's Fees

If either Landlord or Tenant institutes any action or proceeding (including an arbitration proceeding) against the other relating to the provisions of, or any default under, this Lease, the nonprevailing party in such action or proceeding shall reimburse the prevailing party for the reasonable expenses of attorney fees and all costs and disbursements incurred therein by the prevailing party, including, without limitation, any such fees, costs, or disbursements incurred on


any appeal from such action or proceeding. Subject to the provisions of local law, the prevailing party shall recover all such fees, costs, or disbursements as costs taxable by the court or arbitrator(s) in the action or proceeding itself without the necessity for a cross-action by the prevailing party.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the date first above written.

LANDLORD:

SUNNIVA PRODUCTION CAMPUS, LLC
a Delaware limited liability company

By: Graceland Industries, LLC
a California limited liability company
Its: Authorized Representative

By: 
Michael D. Barker
Authorized Signatory

TENANT:

CP LOGISTICS, LLC
A North Carolina limited liability company

By: _____
Its: Authorized Signatory

ACKNOWLEDGED BY:

SUNNIVA INC. (FORMERLY SUNNIVA HOLDINGS CORPORATION)

A _____ corporation

By: _____
Its: Authorized Signatory


any appeal from such action or proceeding. Subject to the provisions of local law, the prevailing party shall recover all such fees, costs, or disbursements as costs taxable by the court or arbitrator(s) in the action or proceeding itself without the necessity for a cross-action by the prevailing party.

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a Delaware limited liability company

By: Graceland Industries, LLC
a California limited liability company
Its: Authorized Representative

By: 
Michael D. Barker
Authorized Signatory

TENANT:

CP LOGISTICS, LLC
A North Carolina limited liability company

By: 
Its: Authorized Signatory

ACKNOWLEDGED BY:

SUNNIVA INC. (FORMERLY SUNNIVA HOLDINGS CORPORATION)

A ~~CANADIAN~~ corporation

By: 
Its: Authorized Signatory

EXHIBIT A**PROPERTY INFORMATION AND LEGAL DESCRIPTION**

Assessor's Parcel ID:	673-020-039
Property Address:	69375 Ramon Road, Cathedral City, CA 92234

See attached Legal Description

EXHIBIT "A"
PARCEL MERGER NO. 17-497
LEGAL DESCRIPTION
PARCEL "A"

PARCEL 1 OF PARCEL MAP NO. 31261, IN THE CITY OF CATHEDRAL CITY, THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE RIVERSIDE COUNTY RECORDER, FEBRUARY 8, 2007 IN PARCEL MAP BOOK 220, PAGES 27 THROUGH 29, INCLUSIVE, TOGETHER WITH PARCEL "A" OF CITY OF CATHEDRAL CITY PARCEL MERGER NO. 17-496, RECORDED SEPTEMBER 8, 2017 AS INSTRUMENT NO. 2017- 0373033 IN THE OFFICE OF SAID RIVERSIDE COUNTY RECORDER.

CONTAINING 19.14 ACRES, MORE OR LESS.

SEE EXHIBIT "B" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF.

THIS LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION IN COMPLIANCE WITH THE CALIFORNIA LAND SURVEYORS ACT.



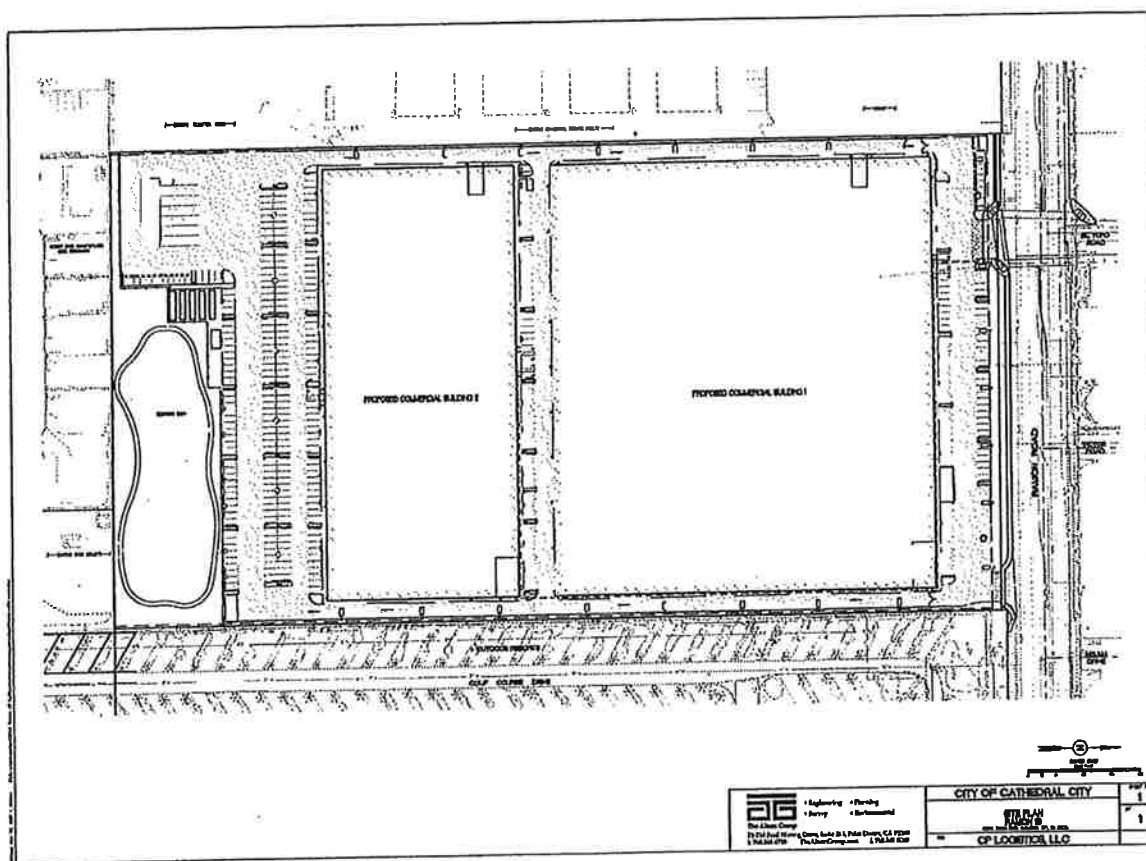


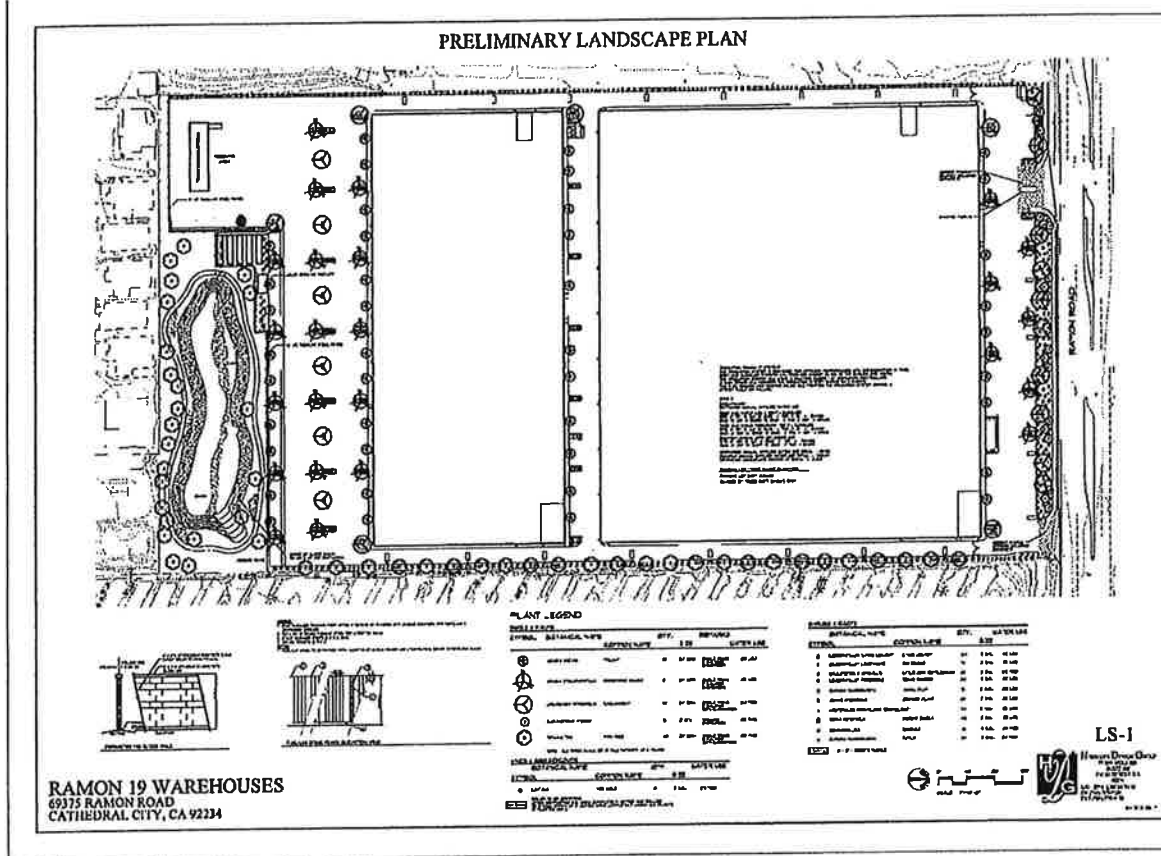
STEVEN A. HEISE, PLS 8788
 EXPIRES 12/31/18

DATE: SEPTEMBER 15, 2017

THE ALTUM GROUP
 73-710 Fred Waring Drive, Suite 219
 Palm Desert, CA 92260
 (760) 346-4750

EXHIBIT B
SITE PLAN OF PROPERTY*
 (see attached)





*subject to modification upon approval and written initial of Landlord and Tenant

EXHIBIT C

Permitted Use Licenses and Municipal Approvals

“Permitted Use” shall mean and be restricted to the cultivation, harvesting, packaging, storage, manufacturing, extraction, dispensary and distribution of medical cannabis and industrial and office uses accessory thereto only, conducted in accordance and consistent with the Municipal Approvals, attached hereto as Exhibit C-1; Tenant’s Local License, attached hereto as Exhibit C-2; Tenant’s State License, attached hereto as Exhibit C-3, and all California or local Governmental Requirements. Permitted use shall also include any future lawful cannabis use, including recreational cannabis but only to the extent that such use is in compliance with all Federal, California and Cathedral City laws, ordinances rules and regulations.

The Permitted Use consists of Exhibits C-1, C-2, and C-3.

(SEE ATTACHED)

EXHIBIT C-1



Cathedral City

MEDICAL CANNABIS BUSINESS LOCAL LICENSE

(MCL 16-016-C)

THIS LICENSE HAS BEEN ISSUED PURSUANT TO CATHEDRAL CITY MUNICIPAL CODE CHAPTER 5.88. ISSUANCE HEREOF DOES NOT ENTITLE THE OWNER TO OPERATE OR MAINTAIN A BUSINESS IN VIOLATION OF ANY OTHER LAW OR ORDINANCE. THE LICENSE DOES NOT CONSTITUTE ENDORSEMENT OF ANY ORGANIZATION OR MERCHANDISE OR SERVICES OF ANY CHARACTER. THIS LICENSE IS NON-TRANSFERABLE AND APPLICATION FOR RENEWAL MUST BE MADE AT LEAST 30 DAYS BEFORE EXPIRATION.

CP LOGISTICS LLC

ADDRESS: 69375 Ramon Road Suite B

LICENSE TYPE: Cultivation

Tamara D. Miles
Community Development Director

6/22/2017
Date

THIS LICENSE SHALL EXPIRE ON JUNE 22, 2018

POST IN A CONSPICUOUS PLACE



Cathedral City

MEDICAL CANNABIS BUSINESS LOCAL LICENSE

(MCL 16-017-C)

THIS LICENSE HAS BEEN ISSUED PURSUANT TO CATHEDRAL CITY MUNICIPAL CODE CHAPTER 5.88. ISSUANCE HEREOF DOES NOT ENTITLE THE OWNER TO OPERATE OR MAINTAIN A BUSINESS IN VIOLATION OF ANY OTHER LAW OR ORDINANCE. THE LICENSE DOES NOT CONSTITUTE ENDORSEMENT OF ANY ORGANIZATION OR MERCHANDISE OR SERVICES OF ANY CHARACTER. THIS LICENSE IS NON-TRANSFERABLE AND APPLICATION FOR RENEWAL MUST BE MADE AT LEAST 30 DAYS BEFORE EXPIRATION.

CP LOGISTICS LLC

ADDRESS: 69375 Ramon Road Suite C

LICENSE TYPE: Cultivation


Community Development Director

6/22/2017
Date

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POST IN A CONSPICUOUS PLACE



Cathedral City

MEDICAL CANNABIS BUSINESS LOCAL LICENSE

(MCL 16-024-C)

THIS LICENSE HAS BEEN ISSUED PURSUANT TO CATHEDRAL CITY MUNICIPAL CODE CHAPTER 5.38. ISSUANCE HEREOF DOES NOT ENTITLE THE OWNER TO OPERATE OR MAINTAIN A BUSINESS IN VIOLATION OF ANY OTHER LAW OR ORDINANCE. THE LICENSE DOES NOT CONSTITUTE ENDORSEMENT OF ANY ORGANIZATION OR MERCHANDISE OR SERVICES OF ANY CHARACTER. THIS LICENSE IS NON-TRANSFERABLE AND APPLICATION FOR RENEWAL MUST BE MADE AT LEAST 30 DAYS BEFORE EXPIRATION.

CP LOGISTICS LLC

ADDRESS: 69375 Ramon Road Suite D

LICENSE TYPE: Cultivation

Tamara D. Miller
Community Development Director

6/22/2017
Date

THIS LICENSE SHALL EXPIRE ON JUNE 22, 2018

POST IN A CONSPICUOUS PLACE



Cathedral City

MEDICAL CANNABIS BUSINESS LOCAL LICENSE

(MCL.16-025-C)

THIS LICENSE HAS BEEN ISSUED PURSUANT TO CATHEDRAL CITY MUNICIPAL CODE CHAPTER 5.88. ISSUANCE HEREOF DOES NOT ENTITLE THE OWNER TO OPERATE OR MAINTAIN A BUSINESS IN VIOLATION OF ANY OTHER LAW OR ORDINANCE. THE LICENSE DOES NOT CONSTITUTE ENDORSEMENT OF ANY ORGANIZATION OR MERCHANDISE OR SERVICES OF ANY CHARACTER. THIS LICENSE IS NON-TRANSFERABLE AND APPLICATION FOR RENEWAL MUST BE MADE AT LEAST 30 DAYS BEFORE EXPIRATION.

CP LOGISTICS LLC

ADDRESS: 69375 Ramon Road Suite E

LICENSE TYPE: Cultivation


Community Development Director

6/22/2017
Date

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POST IN A CONSPICUOUS PLACE



Cathedral City

MEDICAL CANNABIS BUSINESS LOCAL LICENSE

(MCL 16-043-C)

THIS LICENSE HAS BEEN ISSUED PURSUANT TO CATHEDRAL CITY MUNICIPAL CODE CHAPTER 5.88. ISSUANCE HEREOF DOES NOT ENTITLE THE OWNER TO OPERATE OR MAINTAIN A BUSINESS IN VIOLATION OF ANY OTHER LAW OR ORDINANCE. THE LICENSE DOES NOT CONSTITUTE ENDORSEMENT OF ANY ORGANIZATION OR MERCHANDISE OR SERVICES OF ANY CHARACTER. THIS LICENSE IS NON-TRANSFERABLE AND APPLICATION FOR RENEWAL MUST BE MADE AT LEAST 30 DAYS BEFORE EXPIRATION.

CP LOGISTICS LLC

ADDRESS: 69375 Ramon Road Suite F

LICENSE TYPE: Cultivation

Community Development Director

6/22/2017
Date

THIS LICENSE SHALL EXPIRE ON JUNE 22, 2018

POST IN A CONSPICUOUS PLACE



Cathedral City

MEDICAL CANNABIS BUSINESS LOCAL LICENSE

(MCL 16-044-C)

THIS LICENSE HAS BEEN ISSUED PURSUANT TO CATHEDRAL CITY MUNICIPAL CODE CHAPTER 5.88. ISSUANCE HEREOF DOES NOT ENTITLE THE OWNER TO OPERATE OR MAINTAIN A BUSINESS IN VIOLATION OF ANY OTHER LAW OR ORDINANCE. THE LICENSE DOES NOT CONSTITUTE ENDORSEMENT OF ANY ORGANIZATION OR MERCHANDISE OR SERVICES OF ANY CHARACTER. THIS LICENSE IS NON-TRANSFERABLE AND APPLICATION FOR RENEWAL MUST BE MADE AT LEAST 30 DAYS BEFORE EXPIRATION.

CP LOGISTICS LLC

ADDRESS: 69375 Ramon Road Suite G

LICENSE TYPE: Cultivation


Community Development Director

6/22/2017
Date

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POST IN A CONSPICUOUS PLACE



Cathedral City

MEDICAL CANNABIS BUSINESS LOCAL LICENSE
(MCL 16-045-C)

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CP LOGISTICS LLC

ADDRESS: 69375 Ramon Road Suite H
LICENSE TYPE: Cultivation

Tamara D. Miller
Community Development Director

6/22/2017
Date

THIS LICENSE SHALL EXPIRE ON JUNE 22, 2018
POST IN A CONSPICUOUS PLACE



Cathedral City

MEDICAL CANNABIS BUSINESS LOCAL LICENSE

(MCL 16-046-C)

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CP LOGISTICS LLC

ADDRESS: 69375 Ramon Road Suite 1

LICENSE TYPE: Cultivation

Tamara Miller
Community Development Director

6/22/2017
Date

THIS LICENSE SHALL EXPIRE ON JUNE 22, 2018

POST IN A CONSPICUOUS PLACE



Cathedral City

MEDICAL CANNABIS BUSINESS LOCAL LICENSE

(MCL 16-047-C)

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CP LOGISTICS LLC

ADDRESS: 69375 Ramon Road Suite J

LICENSE TYPE: Cultivation

Tamara D. Miller
Community Development Director

6/22/2017
Date

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POST IN A CONSPICUOUS PLACE



Cathedral City

MEDICAL CANNABIS BUSINESS LOCAL LICENSE

(MCL 16-048-C)

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CP LOGISTICS LLC

ADDRESS: 69375 Ramon Road Suite K

LICENSE TYPE: Cultivation


Community Development Director


Date

THIS LICENSE SHALL EXPIRE ON JUNE 22, 2018

POST IN A CONSPICUOUS PLACE



Cathedral City

MEDICAL CANNABIS BUSINESS LOCAL LICENSE

(MCL 16-049-C)


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CP LOGISTICS LLC

ADDRESS: 69375 Ramon Road Suite L

LICENSE TYPE: Cultivation


Community Development Director


Date

THIS LICENSE SHALL EXPIRE ON JUNE 22, 2018

POST IN A CONSPICUOUS PLACE



Cathedral City

MEDICAL CANNABIS BUSINESS LOCAL LICENSE

(MCL 16-050-C)

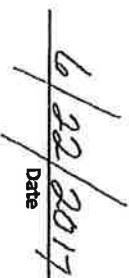
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CP LOGISTICS LLC

ADDRESS: 69375 Ramon Road Suite M

LICENSE TYPE: Cultivation


Community Development Director


Date

THIS LICENSE SHALL EXPIRE ON JUNE 22, 2018

POST IN A CONSPICUOUS PLACE



Cathedral City

MEDICAL CANNABIS BUSINESS LOCAL LICENSE

(MCL 16-051-C)

THIS LICENSE HAS BEEN ISSUED PURSUANT TO CATHEDRAL CITY MUNICIPAL CODE CHAPTER 5.88. ISSUANCE HEREOF DOES NOT ENTITLE THE OWNER TO OPERATE OR MAINTAIN A BUSINESS IN VIOLATION OF ANY OTHER LAW OR ORDINANCE. THE LICENSE DOES NOT CONSTITUTE ENDORSEMENT OF ANY ORGANIZATION OR MERCHANDISE OR SERVICES OF ANY CHARACTER. THIS LICENSE IS NON-TRANSFERABLE AND APPLICATION FOR RENEWAL MUST BE MADE AT LEAST 30 DAYS BEFORE EXPIRATION.

CP LOGISTICS LLC

ADDRESS: 69375 Ramon Road Suite N

LICENSE TYPE: Cultivation


Community Development Director

6/22/2017
Date

THIS LICENSE SHALL EXPIRE ON JUNE 22, 2018

POST IN A CONSPICUOUS PLACE



Cathedral City

MEDICAL CANNABIS BUSINESS LOCAL LICENSE
(MCL 16-052-c)

THIS LICENSE HAS BEEN ISSUED PURSUANT TO CATHEDRAL CITY MUNICIPAL CODE CHAPTER 5.88. ISSUANCE HEREOF DOES NOT ENTITLE THE OWNER TO OPERATE OR MAINTAIN A BUSINESS IN VIOLATION OF ANY OTHER LAW OR ORDINANCE. THE LICENSE DOES NOT CONSTITUTE ENDORSEMENT OF ANY ORGANIZATION OR MERCHANDISE OR SERVICES OF ANY CHARACTER. THIS LICENSE IS NON-TRANSFERABLE AND APPLICATION FOR RENEWAL MUST BE MADE AT LEAST 30 DAYS BEFORE EXPIRATION.

CP LOGISTICS LLC

ADDRESS: 69375 Ramon Road Suite O

LICENSE TYPE: Cultivation


Community Development Director

6/22/2017
Date

THIS LICENSE SHALL EXPIRE ON JUNE 22, 2018
POST IN A CONSPICUOUS PLACE



Cathedral City

MEDICAL CANNABIS BUSINESS LOCAL LICENSE

(MCL 16-053-C)

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CP LOGISTICS LLC

ADDRESS: 69375 Ramon Road Suite P

LICENSE TYPE: Cultivation


Community Development Director

6/22/2017
Date

THIS LICENSE SHALL EXPIRE ON JUNE 22, 2018

POST IN A CONSPICUOUS PLACE



Cathedral City

MEDICAL CANNABIS BUSINESS LOCAL LICENSE

(MCL 16-054-C)

THIS LICENSE HAS BEEN ISSUED PURSUANT TO CATHEDRAL CITY MUNICIPAL CODE CHAPTER 5.88. ISSUANCE HEREOF DOES NOT ENTITLE THE OWNER TO OPERATE OR MAINTAIN A BUSINESS IN VIOLATION OF ANY OTHER LAW OR ORDINANCE. THE LICENSE DOES NOT CONSTITUTE ENDORSEMENT OF ANY ORGANIZATION OR MERCHANDISE OR SERVICES OF ANY CHARACTER. THIS LICENSE IS NON-TRANSFERABLE AND APPLICATION FOR RENEWAL MUST BE MADE AT LEAST 30 DAYS BEFORE EXPIRATION.

CP LOGISTICS LLC

ADDRESS: 69375 Ramon Road Suite Q

LICENSE TYPE: Cultivation


Community Development Director

6/22/17
Date

THIS LICENSE SHALL EXPIRE ON JUNE 22, 2018

POST IN A CONSPICUOUS PLACE



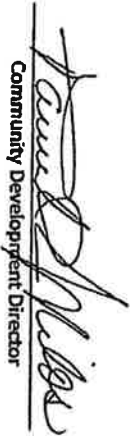
Cathedral City

MEDICAL CANNABIS BUSINESS LOCAL LICENSE (MCL 16-055-C)

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CP LOGISTICS LLC

ADDRESS: 69375 Ramon Road Suite R
 LICENSE TYPE: Cultivation


 Community Development Director

6/22/2017
 Date

THIS LICENSE SHALL EXPIRE ON JUNE 22, 2018

POST IN A CONSPICUOUS PLACE



Cathedral City

MEDICAL CANNABIS BUSINESS LOCAL LICENSE

(MCL 16-056-C)

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CP LOGISTICS LLC

ADDRESS: 69375 Ramon Road Suite 5

LICENSE TYPE: Cultivation

Tamara Miller
Community Development Director

6/22/2017
Date

THIS LICENSE SHALL EXPIRE ON JUNE 22, 2018

POST IN A CONSPICUOUS PLACE

EXHIBIT C-2

**Cathedral City**

June 22, 2017

Via Regular United States Mail and Certified Mail, Return Receipt Requested

Edlin Kim
4231 Balboa Avenue, #1065
San Diego CA 92117

Re: Medical Cannabis Business Local License Approval
CP Logistics (MCL 16-016-C&D, MCL 16-017,024,025,043,044,045,046,047,048,049,
050,051,052,053,054,055,056-C)

Dear Mr. Kim,

I am pleased to inform you that the City of Cathedral City ("City") has completed its review of the Medical Cannabis Business Local License ("Local License") application and background check for CP Logistics and you have met all the necessary criteria for issuance of a Local License. The Local License has been issued and is enclosed.

As you are aware, in order to operate, your Medical Cannabis Business must first obtain approval of a Conditional Use Permit, pursuant to the procedures set forth in Cathedral City Municipal Code Chapter 9.108.

The Local Licenses are valid for one year from the date of issuance. (Cathedral City Municipal Code section 5.88.055(F)). You are required to apply for renewal of the Local Licenses no less than thirty (30) calendar days prior to the expiration date. (Cathedral City Municipal Code section 5.88.055(A)).

Should you have any questions, please contact our Planning Manager Robert Rodriguez at 760-770-0344.

Sincerely,

Charles P. McClendon
City Manager

EXHIBIT C-3

*Forthcoming and expected in 2018

EXHIBIT D

Work Letter Agreement

The Work Letter consists of Exhibits D-1, D-2, and D-3.

EXHIBIT D-1

Base Building Work and Improvements

I. INTRODUCTORY PROVISIONS

A. Timing. As of the Effective Date of the Lease to which this Exhibit D-1 is attached (the "Lease"), Landlord is the owner of the Land. Accordingly, and notwithstanding any other provision of this Exhibit D-1 to the contrary, the obligations of Landlord and Tenant to proceed with the design of the Improvements, the submission for permits, the bidding and awarding of construction contracts and the actual construction of the Improvements shall be sequenced and undertaken in a manner consistent with the general development timetable in of Exhibit D-2.

B. Architects and Design. The parties shall use Joe Engel, Klawiter, and Thomas Larsen and Sequoia Trails (or affiliate) as the collective architect team ("Landlord's Architect"), for the architectural design of the Building, including all structural, mechanical, electrical and plumbing aspects and interior finish thereof, and the Altum Group ("Landlord's Engineer"), for the civil engineering associated with the Leased Premises. Landlord's Architect and Landlord's Engineer, together with such additions and substitutions thereof as determined by Landlord in its good faith discretion, are referred to collectively as the "Design Professionals". The Design Professionals shall supervise the process of obtaining necessary development approvals for the Improvements.

CB. General Contractor. To ensure cost efficiency and adherence to schedule, Landlord shall retain Orr Builders, or another general contractor selected by Landlord (the "GC"), to serve as general contractor for construction of the Project.

C. Responsibility. Landlord shall be responsible for all matters that must be accomplished to complete the construction of the Building and all leasehold improvements to be initially constructed therein, including filing plans and other required documentation with the proper governmental authorities and securing all necessary permits for the performance of any and all work required to be performed under the Approved Base Building Plans and Approved TI Plans (as such terms are defined below), all of which will be deemed part of Landlord's Work and, upon completion of Landlord's Work, all approvals and permits necessary for Tenant to occupy the Leased Premises including all final inspections for issuance of Tenant's certificate of use and occupancy (to the extent the same is capable of being obtained by Landlord prior to the completion of any Tenant Work to be performed by Tenant within the Leased Premises).

Promptly after issuance of the requisite permits for each portion of Landlord's Work, Landlord agrees to cause the GC to commence and thereafter to perform such portion of Landlord's Work in a diligent, workmanlike manner, and in accordance with applicable codes and legal requirements, including without limitation the accessibility requirements of the Americans with Disabilities Act ("ADA"). Landlord shall use good faith efforts to cause its GC to complete Landlord's Work within the time frames contemplated by this Lease, including Exhibit D-2.

D. Defined Terms. The terminology herein shall have the same meaning ascribed to such terminology within the Lease. In addition, the following terms shall have the following meanings:

"30-Day Notice" shall have the meaning ascribed to such term in Paragraph II.B.7

"ADA" shall have the meaning ascribed to such term in Paragraph I.D.

"Approved Base Building Plans" shall mean the final construction drawings and specifications, prepared by Landlord's Architect and the other Design Professionals, based on the Basis of Design and consistent with Exhibit D-3 attached hereto, which drawings and specifications are incorporated by reference into this Exhibit D-1 and the Lease.

"Approved TI Plans" shall mean the TI Plans prepared by the Design Professionals, after the same have been finally approved by the parties as provided below.

"Base Building" shall mean the core and shell components specifically set forth in the Approved Base Building Plans.

"Bid Format" shall have the meaning ascribed to such term in Paragraph IV.F.(3)(4).

"Budget" shall mean the budget to complete the Approved TI Plans, as set forth in Exhibit D-4, as the same may be amended from time to time upon mutual approval of the parties.

"Change Order Costs" shall mean the incremental, justifiable and documented additional costs associated with any change order to the Approved TI Plans requested by Tenant to the extent such costs, when added to the TI Costs, exceed the Tenant Improvement Allowance. Change Order Costs shall be included in the regular monthly billing of TI Costs provided to Tenant on a monthly basis in accordance with Paragraph IV.C. Notwithstanding anything to the contrary, no change order costs that are a result of the Landlord's failure to construct TI improvements in accordance with the TI Approved Plans shall be passed on to the Tenant and shall be the sole and exclusive responsibility of the Landlord.

"Completion Notice" shall have the meaning ascribed to such term in Paragraph II.B.7.

"Construction Commencement" shall mean the date upon which the construction of Landlord's Base Building Work is deemed to have commenced, as evidenced by (i) the commencement of site development work at the Premises in preparation for the installation of the foundations of the Building, (ii) Landlord's receipt of a building permit for the foundation of the Building, and

(iii) the mobilization of the GC at the Premises for the commencement of the construction pursuant to the Shell Construction Contract.

"Construction Contracts" shall mean all contracts entered into by Landlord for the construction of the Improvements, including without limitation the Shell Construction Contract and the TI Construction Contract.

"Construction Documents" shall mean the Approved Base Building Plans and the Approved TI Plans, or as the same may be modified (i) by any approved change orders to the Approved TI Plans, and (ii) all applicable legal requirements asserted by governmental authorities in the process of obtaining the issuance of building permits or other approvals for Landlord's Work. The Construction Documents shall comply with all governmental rules, codes and requirements, and shall designate, among other things, the locations of and specifications for all mechanical, electrical and plumbing equipment to be installed in all spaces, all partitions, doors, lighting fixtures, electric receptacles and switches, telephone outlets, and air conditioning and other improvements to be installed. Landlord is responsible for obtaining all approvals required under the Park Restrictions for the Construction Documents, and Landlord's approval of the Construction Documents shall be deemed Landlord's representation that the Construction Documents comply with the Park Restrictions.

"Critical Path" shall mean a schedule and sequencing of items to be completed as part of the orderly completion of Landlord's Work in order to achieve Substantial Completion thereof by the date set forth on Exhibit D-2. With respect to Landlord's Work, "Critical Path" shall generally mean and refer to those items of Landlord's Work which must be completed in sequence and each on time in order for Landlord to deliver the Landlord's Work Substantially Completed by the date set forth on Exhibit D-2, and specifically refers to items of work which, if delayed, will cause delay in the timing of completion of Landlord's Work by the date set forth on Exhibit D-2. Any incomplete item(s) of Landlord's Work which are not integral to the Substantial Completion of Landlord's Work by the date therefore set forth on Exhibit D-2 shall not be considered "Critical Path" but Landlord agrees to use good faith efforts to adhere to the Target Schedule, subject to Force Majeure and Tenant Delays.

"Critical Path Item(s)" shall be those items of Landlord's Work the timely completion of which are necessary in order for Landlord to achieve Substantial Completion of Landlord's Work by the Target Date (as set forth in Exhibit D-2) and otherwise within the Target Schedule

"Delineation of Landlord's Base Building and Landlord's TI Work" shall mean the outline attached as Exhibit D-3.

"Design Professionals" shall have the meaning ascribed to such term in Paragraph I.B. of this Exhibit D-1.

"Early Work" shall mean any Tenant Work which Tenant is permitted to undertake at the Premises pursuant to this Exhibit D-1 prior to the Lease Commencement Date, and shall, with Landlord's prior written consent, include any installations of modular furniture in the Premises, and the installation of phone and data cabling in the Premises.

"Excess Costs" shall mean any one or more of the following (i) additional costs of construction which are incurred by Landlord due to Tenant Delays or Tenant's default under the Lease or this Exhibit D, and (ii) Change Order Costs. For avoidance of doubt, except for payment of Excess Costs as defined herein, Tenant shall have no responsibility or liability for payment of costs overruns, if any, incurred by Landlord in the construction of Landlord's Work.

"Final Bid Format" shall have the meaning ascribed to such term in Paragraph IV.F.(4) of this Exhibit D-1.

"Force Majeure" shall mean and refer to delays in the Critical Path caused by reason of strikes, lock-outs, inability to procure materials, delays in transportation, failure of power, unusual governmental delay, including but not limited to any unusual period of time required to obtain any building or similar permit which is not reflected in the Target Schedule, riots, insurrection, war, fire or other casualties, acts of God, extreme rain or other adverse weather conditions beyond normal conditions for the season, or any other reason not reasonably within the control of the party so delayed, hindered or prevented, from performing work or doing any act required under the terms of this Exhibit D-1 of this Lease. The period of the performance of any such act delayed due to Force Majeure will be extended for a period equal to the period of such delay. Notwithstanding the foregoing, lack of funds is not an excuse delaying, hindering or preventing a party from performing under this Exhibit D-1. Any party claiming the benefit of a delay due to Force Majeure shall have the obligations (A) to notify the other party within a reasonable time period after such delay commences, and (B) to use all reasonable and diligent efforts to minimize the duration of such delay and the effect of the delay upon the Critical Path.

"GC" shall have the meaning ascribed to such term in Paragraph I.C. of this Exhibit D-1.

"Improvements" shall mean the Building, all interior improvements thereto, and all exterior site improvements to be constructed by Landlord on the Property in accordance with the Approved Base Building Plans, Approved TI Plans, and, ultimately, the Construction Documents.

"Initial TI Plans" shall mean the plans and specifications attached hereto as Exhibit D-4 with respect to Landlord's TI Work. Upon the determination of the Approved TI Plans pursuant to Paragraph II.B(2) below, the Initial Plans shall be superseded and replaced by such Approved TI Plans.

"Landlord's Architect" shall have the meaning ascribed to such term in Paragraph I.B. of this Exhibit D-1.

"Landlord's Base Building Work" shall mean the construction of the Base Building, all completed in substantial accordance with the Approved Base Building Plans.

"Landlord's Engineer" shall have the meaning ascribed to such term in Paragraph I.B. of this Exhibit D-1.

"Landlord's TI Work" shall mean the construction of interior and exterior leasehold improvements to the Building, including but not limited to, the installation or construction of

(a) a "header/support" building, consisting of approximately 78,000 square feet, (b) a cultivation center consisting of approximately 244,500 square feet, and (c) a mezzanine area consisting of approximately 3,099 square feet, all of which shall conform in all respects with the Approved TI Plans.

"Landlord's Work" shall mean, collectively, Landlord's Base Building Work and Landlord's TI Work.

"Parking Lot" shall mean the parking lot, as described and depicted in the Site Plan.

"Penalty Date" shall have the meaning ascribed to such term in Paragraph III(E) if this Exhibit D-1.

"Per Diem Delay Penalty" shall have the meaning ascribed to such term in Paragraph III(E) of this Exhibit D-1.

"Phased Occupancy and Minimum Rent" The Parties understand and agree that Landlord will permit Tenant to occupy the Premises in Phases, in accordance with all city approvals. To the extent that Tenant occupies a portion of the Premises and begins active operations, the Tenant shall pay Minimum Rent equal to the portion of the square footage that Tenant is both occupying and engaged in active operations. For purposes of example only, if during the phased occupancy, Tenant occupies 20,000 square feet of the premises and begins active operations, Tenant will be responsible for paying the Monthly Rentable Rate of \$1.19 x 20,000 square feet. Minimum Rent shall commence following the first full month of Tenant's phased occupancy. This provision does not apply to Tenant entering the premises for the purposes of installing equipment, fixtures and/or utilities. Tenant's obligation for payment of Minimum Rent only applies if Tenant commences active operations.

"Punch List Items" shall mean an itemized list prepared in accordance with Paragraph II.B.7(b) hereof.

"Reimbursement Agreement" shall have the meaning ascribed to such term in Paragraph I.A. of this Exhibit D-1.

"Request for Clarification" shall have the meaning ascribed to such term in Paragraph IV.F.(3) of this Exhibit D-1.

"Shell Construction Contract" shall mean the construction contract entered into by Landlord with the GC for construction of Landlord's Base Building Work (including without limitation all exterior site improvements, such as telecommunication conduits serving Tenant's information technology facilities as reflected on the Approved Base Building Plans).

"Site Plan" shall mean the site plan attached hereto as Exhibit A.

"Substantial Completion" shall mean, with regard to particular work, completion of the applicable work in accordance with the approved plans so that Tenant can use the Premises for

Tenant's business (as modified by any approved change orders to the Approved TI Plans and(excluding minor modifications due to the unavailability of specified equipment or materials and exclusive of incomplete or defective items of the type normally included within a punch list). Substantial Completion of Landlord's Work as a whole shall mean (1) the Building shell has been substantially completed; (2) all systems serving the Building have been substantially completed and/or are operational and the HVAC systems shall be balanced (and a balance report delivered to Tenant) subject to subsequent adjustment upon occupancy of the Building; (3) all of Landlord's TI Work shall have been substantially completed except for customary punch list items that do not interfere with the use of the Building for Tenant's regular business operations; (4) all exterior/site improvements, including but not limited to surface parking areas, and exterior utilities, have been substantially completed and/or are operational, other than final landscaping installations which must be deferred due to seasonal considerations and subject to punch list items; (5) the interior of the Building is in broom clean condition, and all construction debris has been removed from the Property; and (6) Landlord has obtained temporary certificates of occupancy for the Building, authorizing the occupancy thereof by Tenant for its intended use, and all other governmental inspections and other approvals in connection with the Landlord's Work that are able to be obtained prior to Tenant's installation of its trade fixtures, furniture and equipment. Notwithstanding the foregoing, in the event Tenant has notified Landlord that Tenant does not intend to perform its obligations under the Lease or there is an Event of Default prior to the Lease Commencement Date, and Landlord elects to pursue damages against Tenant pursuant to the terms of the Lease as a result of receiving such notice from Tenant, then in no event shall Landlord be entitled to receive damages which exceed the sum of (i) one hundred percent (100%) of the costs incurred by Landlord to acquire the Property (as defined in the Lease), plus (ii) eighty-nine and 95/100ths percent (89.95%) of the then incurred costs of Landlord's Work that are properly capitalizable as a cost of construction in accordance with generally accepted accounting principles. Notwithstanding Landlord's receipt of such notice from Tenant or the occurrence of an Event of Default prior to the Lease Commencement Date, nothing contained in this Exhibit D or the Lease shall prevent, impair or otherwise constitute a waiver of Landlord's rights to pursue and achieve Substantial Completion of Landlord's Work (including Landlord's TI Work in accordance with the Initial TI Plans or, if applicable following the determination of same pursuant to Paragraph II.B(2) below, the Approved TI Plans) and require the strict performance by Tenant of all obligations of Tenant arising under the Lease following such Substantial Completion, failing such strict performance by Tenant Landlord shall, following the expiration of applicable notice and cure periods, be entitled to obtain all remedies available to Landlord under the Lease.

"Substantially Complete" and similar phrases shall mean that the item of Landlord's Work in question has attained Substantial Completion as defined above.

"Target Date" shall mean June 30, 2018, as such date may be extended pursuant to the terms and provisions of the Lease and/or this Exhibit D-1.

"Target Schedule" shall mean the general construction schedule for Landlord's Work which is attached as Exhibit D-2, initialed by each of Landlord and Tenant, dated as of December, 2017, and made a part hereof.

"Tenant Delay(s)" shall mean any delay (other than due to a Force Majeure event) in the performance of Landlord's Work occasioned by (i) Tenant's failure to review and respond to, provide submissions of, and reach agreement with Landlord on the TI Plans in accordance with the time periods set forth in Exhibits D-1 and D-2, (ii) changes to Landlord's TI Work requested by Tenant, (excluded are changes due to Landlord's failure to construct TI work in strict conformity with the TI Approved Plans) with the period of delay to be specified in the change order signed by Landlord and Tenant authorizing such change, or (iii) the performance of Tenant Work, provided that any acts of Tenant or its contractors in the performance of Tenant Work shall not constitute a Tenant Delay unless such acts continue for more than four (4) Business Days after receipt of written notice from Landlord that such acts are delaying the performance of Landlord's Work. Any Tenant Delay must be sent by Landlord in writing within ten (10) days after the beginning of Landlord's knowledge of the circumstances that constitute the Tenant Delay. Failure to deliver the written notice within the time required shall constitute a waiver of the applicable Tenant Delay.

"Tenant's Personnel" shall have the meaning ascribed to such term in Paragraph II.B.(8)(b) of this Exhibit D-1.

"Tenant's Representative" shall be Duncan Gordon (and who may be changed by Tenant at any time upon giving Landlord prior written notice thereof), who Tenant agrees shall be available to meet and consult with Landlord at the Building as Tenant's Representative respecting the matters which are the subject of this Exhibit D and who, as between Landlord and Tenant, shall have the power to legally bind Tenant with respect to notices from Tenant making requests for and approving changes, giving approval of plans or work, or otherwise giving directions to Landlord under this Exhibit D. Tenant may change such designation at any time by providing written notice to Landlord.

"Tenant Work" shall mean any construction work under separate permit to be obtained by Tenant, furniture installations and other installations (including telephone systems, upgraded security systems, computer LAN wiring or other similar installations), to the extent the same are reasonably approved by Landlord, which approval shall not be unreasonably withheld or delayed, in writing and are not provided for under the Construction Documents and are intended by Tenant to be performed by Tenant or under Tenant's supervision prior to Tenant's occupancy.

"TI Construction Contract" shall mean the construction contract entered into by Landlord with the GC for construction of Landlord's TI Work or a change order under Landlord's existing construction contract with the GC which specifically addresses Landlord's TI Work.

"TI Costs" shall have the meaning set forth in Paragraph IV.B. of this Exhibit D-1

"TI Plans" shall mean, collectively, architectural plans, construction drawings and structural, mechanical, electrical and plumbing (MEP) drawings and specifications for Landlord's TI Work, in form sufficient for the permitting and construction of Landlord's TI Work.

II. LANDLORD'S WORK

A. Landlord's Base Building Work/Design and General Performance Covenant.

(1) Landlord's Base Building Work - Generally. Upon agreement on the Approved Base Building Plans, entry into the Shell Construction Contract, and Landlord's receipt of a building permit allowing such construction, Landlord shall cause to be constructed Landlord's Base Building Work, all in accordance with the provisions of this Exhibit D. Such construction shall be completed in accordance with the Approved Base Building Plans. Landlord's construction of the Base Building shall be performed in a good and workmanlike manner and in accordance with all insurance underwriter's requirements, and any recorded deeds of trust, mortgages, covenants, conditions, or restrictions by duly licensed contractors under the supervision of a competent architect or licensed structural engineer. .

(2) Approved Base Building Plans. Pursuant to the terms of the Reimbursement Agreement, Landlord has previously caused Landlord's Architect and other Design Professionals to commence and complete the Approved Base Building Plans, which plans have been approved by Landlord and Tenant prior to the date hereof. Landlord shall not be obligated to make any revisions to the Approved Base Building Plans.

(3) Performance of Landlord's Base Building Work. Landlord agrees to apply for and diligently pursue the issuance of one (1) or more building permits for the performance of Landlord's Base Building Work. Tenant acknowledges that Landlord may initially apply for a site development plan approval and thereafter one (1) or more building permits which encompass all or a portion of Landlord's Base Building Work, or which encompasses all of Landlord's Work. Promptly after the latest to occur of (i) the issuance of such building permits, and (ii) Landlord's entry into the Shell Construction Contract, Landlord will promptly cause Landlord's Base Building Work to be commenced, completed, installed or performed, as the case may be, in accordance with the Approved Base Building Plans, subject only to variations as described below, and any modifications required by applicable governmental authorities in review of the Approved Base Building Plans as part of the process of obtaining a building permit. During construction of the Building, Landlord shall have the right to make substitutions of material(s) of equivalent grade and quality, and to make changes necessitated by unforeseeable conditions met in the course of construction, provided Landlord shall seek Tenant's written approval of any change to the Approved Base Building Plans which is not in conformity with the Basis of Design, which approval shall not be unreasonably withheld, conditioned or delayed. If Tenant fails to respond to a request to approve a material change requiring Tenant's approval within five (5) days following the date such request was received by Tenant, then Landlord's request shall be deemed to be approved. If Tenant reasonably disapproves of any material change requiring Tenant's approval, Tenant will provide Landlord a written statement setting forth with reasonable specificity its reason for such disapproval and Landlord shall resubmit its request with respect to such material change addressing Tenant's disapproval. If Tenant fails to respond in the times set forth above, such failure shall be deemed to constitute Tenant's approval of such change. This process shall continue until such change is approved or deemed to be approved.

Landlord shall be responsible for any construction delays and construction defects arising from Landlord's Work.

B. Landlord's TI Work/Design, Change Orders and General Performance Covenants.

(1) Preparation of TI Plans. As set forth above, Landlord is undertaking Landlord's TI Work as an accommodation to Tenant and shall have no liability or responsibility for the design thereof, the sufficiency for Tenant's intended purpose, or any cost thereof in excess of the Tenant Improvement Allowance, unless any excess cost is caused by any act or omission of the Landlord. .

(2) Plans and Specifications for Landlord's TI work. . Promptly following the date hereof, Tenant shall work with the Design Professionals for the purpose of creating a design for the TI improvements that are necessary and desirable for Tenant's business and the uses permitted under this Lease. Landlord shall promptly review the Plans and Specifications and shall within five (5) business days after receipt either approve them or deliver to Tenant Landlord's specific objections to them. Landlord shall at all times exercise reasonable discretion in objecting to any portion of the TI plans and specifications. If Landlord objects to all or part of the Plans and Specifications, Tenant shall deliver revised Plans and Specifications to Landlord within ten (10) business days after receipt of Landlord's objections. Within five (5) days after receipt of the revisions, Landlord shall review the revised Plans and Specifications and shall notify Tenant in writing of any further revisions, additions, deletions, and information required by Landlord and the reasons therefor. The procedure set forth in this paragraph will be repeated until such TI Plans and Specifications are agreed on.

When the TI plans and specifications are approved by the Parties, they shall be signed and dated by the Parties. The Final TI Plans and Specifications shall be deemed to be part of this Lease as if set out in full in the body of this Lease and shall be construed to be the Approved TI Plans wherever in this Lease reference is made to TI plans and specifications, unless specifically provided otherwise. There shall not be any changes to the Approved TI Plans without prior written approval of both Landlord and Tenant, which approval by either party shall not be unreasonably withheld or delayed.

(3) Landlord's TI Work. Following final approval of the Approved TI Plans, Landlord agrees promptly to apply for a building permit for the performance of Landlord's TI Work. Tenant acknowledges that Landlord may apply for a building permit which encompasses only Landlord's TI Work, or which encompasses all or certain portions of Landlord's Work. Promptly after the latest to occur of (i) the issuance of such building permit, (ii) Landlord's entry into the TI Construction Contract, and (iii) the completion of such portion of Landlord's Base Building Work as is necessary in order to commence Landlord's TI Work in compliance with prudent construction practices and the Critical Path, Landlord will promptly cause Landlord's TI Work to be commenced, completed, installed or performed, as the case may be, in accordance with the Approved TI Plans, subject only to variations necessitated by the unavailability of specified materials and equipment (due to no fault of Landlord) and any modifications required by applicable governmental authorities in review of the Approved TI Plans as part of the process of obtaining a building permit. Landlord shall not make any material changes to the Approved TI

Plans, including material changes to materials and equipment, without first consulting with Tenant and obtaining Tenant's written consent thereto, which shall not be unreasonably withheld, conditioned or delayed. Landlord shall cause to be constructed all TI work as follows: (1) promptly with due diligence; (2) in a good and workmanlike manner; (3) in accordance with approved TI plans; (4) at the sole cost and expense of Landlord, subject to section IV, below; (5) in compliance with all zoning and building codes and (6) in accordance with all other applicable laws, ordinances, orders and requirements of all state and municipal governments.

(4) Change Orders. Tenant shall be allowed to make change orders only to the Approved TI Plans provided that (i) any such proposed change order shall be submitted to Landlord for Landlord's consent, which consent shall not be unreasonably withheld or delayed. Landlord shall have five (5) business days to respond to any Change Orders. If Landlord does not respond within five (5) business days, then the Change Orders shall be deemed approved by the Landlord. In the event Landlord rejects all or a portion of the Change Order, Landlord shall notify Tenant in writing of the basis for its disapproval, which must be in accordance with the reasonableness and other standards set forth in the Lease (as aforesaid), and Landlord and Tenant will work together expeditiously and in a commercially reasonable manner to reach an agreement on any such proposed change order); (ii) the cost and credits, if any, associated with such change shall be documented in a written change order signed by both Landlord and Tenant, and any Change Order Costs resulting from such change shall be paid by Tenant to Landlord in accordance with Paragraph IV below (and any net savings resulting from such change shall be applied as a credit to TI Costs); and (iii) any delay occasioned by any such change order (which shall be specified in the change order) shall be deemed a Tenant Delay within the meaning of this Exhibit D-1.

(5) Tenant's Inspection Right. Subject to the insurance requirements and the reasonable rules and regulations of the GC, Tenant or any duly authorized representative of Tenant, shall have the right during normal business hours, and accompanied by a representative of either Landlord or the GC, to have access to the Premises for purposes of observation and inspection during the performance of Landlord's Work, provided that Tenant or Tenant's Representative shall have the obligation to provide prior notice of any such entry to the GC and to Landlord's Project Manager.

(6) Correction of Defects. Landlord shall promptly undertake and diligently prosecute (or cause the GC to undertake and prosecute) the correction of any defects in Landlord's Work of which Landlord is notified in writing and which have been verified by Landlord as a result of any of the aforesaid inspections by Tenant. Any costs of correcting such defects shall be born exclusively by the Landlord.

(7) Substantial Completion; Delivery of Possession; Punch List.

(a) Landlord shall deliver to Tenant a written notice (the "30-Day Notice") approximately thirty (30) days prior to the date upon which Landlord in good faith estimates that Landlord's Base Building Work will be Substantially Complete (which estimate shall be subject to Force Majeure and Tenant Delays) and again approximately thirty (30) days prior to the date upon which

Landlord in good faith estimates that Landlord's TI Work will be Substantially Complete (which estimate shall be subject to Force Majeure and Tenant Delays).

(b) When the applicable portion of Landlord's Work is Substantially Complete, Landlord shall cause Landlord's Architect to deliver to Tenant a written notice (the "Completion Notice") certifying in good faith that the applicable portion of Landlord's Work is Substantially Complete. As soon after Landlord delivers the Completion Notice as is reasonably practicable (and in all events within five (5) days thereafter), Tenant and a representative of Landlord shall schedule and participate in a joint inspection of the Premises (with respect to the Landlord's Base Building Work) and, as applicable, the Building (with respect to the Landlord's TI Work). A joint inspection report summarizing Landlord and Tenant's observations shall be prepared by Landlord and sent to Tenant within five (5) days following the inspection. Tenant shall have five (5) days to review and approve or object in whole or part to the Landlord's joint inspection report. Landlord and Tenant shall negotiate in good faith to promptly resolve the items to which Tenant has objected. In no case, shall Tenant be deemed to have approved of any matters which are later found to contain latent defects. If Tenant does not respond within five (5) days of Tenant's receipt of the written joint inspection report, then Tenant shall be deemed to have accepted the Premises, including the Building (in its condition as of the date of the Completion Notice but without waiving Landlord's obligation to correct Punch List Items pursuant to this Paragraph II.B.(7)) on the date of the Completion Notice, other than latent defects (as set forth in Paragraph II.B.(7)(d) below) and final air balancing upon Tenant's occupancy of the Building. The scheduling and performance of such inspection shall not affect the date of Substantial Completion of the applicable part of Landlord's Work except to the extent such inspection demonstrates that Landlord has failed to achieve Substantial Completion of the applicable part of Landlord's Work as of the date of the Completion Notice.

(c) The joint inspection report shall include a schedule of all deviations or variations from the Construction Documents and requiring completion or repair of a nature commonly found on a "punch list". Tenant shall have the right to add items to the punch list for up to thirty (30) days following Substantial Completion. In the event of a dispute, Landlord (or Landlord's Architect) and Tenant shall negotiate in good faith, using their reasonable discretion, to determine which items constitute Punch List Items. The existence of such Punch List Items shall not postpone the Lease Commencement Date of this Lease nor the obligation of Tenant to pay Rent or any other charges due under this Lease. Notwithstanding anything to the contrary, if there remain any substantial and material items on the Punch List such that those items actually prevent Tenant from occupying the Premises to conduct Tenant's business, the Lease Commencement Date shall be extended until such time as Landlord makes the material repair.

(d) Landlord covenants and agrees to complete all items on the punch list as soon as reasonably possible thereafter. Landlord covenants and agrees to repair or replace any latent defects in its work or in the Building systems and structures as soon as reasonably practicable after Tenant provides notice

(8) Early Work and Furniture Installation.

(a) Landlord acknowledges that Tenant wishes to commence operations at the Premises as soon as possible after Landlord's Work is Substantially Complete, and that there may be some aspects of Tenant Work that may need to be completed before Tenant can commence operations at the Premises. Therefore, Landlord and Tenant acknowledge and agree that Tenant shall be given access to the Premises prior to the Substantial Completion of Landlord's Work, to the extent set forth below, so that Tenant may perform certain items of Tenant Work, and thereby expedite Tenant's use and occupancy of the Premises. Any such items of Tenant Work shall be agreed upon in writing by Landlord and Tenant in their reasonable discretion prior to the commencement of any such work, ("Early Work"). Landlord and Tenant agree that the performance of any Early Work shall be in accordance with this Paragraph II.B(8) and Paragraph V herein. In no event will any delay in the completion of Tenant Work (including without limitation any Early Work) result in an extension or delay of the Lease Commencement Date.

(b) Any entry onto the Premises prior to Substantial Completion of Landlord's Work and/or the Lease Commencement Date, including without limitation any early entry for the purposes of performing any Early Work, shall not be deemed to constitute possession or occupancy, but shall be subject to all of the terms and conditions of the Lease except for the obligation to pay Rent, Operating Expenses, Taxes and any other charges or payment obligations under the Lease (which will not be applicable until the Lease Commencement Date, as provided in the Lease). Tenant shall request permission to enter the Premises in writing, specifying the requested date, time of entry, and which Early Work Tenant intends to perform, at least ten (10) days prior to any such entry, and Landlord shall instruct the GC to respond promptly to such request and to use reasonable efforts to accommodate the request, in accordance with the scheduling restrictions and requirements set forth below. In addition, any entry by the Tenant, its agents, employees or contractors (any and all of which to be referred to hereinafter as "Tenant's Personnel"): (i) shall be subject to the insurance requirements set forth in Paragraph V.D of this Exhibit D-1; (ii) shall comply with any reasonable scheduling requirements of the GC; and (iii) shall be performed in a manner reasonably designed to avoid delay in the Substantial Completion of Landlord's Work. Tenant shall bear the full risk of loss for any materials, equipment or other property which Tenant's Personnel bring onto the Premises in connection with any Early Work, which shall be at Tenant's sole risk.

(c) Notwithstanding the foregoing to the contrary, Tenant acknowledges that Tenant's Personnel shall not be permitted to enter the Premises prior to the Substantial Completion of Landlord's Work to perform any Early Work unless and until Tenant receives permission from Landlord or the GC for such entry, which permission shall not be unreasonably delayed or withheld, subject to the terms of Paragraph II.B(8)(d) and Paragraph V below. Landlord shall ensure that the GC's schedule for performance of Landlord's Work shall include a reasonable block of time which is allocated to Early Work.

(d) Landlord agrees to cause the GC to cooperate in good faith with Tenant to accommodate Tenant's requested entry dates, subject to the terms of this Paragraph II.B.(8)(d), provided that if the GC determines that it is not feasible for Early Work to be performed on a particular floor or floors of the Building, or determines that allowing such entry would delay the Substantial Completion of Landlord's Work, then Tenant's Personnel shall not have the right to enter such floor(s) until authorized to do so by the GC. Subject to the foregoing sentence, Landlord and the

GC shall make all reasonable efforts to enable the Tenant to have access to all floors of the Building as they become available (i.e., as the commencement of Early Work becomes feasible).

(e) Tenant (or its contractors performing such work) shall be responsible for any damage to Landlord's Work caused by Tenant, or its agents, employees and contractors, in the course of performing any Early Work, and Tenant agrees to indemnify, defend and hold Landlord harmless from any loss, cost, liability or damages incurred by Landlord as a result of Tenant's Early Work.

III. TIMING OF CONSTRUCTION

A. Target Date. Subject to Force Majeure and Tenant Delays, Landlord agrees to cause Landlord's Work to be substantially completed on or before the Target Date. Landlord shall give prompt written notice to Tenant of any delays in the completion of a Critical Path Item beyond the estimated completion date therefor set forth in Exhibit D-2 (as extended due to Force Majeure and Tenant Delays), together with an estimate of the duration of such delay. If such a delay occurs (or is anticipated by Landlord to occur) due to Force Majeure or Tenant Delays, Landlord will, upon Tenant's written request, investigate with the GC to determine if it is possible to accelerate the completion of Landlord's Work (through overtime and the like) in order to reduce or eliminate any anticipated delay, and, if so, Landlord and the GC will identify the cost which will be associated with accelerating the completion of Landlord's Work to the extent delayed thereby (or the portion thereof which is affected by such delay). If such acceleration is possible, Landlord will, in consultation with and with the approval of Tenant, reasonably approve change orders allowing for such acceleration provided that the cost of such acceleration shall constitute Excess Costs which shall be paid in accordance with Paragraph IV below. Notwithstanding the above, Force Majeure events shall not constitute an Excess Cost for which Tenant is financially responsible. Tenant shall have no payment or financial obligation as a result of any delay or damage due to a Force Majeure event.

B. Effect of Delay.

(1) Notwithstanding any provision contained in the Lease or this Exhibit to the contrary, in the event that Construction Commencement has not occurred on or prior to August 15, 2018, Tenant shall have the right, as its sole and exclusive remedy, to terminate the Lease by delivering written notice thereof to Landlord at any time prior to the occurrence of Construction Commencement, in which event the Lease shall terminate and neither Landlord nor Tenant shall have any further obligations thereunder. If the delay is as a result of any act or omission by Landlord to exercise due diligence in commencing construction, then Tenant shall be entitled to recover from Landlord any and all costs and/or expenses, including liquidated damages and attorneys' fees that Tenant incurred.

(2) If and to the extent there is a delay in Substantial Completion beyond the Target Date, then the following shall apply, as the case may be:

(a) If and to the extent such non-completion occurs as a result of any event of Force Majeure, the Lease Commencement Date of this Lease shall be the date upon which Substantial Completion of Landlord's Work occurs.

(b) If and to the extent Substantial Completion of Landlord's Work is delayed as a result of any Tenant Delay(s), then (1) the Lease Commencement Date of this Lease shall be the date of Substantial Completion of Landlord's Work, (2) Tenant shall pay Landlord liquidated damages in an amount equal to the number of days by which Substantial Completion was delayed due to any material Tenant Delay in excess of twenty (20) days multiplied by the per diem amount of Basic Annual Rent, and (2) Landlord shall not be liable to Tenant for any abatement, damages or other rights and remedies as a result thereof.

(c) The provisions of clauses (a), (b) and (c) shall be construed in conjunction with each other in those cases where delay in completion of items of Landlord's Work which materially affect the Critical Path are caused in part by Force Majeure, in part by Tenant Delays and/or in part by Landlord's non-performance.

The foregoing shall constitute the sole and exclusive remedies of Landlord and Tenant if Substantial Completion of Landlord's Work is delayed beyond the Target Date.

C. Tenant Delay(s). Tenant acknowledges that Tenant Delay(s) may cause delay in Landlord's ability to complete Critical Path Items which are part of Landlord's Work within the time frames contemplated by this Lease. Accordingly, (i) Landlord's completion obligations with respect to Landlord's Work (and, if applicable, Construction Commencement and the Penalty Date as defined below) shall be extended one (1) day for each day of delay in the Critical Path caused by Tenant Delays, which delay is not cured within 2 days written notice from Landlord; and (ii) Landlord shall not be liable to Tenant for any Rent abatement (including, but not limited to the Per Diem Delay Penalty), damages or other rights and remedies with respect to the period of delay due to Tenant Delays.

D. Early Substantial Completion. If Landlord shall achieve Substantial Completion of Landlord's Work prior to the estimated date therefore as set forth on Exhibit D-2 (as extended due to Force Majeure and Tenant Delays) and Landlord obtains a certificate of occupancy, the Lease Commencement Date shall be the date of Substantial Completion.

E. Late Delivery of the Premises. Except for Tenant's right to terminate the Lease pursuant to Paragraph III.B.(1) above, if Landlord delivers possession of the Premises after August 31, 2018 and such delay is not caused by Tenant Delay ("the Penalty Date"), as such date may be extended pursuant to this Exhibit D-1, then this Lease will remain fully effective and Tenant may not cancel or rescind this Lease, but rather Tenant shall be entitled to day-for-day rental abatement until such time as the Premises are delivered to Tenant ("the Per Diem Delay Penalty").

IV. COST TO COMPLETE

A. Base Building Work. Except as otherwise set forth herein, Landlord shall be responsible for and shall pay when due all costs associated with the preparation of the Approved Base Building Plans, and the performance of Landlord's Base Building Work in accordance with this Exhibit D.

B. TI Costs. All costs associated with Approved TI Plans and the performance of Landlord's TI Work including but not limited to all costs paid to the GC and the separate contractors pursuant to the Final Bid Format (as defined below), all architectural, engineering and professional fees and costs payable to any architects and engineers in connection with the preparation of the TI Plans and Approved TI Plans and all construction administration costs incurred thereunder, all permit and inspection fees in connection with Landlord's TI Work, collectively referred to herein as the "TI Costs." Landlord shall be responsible for and pay when due all TI Costs, subject to the application of the Tenant Improvement Allowance and the payment by Tenant of (i) any TI Costs that exceed the Tenant Improvement Allowance and (ii) any Change Order Costs. Following approval of the Final Bid Format and Landlord's execution of a contract with the GC for the construction of Landlord's TI Work pursuant to Paragraph IV.F (4) below, Landlord shall provide Tenant a written estimate of the total TI Costs (the "Estimated TI Costs").

C. Payment of TI Costs. If the actual TI Costs are less than the Tenant Improvement Allowance, Tenant shall have the right to apply the remaining Tenant Improvement Allowance in payment of the costs of Tenant Work. To the extent of (i) any TI Costs in excess of the Tenant Improvement Allowance, and/or (ii) any Change Order Costs, the same shall be paid as follows: on a monthly basis, Landlord shall provide Tenant (or Tenant's Representative) with copies of requisition forms provided by Landlord and certified by the GC, setting forth the amount of TI Costs (including any Change Order Costs) with respect to the period applicable to such requisition. Tenant shall promptly notify Landlord in the event Tenant determines that any such information delivered by Landlord is inaccurate or incomplete in any respect. Landlord shall be entitled to apply the TI Costs Overage received by Landlord in full satisfaction of such requisition. Following the application of the Tenant Improvement Allowance and the depletion of the TI Costs Overage received by Landlord, Tenant shall be responsible for the payment of 100% of the TI Costs and Change Order Costs, which amounts shall be paid by Tenant within thirty (30) days following Tenant's receipt of a monthly requisition described in this Paragraph IV.C.

D. Payment of Other Excess Costs. All Excess Costs, other than Change Order Costs, shall be paid by Tenant within forty-five (45) days following Tenant's receipt of an invoice therefor. Any such invoice of Excess Costs shall be delivered to Tenant concurrently with a monthly requisition of TI Costs described in Paragraph IV.C. above.

E. Audit. Tenant shall have the right, within ninety (90) days after Substantial Completion, to audit Landlord's books and records with respect to the TI Costs, Change Order Costs and Excess Costs. If as a result of such audit it is determined that Tenant paid an incorrect amount for any such costs, the parties shall make appropriate adjustments within thirty (30) days after completion of the audit.

F. TI Bidding.

(1) Any reference in this Paragraph IV.F(1) to Tenant shall be deemed to refer to Tenant acting through Tenant's Representative after the completion of Approved TI Plans. After agreement upon the relevant portions of the Approved TI Plans, Landlord shall prepare a bidding package for Landlord's TI Work based upon the Approved TI Plans, to be provided to the GC.

(2) Landlord shall promptly issue the bidding package to the GC. The bid solicitation will request that the GC make best efforts to obtain bids from a minimum of three (3) subcontractors selected by the GC to have demonstrated ability to perform the work in accordance with the Approved TI Plans for each type of work required. Landlord will provide Tenant with the ability to approve or reject any subcontractor performing Landlord's TI Work. Landlord agrees to cause the GC to identify "long lead" items or materials which will delay Substantial Completion of Landlord's Work, and shall notify Tenant of the same promptly after such identification can be made. Landlord and Tenant shall cooperate in good faith to avoid such "long lead" items or materials.

(3) All subcontractors shall submit their bids directly to the GC, who will review and analyze all bids submitted, and Landlord shall format all bids relating to the performance of Landlord's TI Work for review by Tenant; and either Landlord or the GC will prepare a bid format which includes a summary of all bids and the selected subcontractors (the "Bid Format"), which shall be delivered to Tenant and Tenant's Representative within five (5) business days after receipt of the Bid Format. Upon receiving the Bid Format, Tenant shall have ten (10) days to review the Bid Format and request any clarifications thereof from Landlord (a "Request for Clarification"). The Bid Format shall be deemed approved unless Tenant makes a Request for Clarification within such ten (10) day period. If Tenant timely makes a Request for Clarification, Landlord shall promptly commence diligent efforts to cause the information requested to be furnished.

(4) Within three (3) days after Tenant's receipt of the clarification requested, Landlord shall deliver the final Bid Format for the Landlord's TI Work ("Final Bid Format"), which shall be deemed approved by Tenant. Promptly following the approval of the Final Bid Format, Landlord shall enter into a TI Construction Contract pursuant to which the GC shall be paid a fixed price or guaranteed maximum price for the construction of Landlord's TI Work in the amount of the final bids of the accepted subcontractors plus GC's general conditions and 1.8% for the GC's profit.

(5) Landlord and Tenant shall endeavor to meet with each other and with the GC and Design Professionals at least twice monthly to review design and construction issues for Landlord's TI Work at all times prior to the Lease Commencement Date.

V. TENANT WORK

A. Generally.

(1) In the event Tenant wishes to perform any Tenant Work in the Premises prior to the Substantial Completion of Landlord's Work, the provisions of this Paragraph V shall apply. Any such Tenant Work, which shall involve only the installation of Tenant's furniture, moveable trade fixtures, equipment and voice and data cabling, shall be performed by a contractor reasonably approved by Landlord in accordance with plans and specifications approved by Landlord, which approvals shall not be unreasonably withheld. The procedure for submission of any plans and specifications for Tenant Work shall be substantially identical to the procedure for obtaining Landlord's approval of the TI Plans. Tenant agrees that Landlord will have the right to inspect, at the sole cost and expense of Landlord, the performance of Tenant Work by Tenant's contractor(s) and subcontractor(s), through a construction manager appointed by Landlord, and Tenant agrees to cooperate with Landlord to facilitate such inspection, including without limitation: (A) notifying Landlord and such construction manager prior to any and all government inspections of Tenant Work so that Landlord's construction manager can be present therefor; (B) permitting Landlord's construction manager free and clear access to the Premises during the construction period, as necessary to perform such inspections, and (C) complying (or causing its contractor to comply) with the reasonable directions of such construction manager in connection with Tenant Work, as long as such directions are not inconsistent with the Approved TI Plans. Landlord shall use reasonable efforts not to interfere unreasonably with the performance of any Tenant Work during the course of any inspections by Landlord or Landlord's construction manager pursuant to this Paragraph.

(2) In the performance of any Tenant Work in accordance with this Lease, Tenant shall cause its contractor(s) to use reasonable and diligent efforts not to interfere with ongoing operations at the Leased Premises (including the Building), including, but not limited to Landlord's Work.

(3) Tenant's contractor(s) shall keep all construction areas reasonably clean and free of trash and debris, and Tenant shall instruct Tenant's contractors, subcontractors and their respective employees to keep the Building and Premises clean. Tenant's construction contract shall indemnify Tenant and Landlord from damages, losses and expenses associated with the wrongful acts and omissions of Tenant's contractor, its agents, employees and subcontractors, and shall otherwise be consistent with the terms hereof.

(4) In connection with any Tenant Work, Tenant shall provide to Landlord copies of all applications for permits, copies of all governmental inspection reports and/or certificates, and any and all notices or violations communicated to Tenant or its contractors by applicable governmental authorities, promptly upon receipt and/or submission thereof, as the case may be. Tenant agrees to comply (or to cause its contractors to comply) with all applicable, state and local laws, regulations and ordinances in the performance of any Tenant Work, and to promptly rectify any violations of such laws caused by the acts or omission of Tenant, its employees, agents and/or contractors, and Tenant shall be responsible for any non-compliance by Tenant or its agents, employees and contractors.

(5) Without limiting the generality or applicability of the foregoing provisions, or of any other applicable provision of this Exhibit D or the Lease, Tenant agrees that the following provisions shall apply to the performance of any Tenant Work:

(a) In performing portions of any Tenant Work which involve construction work upon the exterior of the Building, Tenant agrees that it shall, at Tenant's sole expense, restore all areas of the Building's exterior, including without limitation all adjacent planting areas, sidewalks and parking areas, affected by the execution of such Tenant Work, to their original condition upon the completion of such portions of such Tenant Work

(b) Tenant shall protect and restore (only to the extent damaged) all work areas of the Premises (including without limitation any portions of the Building) utilized or affected in performing any Tenant Work, including, but not limited to, Building roofs, floor penetrations and chase wall penetrations. Tenant shall use only roofing contractors who are permitted to perform such work upon the roof without nullifying any then applicable roof warranty for penetrations and reflashings of affected roof areas (if any), which roofing contractors shall be subject to Landlord's reasonable approval and which roofing contractors shall warrant to Landlord's reasonable satisfaction the integrity of any such roof or exterior penetrations and that the same are free from leakage and are otherwise properly waterproof. Tenant shall further ensure that all floor penetrations are properly fire-stopped, in accordance with applicable building and fire codes and prudent construction practices. Landlord's construction manager and/or representatives shall be advised at the time Tenant commences any portion of any Tenant Work involving the exterior of the Building, the Building roof and all floor to floor penetrations, and all such work shall be subject to the inspection and approval of Landlord (and in the case of work involving the exterior of the Building, shall be supervised by Landlord's construction manager and/or other representatives). Landlord agrees to promptly perform inspection and agrees that time is of the essence. In regard to the foregoing right of inspection and approval, Tenant and its contractor shall permit such construction manager and/or representatives free access to all affected areas of the Premises and Building necessary for Landlord to conduct such inspections and/or supervision.

(c) Tenant shall cause its contractor performing any Tenant Work to provide copies of warranties for such Tenant Work and the materials and equipment which are incorporated into the Building and/or the Premises in connection therewith, as well as provide to Landlord all operating and maintenance manuals for all equipment and materials incorporated into the Building and/or Premises as part of any Tenant Work. Tenant shall either assign to Landlord, or enforce on Landlord's behalf, all such warranties to the extent repairs and/or maintenance on warranted items would be covered by such warranties. Without limitation, all aspects of any Tenant Work shall be warranted to be free from defects in design and workmanship for a period of not less than one (1) year from Substantial Completion of construction.

(6) Except as provided herein, Tenant shall obtain all necessary permits in connection with any Tenant Work, including all final inspection approvals which are required for the proper completion of such Tenant Work. Landlord shall reasonably cooperate with Tenant in obtaining all approvals and permits referenced herein, at no out-of-pocket cost to Landlord, including the execution and submittal of applications (subject to Landlord's reasonable approval) and attendance at required hearings, to the extent feasible. Landlord shall not be liable for any obligations under any such applications Landlord executes.

B. Completion. All Tenant Work and all of Landlord's Work shall be paid for in full and in a timely fashion by Tenant and Landlord, respectively, and shall be performed in a good and workmanlike manner, and in accordance with all applicable codes and requirements. Tenant's indemnity and covenants as set forth in the Lease shall apply to any liens created by virtue of any Tenant Work. Tenant agrees to comply with the ADA and all other applicable, state and local laws, ordinances, codes and regulations.

C. Bonding. All contractors and subcontractors performing Tenant Work shall be subject to Landlord's reasonable approval, and shall be bondable and properly licensed to do business in California.

D. Insurance Requirements Applicable to Tenant During Tenant Work.

(1) Tenant shall secure, pay for, and maintain, or cause its contractors and subcontractors to secure, pay for, and maintain, during the continuance of any Tenant construction work at the Premises, all of the insurance policies required in the amounts as set forth herein, together with such insurance as may from time to time be required by city, county or state laws, codes, regulations or authorities. Tenant Work (if any) may not commence until all required insurance has been obtained, and, if Landlord requests, until Tenant's certificates of such insurance have been delivered to Landlord. Tenant's insurance policies shall name the Landlord, as additional insureds. Landlord shall have the right to require Tenant, and Tenant shall have the duty, to stop work at the Premises immediately if any of the coverage Tenant is required to carry herein lapses during the course of the work, in which event such Tenant Work may not be resumed until the required insurance is obtained and satisfactory evidence of same is provided to Landlord

(2) In the event Tenant employs a contractor or subcontractor, or in the event a contractor employs a subcontractor, to perform all or part of Tenant Work, including any Early Work, Tenant shall purchase, or cause its contractor to carry, General Contractor's and Subcontractor's Required Minimum Coverages and Limits of Liability as follows:

(i) Worker's Compensation and Employer's Liability Insurance, as required by state law, and any insurance required by any Employee Benefit Act or similar statute applicable where the work is to be performed, as will protect the contractor and subcontractors from any and all liability under the aforementioned act(s) or similar statute.

(ii) Commercial General Liability Insurance (including Contractor's Protective Liability Coverage) in an amount not less than \$2,000,000.00 per occurrence for bodily injury and property damage.

(iii) Commercial Automotive Liability Insurance, for the ownership, maintenance, or operation of any automotive equipment, whether owned, non-owned or leased including employer's non-ownership and hired car liability endorsements, in an amount not less than \$1,000,000.00 combined single limit with respect to bodily injury, including death resulting therefrom, and property damage liability.

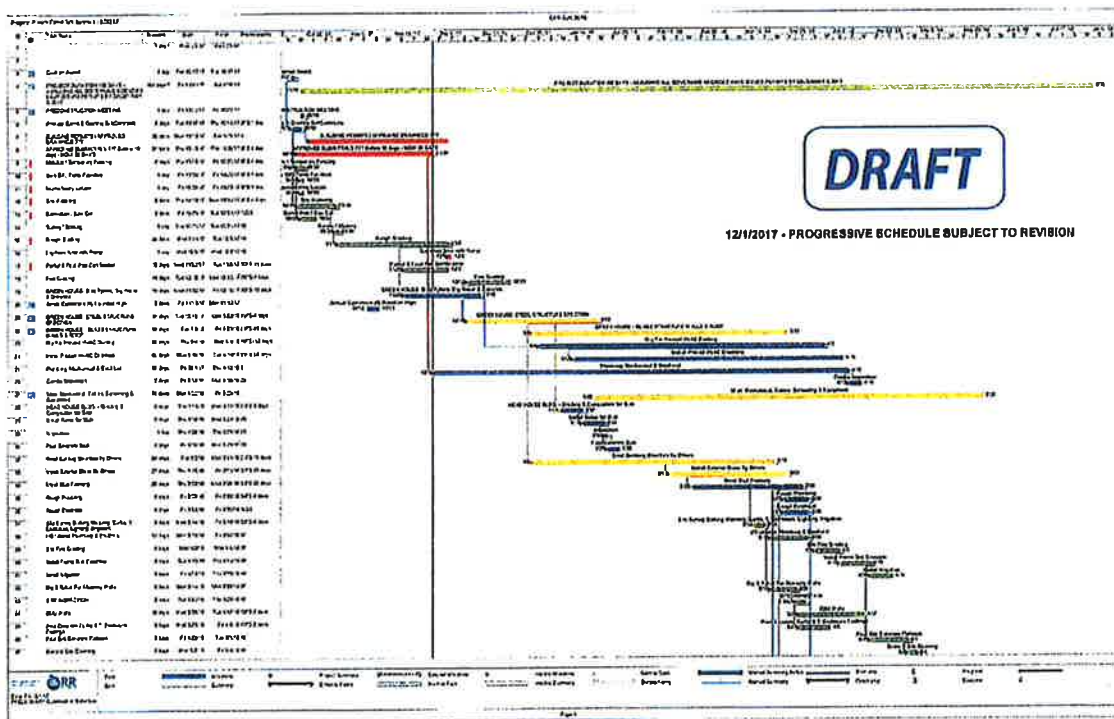
(3) Such insurance policies set forth in (i) - (iii), above, shall insure Tenant's general contractor and all subcontractors against any and all claims for bodily injury and property damage arising from its operations under its contract in connection with construction of the Building, whether performed by Tenant's general contractor, subcontractors, or sub-subcontractors, or by anyone directly or indirectly employed by any of them. Tenant shall (and cause its contractor to) give Landlord at least 30 days' advance written notice of any change, cancellation, termination or lapse of such insurance.

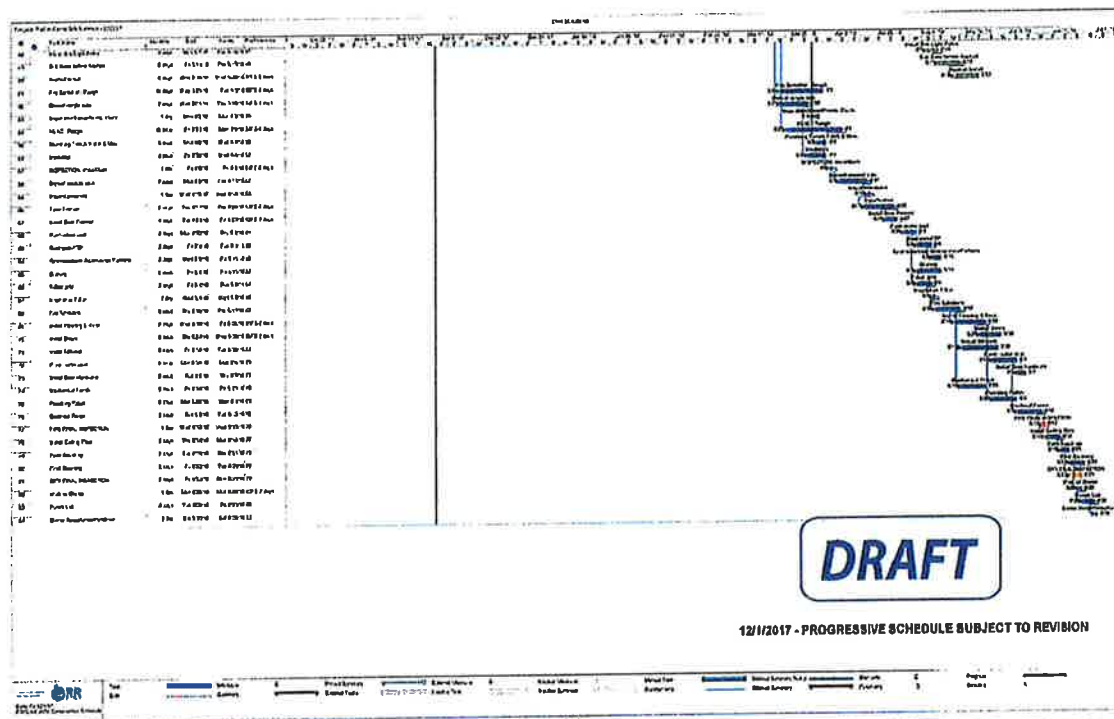
(4) The insurance required under this Exhibit D shall be in addition to any and all insurance required to be procured by Tenant pursuant to the terms of the Lease.

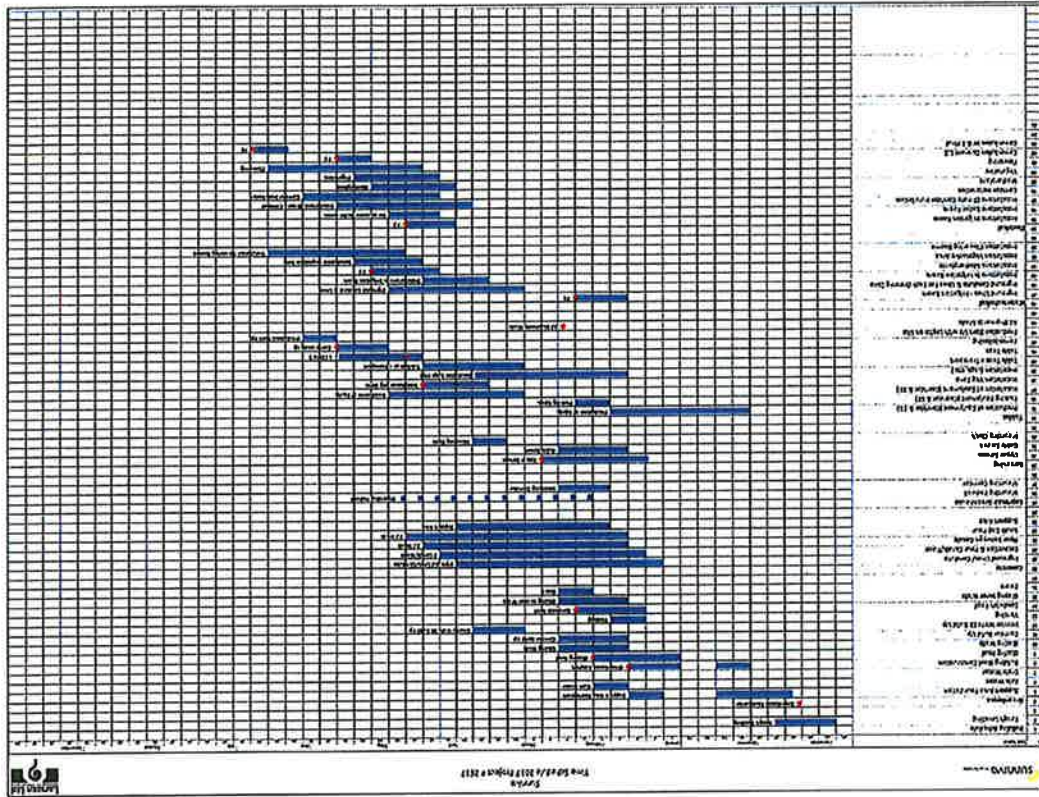
EXHIBIT D-2

DESIGN AND CONSTRUCTION MILESTONES*

(see attached)





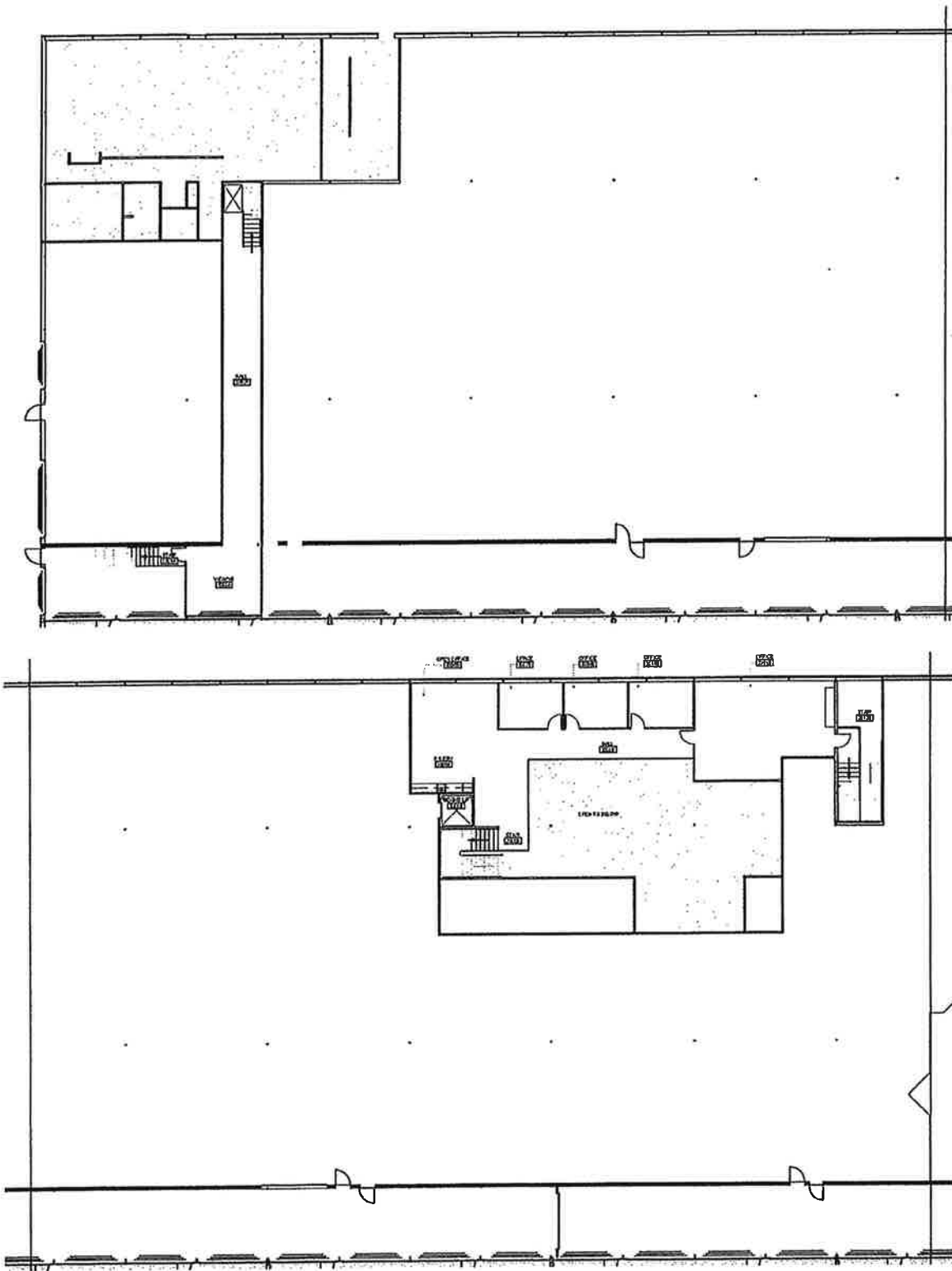


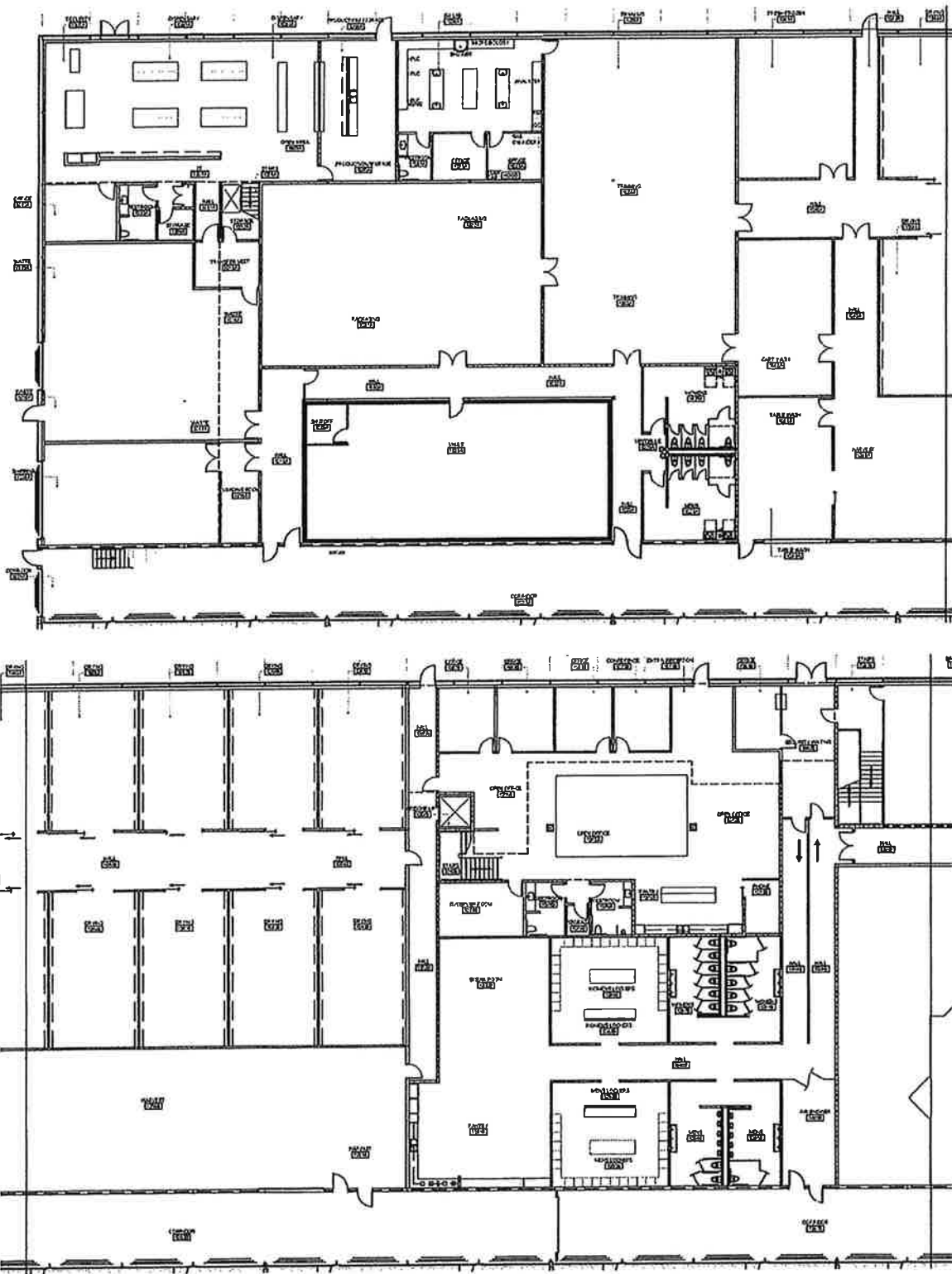
*subject to modification upon approval and written initial of Landlord and Tenant

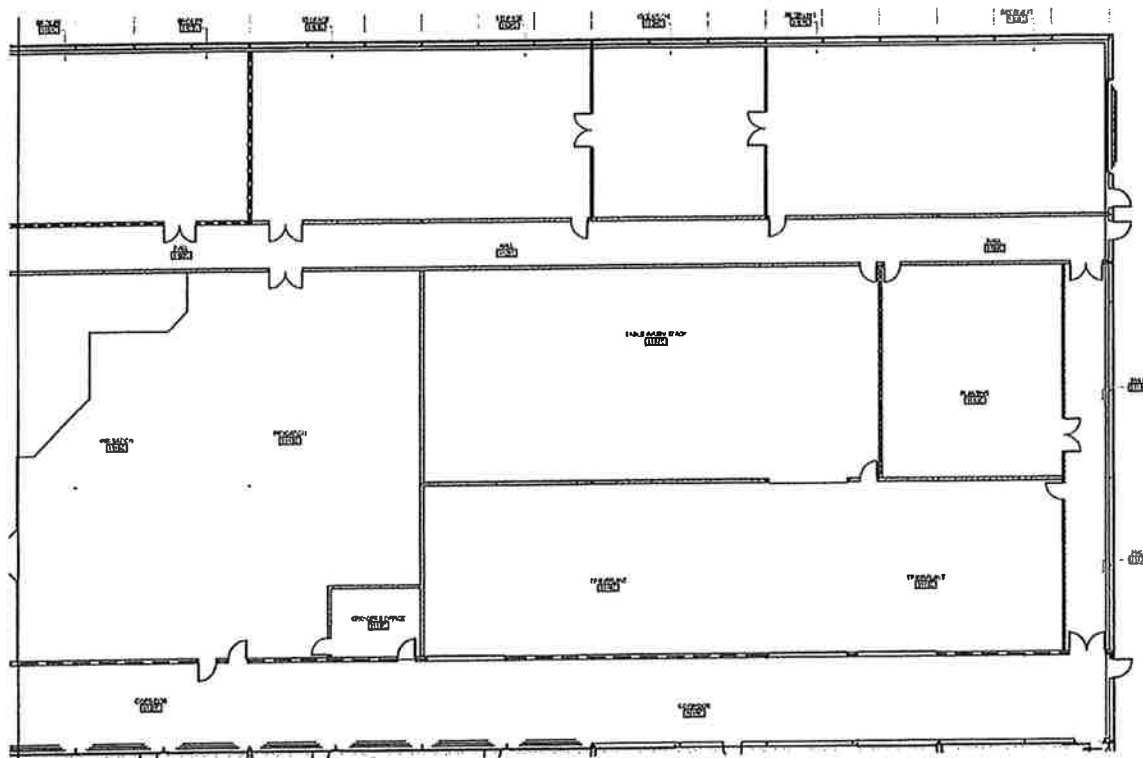
EXHIBIT D-3

DELINEATION OF BASE BUILDING AND LANDLORD'S TI WORK*

(see attached)







*subject to modification upon approval and written initial of Landlord and Tenant

EXHIBIT D-4
Approved TI Budget
(see attached)

Barker Pacific Group - Project Assumptions

Updated on 10/13/2017

Project Name Sunniva Production Campus - Phase I
 Project Location Cathedral City

Cost Projections

Description	Unit Input	Unit Basis	Amount	Total
Acquisition Costs				\$ 5,140,746
Land Acquisition			\$ 5,140,746	
Hard Costs				\$ 34,772,103
Site Work			\$ 3,079,956	
Base Building/General Contractor			\$ 17,704,879	
Tenant Improvements			\$ 12,974,489	
Construction - Misc.			\$ 1,012,780	
Architectural and Engineering Costs				\$ 1,413,429
Civil Engineering			\$ 573,021	
MEP			\$ 79,170	
Structural Engineering			\$ 109,500	
Geotechnical & Soils Engineering			\$ 32,600	
Other Consulting & Engineering Fees			\$ 577,970	
A & E - Misc.			\$ 41,168	
Financing Costs				\$ 6,400,000
Equity Placement			\$ 900,000	
Debt Placement			\$ 600,000	
Lender Fee - Perm Loan			\$ 450,000	
Lender Fee - Construction Loan			\$ 500,000	
Loan Interest - During Construction			\$ 3,450,000	
Payment and Performance Bond			\$ 400,000	
Lender Inspections and Loan Servicing			\$ 50,000	
Other Construction Loan Costs - Misc.			\$ 50,000	
Project Administration				\$ 4,195,939
Permitting/City			\$ 1,849,222	
Legal Fees			\$ 255,000	
Marketing			\$ 10,000	
Taxes & Insurance during Construction			\$ 531,717	
Development Overhead			\$ 150,000	
Developer Administration			\$ 1,400,000	
Contingency & Reserve				\$ 2,076,889
General Project Contingency & Misc. Fees			\$ 2,076,889	
Total Project Costs				\$ 53,999,105
			Per NRA	\$ 166

EXHIBIT E
LEASE COMMENCEMENT AGREEMENT FOR PHASE I

THIS DECLARATION is attached to and made a part of that certain Lease dated the ____ day of _____, 20__ (the "Lease") entered into by and between SUNNIVA PRODUCTION CAMPUS, LLC, a Delaware limited liability company ("Landlord") and CP LOGISTICS, LLC, a _____ ("Tenant").

Landlord and Tenant are parties to the Lease. All capitalized terms used herein shall have the same meaning as was ascribed to such terms in the Lease, unless otherwise indicated.

At the time of executing this Lease Commencement Agreement, Tenant warrants its Municipal License, State License and Municipal Approvals are valid and in full force and effect, that it has agreed to the terms and conditions set forth in Schedule 1 (attached hereto and incorporated by reference) and will evidence the same by written execution, and that it is in compliance with all local and state governmental requirements regarding Tenant's legal standing and Tenant's ability to engage in the Permitted Use, as defined in the Lease. Tenant nor any of its agents or subsidiaries has received any notice of revocation, modification, denial or proceedings relating to the denial, revocation or modification of its Municipal License, State License and Municipal Approvals, which, singly or in the aggregate, that would prohibit Tenant's use of the Premises for the Permitted Use.

Landlord and Tenant do hereby declare that (a) the Lease Commencement Date is hereby established to be _____ and (b) the term of the Lease shall expire on _____ (i.e., _____ full calendar months after the Lease Commencement Date) (the "Lease Expiration Date").

Landlord and Tenant further agree that the rentable square footage of the Premises is _____.

Landlord and Tenant further agree that Landlord has performed all of its obligations to improve the Premises for occupancy by Tenant, including without limitation the Substantial Completion of all of Landlord's Work, excepting those Punch List Items (as defined in Exhibit D-1 of the Lease) identified by Tenant as of the date hereof and, if applicable, Tenant's right to add Punch List items for up to 30 days following Substantial Completion pursuant to Paragraph II.B.(7)(c) of Exhibit D-1 of the Lease, and subject to the Landlord's obligation to repair or replace latent defects pursuant to Paragraph II.B.(7)(d) of Exhibit D-1 of the Lease.

The Lease is in full force and effect as of the date hereof, Landlord has fulfilled all of its obligations under the Lease required to be fulfilled by Landlord on or prior to the Lease Commencement Date with the exception of Punch List Items. This acknowledgement in no way waives Tenant's right to bring any action against Landlord, permitted either under this Lease or the law, for any claim for damages for any act or omission on behalf of Landlord.

IN WITNESS WHEREOF Landlord and Tenant have executed this Declaration as of the day
of 20__.

LANDLORD:	TENANT:
By _____	By _____
Its _____	Its _____

Lease Commencement Agreement--Schedule 1

LICENSED MARIJUANA PROJECT COMPLIANCE AGREEMENT

1. Tenant acknowledges that neither the Landlord nor Landlord's representatives have made any oral or written representations or warranties whatsoever concerning the suitability or zoning of the property with respect to its potential use as a medical marijuana facility, and that it is the sole responsibility of the Tenant to investigate and to satisfy itself concerning the suitability of the property for such use.

2. Tenant understands and agrees that Tenant, and not Landlord, shall be solely responsible at the Tenant's own expense for full compliance with all state and local laws, rules, regulations and ordinances pertaining to the maintenance and/or operation of a medical marijuana cultivation facility.

3. Tenant warrants and represents that it is eligible and qualified to operate a medical marijuana facility in the property under all applicable state and local laws rules, regulations and ordinances, and that Tenant has obtained all legally required licenses, permits, and approvals to do so before commencing operations on the property.

4. Tenant shall indemnify, defend and hold harmless Landlord, its trustees, agents, employees, and lenders from and against all damages, liabilities, judgments, claims, expenses, penalties, and attorney and consultant fees arising out of or connected in any way to Tenant's violation or alleged violation of any, state, or local law, rule, regulation or ordinance, whether or not litigation or prosecution is actually commences against Landlord, its trustees, agents, employees or lenders.

5. Tenant shall provide notice to Landlord immediately in the event of the revocation or suspension of Tenant's lawful authority to operate a medical marijuana facility. Such revocation or suspension shall constitute a Breach of the Lease entitling Landlord at its sole discretion to terminate the Lease. Notwithstanding anything to the contrary, Landlord shall have no authority

to terminate the Lease if Tenant demonstrates to Landlord that Tenant is in the process of appealing any such revocation or suspension.

LANDLORD:		TENANT:
By _____		By _____
Its _____		Its _____

EXHIBIT F**GUARANTY OF LEASE**

THIS GUARANTY OF LEASE ("Guaranty") is entered into as of the ___th day of _____ 20___, by SUNNIVA INC, whose address is 1200 Waterfront Centre, 200 Burrard Street, PO Box 48600, Vancouver, British Columbia, V7X 1T2 (the "Guarantor"), for the benefit of SUNNIVA PRODUCTION CAMPUS, LLC, a Delaware limited liability company, and its successor and assigns (the "Landlord"), with reference to the following facts:

A. Landlord and CP Logistics, LLC, a North Carolina limited liability company (the "Tenant"), have entered or will enter into that certain Build to Suit Lease Agreement of even date herewith (the "Lease") for certain premises located with a street address of 69375 Ramon Road, Cathedral City, California (the "Premises").

Section 1. Guarantor unconditionally, jointly and severally, guarantees, without deduction by reason of setoff, defense or counterclaim, to Landlord and its successors and assigns, the full and punctual payment, performance and observance by Tenant of all of the terms, covenants and conditions in the Lease contained on Tenant's part to be kept, performed or observed.

Section 2. If Tenant shall at any time default in the performance or observance of any of the terms, covenants or conditions in the Lease contained on Tenant's part to be kept, performed or observed, Guarantor will promptly keep, perform and observe same, as the case may be, in the place and stead of Tenant, within thirty days' notice (30) pay Tenant's outstanding payment obligation.

Section 3. Any act of Landlord, or its successors or assigns, consisting of a waiver of any of the terms or conditions of the Lease, or the giving of any consent to any manner or thing relating to the Lease, or the granting of any indulgences or extension of time to Tenant, may be done without notice to Guarantor.

Section 4. The obligations of Guarantor hereunder shall not be released by Landlord's receipt, application or release of any security given for the performance and observance of any covenant or condition in the Lease contained on Tenant's part to be performed or observed, nor by any modification of the Lease, regardless of whether Guarantor consents thereto or receive notice thereof.

Section 5. The liability of Guarantor hereunder shall in no way be affected by: (a) the release or discharge of Tenant in any creditor's receivership, bankruptcy or other proceeding; (b) the impairment, limitation or modification of the liability of Tenant or the estate of Tenant in bankruptcy, or of any remedy for the enforcement of Tenant's liability under the Lease resulting from the operation of any present or future provision of the National Bankruptcy Act or other statute or from the decision in any court; (c) the exercise by Landlord of any of its rights or remedies reserved under the Lease or by law; or (d) any termination of the Lease.

Section 6. Guarantor further agrees that he may be joined in any action against Tenant in connection with the obligations of Tenant under the Lease and recovery may be had against Guarantor in any such action. Landlord may enforce the obligations of Guarantor hereunder without first taking any action whatsoever against Tenant or its successors and assigns, or pursue any other remedy or apply any security it may hold. Until all the covenants and conditions in the Lease on Tenant's part to be performed and observed, are fully performed and observed, Guarantor: (a) shall have no right of subrogation against Tenant by reason of any payments or performance by Guarantor hereunder; and (b) subordinate any liability or indebtedness of Tenant now or hereafter held by Guarantor to the obligations of Tenant to Landlord under the Lease.

Section 8. If Landlord desires to sell, finance or refinance the Premises, or any part thereof, Guarantor hereby agrees to deliver to any lender or buyer designated by Landlord such financial statements of Guarantor as may be reasonably required by such lender or buyer. Such statements shall include the past three years' financial statements of Guarantor. All such financial statements shall be received by Landlord in confidence and shall be used only for the foregoing purposes.

Section 9. This Guaranty shall apply to the Lease, any extension, renewal, modification or amendment thereof, and to any subletting, or to any holdover term following the term granted under the Lease or any extension or renewal thereof, regardless of whether Guarantor consent thereto or receive notice thereof.

Section 10. Notwithstanding anything to the contrary, in the event of a permitted assignment pursuant to Section 18. 10 of the Lease, where Tenant transfers Tenant's leasehold interest in the Lease, Landlord agrees to automatically release Guarantor from any further obligations, liabilities or duties under this Lease.

Section 11. In the event this Guaranty shall be held ineffective or unenforceable by any court of competent jurisdiction or in the event of any limitation of Guarantor's liability hereunder other than as expressly provided herein, then Guarantor shall be deemed to be a tenant under the Lease with the same force and effect as if Guarantor was expressly named as a joint and several tenant therein with respect to the obligations of Tenant thereunder hereby guaranteed.

Section 12. Guarantor agrees to pay Landlord's out-of-pocket costs and expenses, including but not limited to legal fees, costs and disbursements, incurred in any effort to collect or enforce any of the guaranteed obligations or this Guaranty, whether or not any lawsuit is filed, and in the representation of Landlord in any insolvency, bankruptcy, reorganization or similar proceeding relating to Tenant or Guarantors. However, to the extent that Landlord is not the prevailing party, the Guarantor shall have no obligation to Landlord under this Section 12.

Section 13. No delay on the part of Landlord in exercising any right hereunder or under the Lease shall operate as a waiver of such right or of any other right of Landlord under the Lease or hereunder, nor shall any delay, omission or waiver on any one occasion be deemed a bar to a waiver of the same or any other right on any future occasion. Notwithstanding anything to the contrary, Guarantor does not waive any defense Guarantor may have pursuant to any statute of limitations.

Section 14. If there is more than one undersigned Guarantor, the term Guarantor, as used herein, shall include all of the undersigned; each and every provision of this Guaranty shall be binding on each and every one of the undersigned jointly and severally liable hereunder; and Landlord shall have the right to join one or all of them in any proceeding or to proceed against them in any order.

Section 15. This instrument constitutes the entire agreement between Landlord and Guarantor with respect to the subject matter hereof, superseding all prior oral or written agreements or understandings with respect thereto and may not be changed, modified, discharged or terminated orally or in any manner other than by an agreement in writing signed by Guarantor and Landlord.

Section 16. This Guaranty shall be governed by and construed in accordance with the laws of the State of California.

Section 17. Notice hereunder shall be in writing and shall be effective upon personal service, one business day after deposit with FedEx or other reliable overnight courier for delivery the next business day, or five days after deposit thereof in the United States Mail, registered or certified delivery, return receipt requested, to the other party at its above address, except that under no circumstances shall Landlord be obligated to give Guarantor any notice not specifically required to be given by Landlord pursuant to this Guaranty. Either party may by notice given as aforesaid designate a different address for notice purposes. Any action to declare or enforce any rights or obligations under the Lease may be commenced by Landlord in the City of Cathedral City and County of Riverside, California. Guarantor hereby consents to such jurisdiction for such purposes and agrees that proper service of a complaint shall constitute adequate notice and service of process for all purposes and shall subject Guarantor to the jurisdiction of the applicable Court for purposes of adjudicating any matter related to this Guaranty.

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of the date first above written.

"GUARANTOR"

SUNNIVA INC

BY: _____

ITS: Authorized Signatory

EXHIBIT G

RIGHT OF FIRST REFUSAL TO PURCHASE PROJECT

This Right of First Refusal to Purchase Real Estate is made on this the ____ day of _____, 20____, by and between SUNNIVA PRODUCTION CAMPUS, LLC hereinafter referred to as the "SELLER" and CP LOGISTICS, LLC, and his/her assigns, hereinafter referred to as the "PURCHASER".

WHEREAS, Purchaser desires to obtain a right of first refusal to purchase certain real estate owned by Seller; and

WHEREAS, Seller agrees to grant Purchaser a right of first refusal to purchase real estate pursuant to the terms of this agreement; and

NOW, FOR AND IN CONSIDERATION of \$10.00 and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, it is agreed as follows:

- I. **GRANT OF FIRST OPTION:** The Seller does hereby grant unto the Purchaser the exclusive and irrevocable right, during the term of the Lease or any extensions thereof, a right of first refusal to purchase, upon the terms and conditions hereinafter set forth, Seller's property situated in Cathedral City, Riverside County, CA, including without limitation the following described property together with all improvements located thereon:

See attached Exhibit "A"

- II. **EXERCISE OF FIRST OPTION:** In the event that Seller receives a bona fide written offer from a third party to purchase the Property, Seller shall promptly deliver to Purchaser a notice of such offer to sell, together with a copy of the bona fide offer from the third party (Transfer Notice), including each material term of the third party offer, and Purchaser may, within forty-five (45) days after receipt, offer to purchase the Property on the same terms as those set forth in the Transfer Notice. If Purchaser fails to reply to Seller's Transfer Notice within the stipulated forty-five (45) day period, Seller may proceed to sell the Property in accordance with the terms set forth in the Transfer Notice.
- III. **TERMS OF PURCHASE:** In the event Seller elects to sell and Purchaser desires to exercise his first refusal rights granted under the terms of this agreement, the terms of purchase shall be as follows:

- a) \$1.00 more than any bona fide offer to purchase received by Seller from any third party.

- IV. **TITLE:** Within fifteen (15) days after the Purchaser has exercised his or her right of first refusal, the Seller shall deliver to the Purchaser a Certificate of Title or title abstract covering the property described in paragraph I above which shall reflect that marketable fee simple title to the subject property is vested in Seller and that same is insurable by a title insurance company licensed to do business in the State of California. Said Certificate or abstract shall be subject only to taxes for the current year, easements, and rights of way of record, and prior mineral reservations. Should said Certificate or Abstract reflect any other

exceptions to the title unacceptable to Purchaser, Purchaser shall notify the Seller in writing of any defects within fifteen (15) days (the title review period) and the Seller shall have a reasonable time (but not more than 25 days) in which to make the title good and marketable or insurable, and shall use due diligence in an effort to do so. If after using due diligence the Seller is unable to make the title acceptable to Purchaser within such reasonable time, it shall be the option of the Purchaser either to accept the title in its existing condition with no further obligation on the part of the Seller to correct any defect, or to cancel this Agreement. If this Agreement is thus cancelled, all money paid by the Purchaser to the Seller upon the execution of this Agreement or upon any extension shall be returned to the Purchaser, and this Agreement shall terminate without further obligation of either party to the other. If title is acceptable to Purchaser, the closing shall occur within fifteen (15) days after expiration of the "title review period". At closing Seller shall convey title to Purchaser by Warranty Deed subject only to exceptions acceptable to Purchaser.

V. **TERM AND EXTENSION:** The term of this agreement shall commence upon execution of the Lease and shall continue until Lease Termination as defined in the Lease.

VI. **EXPENSES OF SALE:** All costs and expenses of the sale including attorney's fees, recording fees, and any and other costs attributable to the preparation of the Warranty Deed, Title Certificate, abstract and any other closing documents shall be paid equally between Seller and Purchaser.

VI. **POSSESSION:** Purchaser shall be entitled to possession of the property at closing.

VIII. **RIGHT OF ENTRY:** Upon notification by Seller of his or her desire to sell and Purchaser's exercise of his or her first refusal, Purchaser shall be entitled to enter upon the property for the purpose of conducting soil tests, engineering studies, and surveys with Seller's written consent and provided such tests are not materially intrusive.

IX. **TAXES:** Taxes shall be prorated as of the date of closing.

X. **DEFAULT:** This contract shall be binding upon and inure to the benefit of the heirs, administrators and assigns of the parties hereto and upon default in any of the terms of this Agreement the defaulting party agrees to pay all costs of Court and a reasonable attorney's fee.

XI. **GOVERNING LAW:** This agreement shall be governed by the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Agreement on this the ____ day of _____, 20____.

SELLER

PURCHASER

EXHIBIT H

OPTION TO EXTEND LEASE TERM

Landlord hereby grants to the option to extend the Lease Term (the "Renewal Option") on the same terms, conditions and provisions as contained in the Lease, except as otherwise provided herein, for three (3) additional five (5) year periods (the "Option Term"). Except as provided in this Exhibit H, Landlord shall have no other rights to extend the Lease Term. In order to exercise an option to extend, Tenant must give written notice of such election to Landlord at least five (5) but no more than ten (10) months prior to the date that the Lease Term terminates. If the Tenant misses the Option to Extend, then the Landlord is required to give Tenant written notice of the missed exercised deadline and allow Tenant an additional thirty (30) days to exercise the Option. If the Tenant does not exercise the option after the Landlord provides the Tenant notice of the missed exercise deadline, then the Landlord has no further obligation to the Tenant.

On Tenant's exercise of an Option, the Lease Term shall be deemed extended to the end of the applicable Option Term and references to the end of the Lease Term shall be references to the end of such Option Term.

The monthly installment of Base Rent to be paid during the Option Term shall be the Fair Market Value (as defined below).

As used herein, the term "Fair Market Value" for the Premises shall mean the total rent (taking into account known or, if not known, market-consistent additional rent obligations, and considering any "base year" or "expense stop" applicable thereto, and adjusting the base rent component of such rent to reflect the net value after accounting for whether or not utility expenses are paid by the comparison tenant consistent with Lessee's utility payment obligations), including all escalations, at which tenants as of the commencement of the applicable Option Term are entering into "true leases" (specifically excluding financing, sublease and non-encumbered leases) for premises comparable in size, floor location and quality of improvements to the Premises or Project for a comparable term, and located in buildings that are comparable to the Building in terms of use, age, quality of construction, level of services and amenities, size and appearance, and located in the same submarket area, giving appropriate consideration to the annual rental rates per rentable square foot, the standard of measurement by which the rentable square footage is measured, the ratio of rentable square feet to usable square feet, and accounting for the value of any tenant incentives and concessions provided to the comparison tenant (versus those provided to Lessee), if any, including, but not limited to: (a) rental abatement concessions or build-out periods granted to such tenant; (b) tenant improvements or construction allowances,

taking into account the value of the existing improvements in the Premises, such value to be based upon the age, quality and layout of the improvements and the extent to which the same could be utilized by general office users as contrasted with Lessee; and (c) other monetary concessions being granted such tenant.

After exercise of the Option by the Tenant, Landlord and Tenant shall, in good faith, attempt to reach a mutually acceptable Market Rent of the Premises. If Landlord and Tenant are unable to reach agreement on Fair Market Rent within twenty (20) business days Tenant exercises the Option, then the Parties agree to the following:

(i) Landlord and Tenant shall each simultaneously submit to the other in a sealed envelope its good faith estimate (the "Estimates") of the Fair Market Value (which may or may not be consistent with previous negotiations). If the higher of such Estimates is not more than one hundred ten percent (110%) of the lower of such Estimates, then the Fair Market Value shall be the average of the two Estimates.

(ii) If the matter is not resolved by the exchange of Estimates as provided in subsection (i) above, then either Landlord or Tenant may, by written notice to the other on or before ten (10) business days after the exchange, require that the disagreement be resolved by arbitration. Within fifteen (15) days after such notice, the parties shall select as an arbitrator a mutually acceptable MAI appraiser with experience in real estate activities, including at least ten (10) years experience in appraising comparable space in the city and state in which the Project is located. If the parties cannot agree on an appraiser, then, within a second period of fifteen (15) days, each party shall select an independent MAI appraiser meeting the aforementioned criteria, and, within a third period of fifteen (15) days, the two appointed appraisers shall select a third appraiser meeting the aforementioned criteria and the third appraiser shall determine the Fair Market Value pursuant to subsection (iii) below. If one party shall fail to make such appointment within said second fifteen (15) day period, then the appraiser chosen by the other party shall be the sole arbitrator.

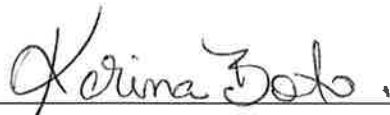
(iii) Once the arbitrator (the "Determining Appraiser") has been selected as provided for in subsection (ii) above, then Determining Appraiser shall make an independent determination of the Fair Market Value as of the commencement date of the applicable Option Term (including, without limitation, any market escalations). The Determining Appraiser will be instructed that it must choose either the Landlord's Estimate or the Tenant's Estimate and is not permitted to select any other rate. Such determination of the Fair Market Value shall be made in writing within ten (10) business days of selection of the Determining Appraiser. Each party shall be bound by this determination. All appraisal costs will be paid by the party whose suggested rate was not selected as the Fair Market Value by the Determining Appraiser. The Fair Market Value determination established pursuant to this subsection (iii) will be binding on the parties and the

Lease shall be extended for the applicable Option Term unless the parties mutually agree to nullify the Renewal Option and allow the Term to terminate on its scheduled termination date.

Notwithstanding anything to the contrary in this Exhibit H, in no event shall Base Rent during the Option Term be less than eighty percent (80%) nor more than one hundred and ten percent (110%) Base Rent payable during the last full month immediately prior to the Option Term.

Notwithstanding anything to the contrary in this Exhibit H, Tenant may only exercise the Renewal Option, and an exercise thereof shall only be effective, if at the time of Tenant's exercise of the Renewal Option and on the commencement of the Option Term (i) the Lease is in full force and effect, and (ii) an Event of Default is not continuing. Additionally, the Renewal Option is personal to the initial Tenant named herein (i.e., CP LOGISTICS, LLC, and may not be exercised or assigned, voluntarily or involuntarily, by or to, any person or entity other than such initial Tenant named herein, unless Landlord has provided its written consent to such transfer, in accordance with the terms set forth in Section 18 of this Lease.

This is **Exhibit "B"** referred to in Affidavit #1 of Jonathan S. Jemison made before me on the 7th day of January 2021



A Notary Public

KARINA BOTO
NOTARY PUBLIC OF NEW JERSEY
COMMISSION EXPIRES: 8/8/23

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5 Facsimile: (213) 623-9924

6 Attorneys for Claimant

CP LOGISTICS, LLC

8 JAMS -- CATHEDRAL CITY, CALIFORNIA

11 CP LOGISTICS, LLC, a North Carolina
limited liability company,

13 Claimant,

14 vs.

15 SUNNIVA PRODUCTION CAMPUS,
LLC, a Delaware limited liability
company,

16 Respondent.

AMENDED DEMAND FOR ARBITRATION
AND NOTICE OF CLAIMS

JAMS Reference No. 1220064266

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
213 623 9300

1 Claimant CP Logistics, LLC (“CP Logistics”) hereby gives notice of its claims against
 2 Respondent Sunniva Production Campus, LLC and demands arbitration to be held before JAMS in
 3 Cathedral City, California. In support of this Notice and pursuant to applicable JAMS rules,
 4 CP Logistics states as follows:

5 FACTUAL BACKGROUND

6 1. Sunniva, Inc. is a publicly-traded Canadian company that desired to enter the
 7 California cannabis growing market. Toward that end, Sunniva, Inc. acquired a US entity, CP
 8 Logistics – the Claimant. CP Logistics identified and acquired real property (the “Property”) in
 9 Cathedral City, California (the “City”) and applied to the City for cultivation licenses and a
 10 Conditional Use Permit (“CUP”) to build and operate a glasshouse/growing facility on the property.
 11 At the time of it was acquired by Sunniva, Inc., CP Logistics had applied to the City for
 12 approximately four cultivation licenses. Sunniva, Inc. worked side by side with CP Logistics’
 13 original owners to apply to the City for additional cultivation licenses and to submit the CUP
 14 application.

15 2. During its search for a financing partner, CP Logistics came into contact
 16 with Barker Pacific Group (“BPG”), a real estate development company controlled by Michael
 17 Barker. In an effort to reduce its risk by relying upon BPG’s professed experience and skill as a
 18 developer, CP Logistics discussed transactions with BPG by which BPG would take ownership of
 19 the real property and agree to build a specialized facility upon the Property and lease it to CP
 20 Logistics.

21 3. In connection with the anticipated construction and subsequent lease, BPG formed
 22 a single purpose vehicle called Sunniva Production Campus, LLC (n/k/a Ramon Road Production
 23 Campus, LLC) (hereinafter, “SPC” or “Respondent”) to be responsible for all aspects of the
 24 construction and serve as landlord under the anticipated lease. Although BPG created confusion
 25 by choosing to use “Sunniva” in SPC’s name, SPC is not part of Sunniva, Inc.

26 4. On or around October 20, 2017, SPC as the Landlord and CP Logistics as the Tenant
 27
 28

1 entered into a Conditional Build to Suit Lease Agreement (the “Lease”)¹ involving real property at
 2 69375 Ramon Road, Cathedral City, CA (the “Property”), pursuant to which SPC agreed to
 3 construct a facility designed to meet CP Logistics’ specific needs (the “Project”).

4 5. While the Lease was signed in October 2017, pursuant to Section 2.1 of the Lease
 5 the parties agreed that the “Lease Commencement Date” would be “the first to occur of (a) the date
 6 Tenant takes occupancy of the Premises for the conduct of Tenant’s intended business therein, or
 7 (b) the date which is five (5) calendar days following Substantial Completion of Landlord’s Work.”
 8 The parties would then enter into a separate agreement “specifying the Lease Commencement Date
 9 and Rentable Area,” (Lease Section 2.3.) That date would mark the start of the 15-year initial
 10 Lease Term (Section 1.7), after which CP Logistics would commence occupancy to use the
 11 Property for its intended purpose (Section 4.1), and begin paying Rent (Section 3.1).

12 6. The Lease specifically provides that CP Logistics shall occupy and use the Property
 13 for the “Permitted Use” of, among other things, cultivating, harvesting, packing, storing and
 14 distributing medical marijuana in accordance with applicable medical marijuana licenses and other
 15 Governmental Regulations (Section 4.1.) “Permitted use shall also include any future lawful
 16 cannabis use, including recreational cannabis but only to the extent that such use is in compliance
 17 with all California, and Cathedral City laws, ordinances rules and regulations.” (*Id.*) The Lease
 18 attached the Local Licenses in place and acknowledged that State Licenses were not yet available
 19 but in the process of being applied for by CP Logistics.

20 7. While the Lease was “effective” as of October 20, 2017, the Lease Term could not
 21 commence until SPC erected the building. The construction of the building was governed by the
 22 Design Construction Agreement (also called the Work Letter Agreement) that was attached as
 23 Exhibit D-1 to the Lease (the “Construction Agreement”). Under the Construction Agreement,
 24 SPC was responsible “for all matters that must be accomplished to complete the construction of the
 25 building and all leasehold improvements to be initially constructed therein[.]” (Lease, Exhibit D-
 26 1(I)(C).) The Construction Agreement contained specific provisions governing the scope of the

27
 28 ¹ A true and correct copy of the Lease is attached hereto and incorporated by reference herein as
Exhibit A.

1 Landlord's Work, including a process by which CP Logistics was entitled to request changes in the
 2 design of the building and a process for allocating the costs associated with such requested changes
 3 to CP Logistics. (Exhibit D-1, Section II.)

4 8. During construction, it was determined that the greenhouse cooling system was
 5 inadequate. What had originally been designed and specified in the plans was too small and would
 6 be incapable of keeping the greenhouse cool during the heat of summer in the desert environment
 7 of Cathedral City. This led to an initial Change Order on the project, referred to as CO #1.

8 9. CO #1 was not controversial at the time, but thereafter SPC began demanding that
 9 CP Logistics sign additional Change Orders.² As time went on, it became clear to CP Logistics
 10 that SPC was using "Change Orders" to absorb the cost overruns on the Project and improperly
 11 shift them to CP Logistics. CP Logistics is informed and believes that SPC did so because it grossly
 12 underestimated the construction costs and failed to properly manage the construction in a manner
 13 that appropriately controlled costs. Indeed, the original budget of \$54 million has now reportedly
 14 ballooned to over \$110 million. SPC did not employ any cost controls and, upon information and
 15 belief, failed to conduct any competitive bidding. Indeed, SPC did not even secure a fixed budget
 16 for the scope of Landlord's Work from its selected General Contractor, making a cost-effective
 17 Project that adhered to the \$54 million Budget an impossibility.

18 10. SPC's mismanagement of the Project also led to massive construction delays. SPC
 19 was supposed to finish and deliver the Building on the Property to CP Logistics by June 2018
 20 initially and recommitted to November 2018, but was unable to meet either of the dates for a variety
 21 of reasons including the inability to obtain all required permits for occupancy by said dates, not
 22 having commitments from utility companies to deliver services to the site by these dates, and the
 23 inability to professionally manage the Project through completion. Moreover, SPC did not even
 24 require its General Contractor to provide updated schedules with any regularity and, as a result, the
 25 construction often proceeded for months on end without the aid of an accurate and up-to-date
 26

27 ² The term Change Orders is used here only because that is how SPC labeled them. In reality,
 28 they are not true change orders because they reflect costs that were already incurred prior to any
 request that CP Logistics authorize the additional work allegedly performed and contain charges
 that do not relate to any change in the plans initiated by CP Logistics.

1 schedule.

2 11. Beginning with CO #3, SPC became increasingly aggressive in attributing unrelated
3 costs to the HVAC system change and demanding their payment while CP Logistics continued to
4 push for transparency in the numbers and scrutinized the additional costs. While CP Logistics
5 succeeded in getting SPC to withdraw payment demands for certain items, SPC refused to do so
6 for many other disputed cost items. SPC repeatedly cautioned that the failure to pay the Change
7 Orders would result in the contractors SPC hired to suspend work, putting the construction of the
8 building at risk. Faced with that threat and given its desire to get the Project completed so that it
9 could occupy the Property and produce revenue, CP Logistics was left with little choice but to
10 accede to SPC's payment demands and reserve rights to recover monies wrongfully assessed later.
11 Consequently, CP Logistics began including language in the Change Orders that payments were
12 being made under protest and the assessment of costs would be subject to an audit at the end of
13 construction.

14 12. Starting with CO #3, CP Logistics at times borrowed money from SPC to pay the
15 Change Order amounts allocated to CP Logistics, including those amounts under protest. The
16 parties engaged in a course of conduct in which the loans were renewed and updated several times,
17 and eventually the loans were consolidated into a single note.

18 13. Although disputes remained over a substantial portion of the Change Order Costs
19 assessed by SPC, CP Logistics continued to make payments under protest (and "borrow" money
20 from SPC to make a portion of these payments) rather than risk suspension of the Project. In
21 October 2019, CP Logistics paid \$1.7 million to SPC. SPC allocated most of that amount to the
22 payment of Change Orders and credited \$263,000 against the note balance. As late as November
23 6, 2019, SPC made no claim CP Logistics was in default on the payment of Change Orders. Instead,
24 SPC stated that it "basically kicked any reimbursement to us for C.O. costs down the road..."

25 14. By this time, CP Logistics had invested an additional \$23 million in the Project over
26 and above the original budget of \$54 million (including \$8 million in direct payment to vendors for
27 equipment). On November 25, 2019, without warning and in an apparent effort to abscond with
28 CP Logistics' investment and freeze it out of a project that CP Logistics had brought to SPC in the

1 first place, SPC wrongfully claimed CP Logistics was in default of the Lease and the Lease subject
2 to termination. SPC did so on trumped up grounds.

3 15. More specifically, in a November 25, 2019 letter sent by its outside counsel (the
4 “First Termination Notice”), SPC claimed that CP Logistics was in default on payment of an
5 unspecified amount of Change Order Costs (SPC’s notice failed to provide any details regarding
6 the sums allegedly due and owing, or when such amounts were due and owing) and had failed to
7 obtain various licenses to operate its business which, in reality are not required until the building is
8 occupied and business commences. The latter ground is especially specious given that Lease says
9 nothing regarding a date by which the licenses must be obtained, the completion of the building is
10 already a year and a half overdue, and a realistic estimate for completion at that time was November
11 2020. The First Termination Notice stated that the Lease would be terminated effective December
12 30, 2019 notwithstanding the fact that the Termination provisions (Lease, Section 11), apply only
13 during the Lease Term and there is no dispute the Lease Term has not commenced given that the
14 building has yet to be completed and is not ready for occupancy.

15 16. On December 5, 2019, counsel for CP Logistics responded to the First Termination
16 Notice outlining the reasons why it was invalid and demanded it be withdrawn. SPC never
17 responded and did not withdraw the First Termination Notice. Consequently, CP Logistics was
18 forced to file this arbitration.

19 17. Simultaneous with the filing of this demand, CP Logistics sought judicial relief to
20 enjoin SPC from terminating the Lease. SPC opposed that application and claimed, among other
21 things, that it had a statutory right to file an unlawful detainer action under California law to evict
22 CP Logistics. Although the Court denied the injunction application, SPC never proceeded with its
23 threat to terminate the Lease.

24 18. Specifically, on December 27, 2019, SPC’s counsel notified CP Logistics of its
25 intention to file an unlawful detainer action upon termination of the Lease, which it claimed would
26 occur as of December 30, 2019 based on the alleged defaults asserted in the First Termination
27 Notice.

28 19. On January 6, 2020, SPC served CP Logistics with a 3-day Notice to Quit (the

1 “Notice to Quit”), claiming CP Logistics allegedly failed to pay “the full amount of Rent and other
2 amounts due under the Lease for certain change order associated with the construction at the
3 Premises, totaling in aggregate \$3,393,947.51.” SPC demanded that CP Logistics pay or vacate
4 the Premises within three days, warned that should CP Logistics fail to do so it would commence
5 an unlawful detainer to recover possession of the Premises, and claimed that, in the absence of
6 payment, the Lease would be deemed to be forfeited.

7 20. Notwithstanding the passage of the deadlines unilaterally imposed by SPC in the
8 First Termination Notice and the Notice to Quit, on January 14, 2020, SPC served CP Logistics
9 with a new termination notice (the “Second Termination Notice”), this time claiming that the
10 \$3,393,947.51 identified in the Notice to Quit all constituted “Additional Rent,” as that term is
11 defined in the Lease, and providing a new 30-day cure period after which, according to SPC, the
12 Lease would be deemed terminated.

13 21. On January 30, 2020, CP Logistics responded to the Second Termination Notice,
14 outlining the reasons why the notice was defective, including as before that the termination
15 provisions do not apply until the lease commences. Moreover, CP Logistics reiterated that it paid
16 under protest far more in disputed change order costs than the \$3,393,947.51 alleged to be due and
17 owing and reminded SPC that CP Logistics invested \$23 million in the construction of the building.

18 22. CP Logistics demanded that SPC promptly withdraw the Second Termination
19 Notice and that its failure to do so would constitute a breach of the Lease.

20 23. SPC never responded to CP Logistics’ January 30, 2020 letter and did not withdraw
21 the Second Termination Notice.

22 24. SPC also never filed an unlawful detainer action in the California courts. Instead,
23 SPC has now stipulated that any and all claims related to the Lease shall be brought in this
24 Arbitration pursuant to the terms of the Arbitration provisions in the Lease.

25 25. Upon information and belief, since CP Logistics rebuffed SPC’s attempt to compel
26 the payment of an additional \$3.39 million in construction costs under the threat of termination, the
27 Project has stalled.
28

ARBITRATION AGREEMENT

26. As set forth above, this case arises out of SPC's anticipatory breach of the Lease and improper attempts to pass unrelated costs disguised as Change Order Costs to CP Logistics that were instead incurred as a result of SPC's mismanagement of the Project, thereby further breaching the terms of the Lease.

27. The parties have agreed to waive their rights to a jury trial and to resolve disputes through binding arbitration before JAMS. More specifically, the Lease provides:

Waiver of Right to Jury Trial. To the extent now or hereafter permitted by law, Landlord and Tenant waive their respective rights to a trial by jury of any contract or tort claim, counterclaim, cross-complaint, or cause of action in any action, proceeding, or hearing brought by either party against the other on any matter arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, or Tenant's use or occupancy of the Premises, including any claim of injury or damage or the enforcement of any remedy under any current or future law, statute, regulation, code or ordinance. (Section 35.1.)

JAMS. Any dispute that is required by the express terms of this Lease to be resolved by arbitration, shall be resolved by neutral binding arbitration before a panel of three arbitrators in accordance with the commercial/real estate and/or construction (as is applicable) rules of JAMS arbitration. Judgment on the award rendered by the arbitrators may be entered in any Court having jurisdiction over the dispute. (Section 35.2.)

Venue. Any arbitration hearings shall be held in Cathedral City, California, or any other venue mutually agreed by both parties in writing. (Section 35.4.)

28. The parties have since affirmed, by means of a Stipulation, that pursuant to these provisions of the Lease, the parties would submit to binding arbitration any and all claims concerning the Lease.

CLAIM I – ANTICIPATORY BREACH OF CONTRACT

29. CP Logistics incorporates the allegations in paragraphs 1 through 28 by this reference.

30. As alleged herein, a contract (*i.e.*, the Lease) exists between CP Logistics and SPC for the construction and long-term occupancy of a customized facility that meets CP Logistics' specialized needs on a unique piece of real property in a municipality that allows for the specific use contemplated by the Lease.

31. CP Logistics has performed, or was excused from performing, all or substantially all of the significant things that the Lease required it to do.

32. All the conditions required for SPC's performance under the Lease have occurred or been waived and/or excused. CP Logistics has demanded that SPC perform its contractual obligations.

33. SPC has failed and refused, and continues to fail and refuse, to honor its contractual obligations and has repudiated the Contract by wrongfully attempting to terminate it on at least two occasions. Accordingly, SPC has anticipatorily breached the Contract.

34. Due to the uniqueness of the real property in which CP Logistics has an interest and the specialized needs of the business the parties agreed CP Logistics was permitted to conduct on such real property, CP Logistics' remedies at law are inadequate. Accordingly, CP Logistics seeks specific performance of the Lease, including an order obligating SPC to complete the Building and provide possession to CP Logistics upon achieving Substantial Completion, along with damages incurred by delays in the commencement of the Lease as a result of SPC's non-performance, including without limitation lost profits.

35. In the alternative, and only in the event the Arbitration Panel determines specific performance is not appropriate and CP Logistics does not occupy the Building as a Tenant, CP Logistics seeks damages in accordance with proof, including without limitation the \$23 million it has invested in the Building to date, a return of any and all equipment paid for or financed by CP Logistics, including equipment already installed in the Building, and CP Logistics' lost profits.

**CLAIM II -- BREACH OF CONTRACT BASED ON WRONGFUL ASSESSMENT
OF CHANGE ORDER COSTS**

36. CP Logistics incorporates the allegations in paragraphs 1 through 28 by this reference.

1 37. Under the Construction Agreement, SPC was “responsible for all matters that must
2 be accomplished to complete the construction of the Building and all leasehold improvements” in
3 accordance with the Approved Base Building Plans and Approved TI Plans, all of which were
4 deemed Landlord’s Work.

5 38. CP Logistics had no obligation to pay for any portion of the Landlord’s Work.

6 39. CP Logistics did have an obligation to pay for any “incremental, justifiable and
7 documented additional costs associated with any change order to the Approved TI Plans requested
8 by Tenant” as detailed in the Construction Agreement, which costs are defined as Change Order
9 Costs.
10

11 40. During the course of the Project, CP Logistics requested a change to the HVAC
12 system, which change was approved by SPC and documented as Change Order No. 1.

13 41. Although CP Logistics had an obligation to pay Change Order Costs, that obligation
14 did not extend to costs associated with the Approved Base Building Plans and Approved TI Plans.
15

16 42. Notwithstanding, SPC, in breach of the Lease, wrongfully charged CP Logistics
17 with costs associated with the Approved Base Building Plans and Approved TI Plans under the
18 guise that they were legitimate Change Order Costs. Among other things, CP Logistics believes
19 that SPC attempted to assess CP Logistics with these wrongful charges because it had grossly
20 mismanaged the Project, had far exceeded the Budget, and could not secure additional financing
21 from its lender as a result. Not only did SPC seek to pass onto CP Logistics construction costs that
22 were unrelated to the approved HVAC change, but SPC even sought to charge CP Logistics
23 wrongfully with financing costs and alleged liquidated damages based on construction delays
24 SPC’s own mismanagement caused.

25 43. CP Logistics disputed a substantial portion of the alleged Change Order Costs
26 assessed by SPC but eventually paid them (or agreed to pay them) under protest and subject to audit
27 rights after the completion of the construction of the Building.
28

44. CP Logistics seeks damages in accordance with proof, including all Change Order Costs that were improperly charged by SPC. CP Logistics is entitled to such monetary relief regardless of whether it prevails on its claim for specific performance.

CLAIM III – DECLARATORY RELIEF

45. CP Logistics incorporates the allegations in paragraphs 1 through 28 by this reference.

46. An actual controversy has arisen and now exists between CP Logistics and SPC concerning their respective rights and obligations under the Lease. CP Logistics contends, and SPC denies, that SPC's non-performance and mismanagement of the Project caused Project delays and an increased cost of construction. CP Logistics desires a judicial determination of the respective rights and duties of the parties under the Lease as follows:

47. The initial Target Date for Substantial Completion of Landlord's Work was June 2018 and the initial budget for the Project was \$54 million. Both milestones have been exceeded substantially. The Project has yet to achieve Substantial Completion and the projected construction costs have ballooned to over \$110 million dollars.

48. Pursuant to Section III of the Construction Agreement, to the extent delays in achieving Substantial Completion of Landlord's Work and/or delivery of the Premises to CP Logistics were not caused by Tenant Delay, then CP Logistics is entitled to "day-to-day rental abatement until such time as the Premises are delivered to Tenant" and/or other damages, including without limitation lost profits.

49. Pursuant to Section 3.1 of the Lease, the amount of Base Rent is calculated as a percentage of Project Costs and determined by the Budget (as amended). CP Logistics contends, and SPC denies, that an audit of the construction records will confirm that SPC's mismanagement of the Project caused the budgeted construction costs to more than double from the initial \$54 million Budget. CP Logistics is entitled to declaration that the calculation of Base Rent should exclude any excess construction costs incurred as a result of SPC's mismanagement of the Project and/or of its selected General Contractor.

50. Accordingly, CP Logistics seeks a judicial determination that:

- a. it is entitled to rent abatement and/or other damages, including lost profits, as a result of SPC's failure to achieve Substantial Completion timely in an amount to be determined; and
- b. the calculation of Base Rent excludes Project Costs that exceed the initial Budget to the extent they were incurred as a result of SPC's mismanagement of the Project.

PRAYER FOR RELIEF

WHEREFORE, CP Logistics prays for relief and judgment in its favor and against SPC as follows:

1. Specific performance by SPC of the Lease and monetary damages for the delay in the Lease Commencement Date caused by SPC.

2. In the alternative, and only in the event the Arbitration Panel determines that specific performance of the Lease is inappropriate, for damages according to proof including, without limitation, the \$23 million it has invested in the Building to date, a return of any and all equipment installed in the Buildings and paid for or financed by CP Logistics, and CP Logistics' lost profits.

3. Damages for SPC's wrongful assessment of Change Order Costs in an amount according to proof.

4. For a declaration of the parties' rights and obligations under the Lease, including without limitation:

a. CP Logistics' entitlement to and amount of rent abatement and/or other damages, including lost profits, as a result of SPC's failure to achieve Substantial Completion timely; and

b. a calculation of Base Rent that excludes construction costs in excess of the initial Budget to the extent they were incurred as a result of SPC's mismanagement of the

1 Project and/or SPC's non-performance of its obligations under the Construction
2 Agreement.

3 5. For judgment for costs of arbitration, including attorney's fees and interest to the
4 extent permitted by law; and

5 6. For such other relief as is fair, just, and equitable.
6

7 Dated: May 28, 2020

DENTONS US LLP

8
9 By: 

10 Christian D. Humphreys
Carol Yur

11 Attorneys for Defendant
12 CP LOGISTICS, LLC
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DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
213 623 9300

This is **Exhibit “C”** referred to in Affidavit #1 of Jonathan S. Jemison made before me on the 7th day of January 2021

A handwritten signature in cursive script, reading "Karina Boto", written over a horizontal line.

A Notary Public

KARINA BOTO
NOTARY PUBLIC OF NEW JERSEY
COMMISSION EXPIRES: 5/2/23

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6 Attorneys for Claimant
 CP LOGISTICS, LLC
 7

8 JAMS -- CATHEDRAL CITY, CALIFORNIA
 9

10
 11 CP LOGISTICS, LLC, a North Carolina
 limited liability company,
 12

13 Claimant,

14 vs.

15 SUNNIVA PRODUCTION CAMPUS,
 LLC, (n/k/a RAMON ROAD
 PRODUCTION CAMPUS, LLC) a
 16 Delaware limited liability company, and
 BOBS, LLC, a Nevada limited liability
 17 company,

18 Respondents.
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SECOND AMENDED DEMAND FOR
 ARBITRATION AND NOTICE OF CLAIMS

JAMS Reference No. 1220064266

1 Claimant CP Logistics, LLC (“CP Logistics”) hereby gives notice of its claims against
 2 Respondents Sunniva Production Campus, LLC and Bobs LLC and demands arbitration to be held
 3 before JAMS in Cathedral City, California. In support of this Notice and pursuant to applicable
 4 JAMS rules, CP Logistics states as follows:

5 FACTUAL BACKGROUND

6 1. Sunniva, Inc. is a publicly-traded Canadian company that desired to enter the
 7 California cannabis growing market. Toward that end, Sunniva, Inc. acquired a US entity, CP
 8 Logistics – the Claimant. CP Logistics identified and acquired real property (the “Property”) in
 9 Cathedral City, California (the “City”) and applied to the City for cultivation licenses and a
 10 Conditional Use Permit (“CUP”) to build and operate a glasshouse/growing facility on the property.
 11 At the time of it was acquired by Sunniva, Inc., CP Logistics had applied to the City for
 12 approximately four cultivation licenses. Sunniva, Inc. worked side by side with CP Logistics’
 13 original owners to apply to the City for additional cultivation licenses and to submit the CUP
 14 application.

15 2. During its search for a financing partner, CP Logistics came into contact
 16 with Barker Pacific Group (“BPG”), a real estate development company controlled by Michael
 17 Barker. In an effort to reduce its risk by relying upon BPG’s professed experience and skill as a
 18 developer, CP Logistics discussed transactions with BPG by which BPG would take ownership of
 19 the real property and agree to build a specialized facility upon the Property and lease it to CP
 20 Logistics.

21 3. In connection with the anticipated construction and subsequent lease, BPG formed
 22 a single purpose vehicle called Sunniva Production Campus, LLC (n/k/a Ramon Road Production
 23 Campus, LLC) (hereinafter, “SPC”) to be responsible for all aspects of the construction and serve
 24 as landlord under the anticipated lease. Although BPG created confusion by choosing to use
 25 “Sunniva” in SPC’s name, SPC is not part of Sunniva, Inc.

26 4. On or around October 20, 2017, SPC as the Landlord and CP Logistics as the Tenant
 27
 28

1 entered into a Conditional Build to Suit Lease Agreement (the “Lease”)¹ involving real property at
 2 69375 Ramon Road, Cathedral City, CA (the “Property”), pursuant to which SPC agreed to
 3 construct a facility designed to meet CP Logistics’ specific needs (the “Project”).

4 5. While the Lease was signed in October 2017, pursuant to Section 2.1 of the Lease
 5 the parties agreed that the “Lease Commencement Date” would be “the first to occur of (a) the date
 6 Tenant takes occupancy of the Premises for the conduct of Tenant’s intended business therein, or
 7 (b) the date which is five (5) calendar days following Substantial Completion of Landlord’s Work.”
 8 The parties would then enter into a separate agreement “specifying the Lease Commencement Date
 9 and Rentable Area,” (Lease Section 2.3.) That date would mark the start of the 15-year initial
 10 Lease Term (Section 1.7), after which CP Logistics would commence occupancy to use the
 11 Property for its intended purpose (Section 4.1), and begin paying Rent (Section 3.1).

12 6. The Lease specifically provides that CP Logistics shall occupy and use the Property
 13 for the “Permitted Use” of, among other things, cultivating, harvesting, packing, storing and
 14 distributing medical marijuana in accordance with applicable medical marijuana licenses and other
 15 Governmental Regulations (Section 4.1.) “Permitted use shall also include any future lawful
 16 cannabis use, including recreational cannabis but only to the extent that such use is in compliance
 17 with all California, and Cathedral City laws, ordinances rules and regulations.” (*Id.*) The Lease
 18 attached the Local Licenses in place and acknowledged that State Licenses were not yet available
 19 but in the process of being applied for by CP Logistics.

20 7. While the Lease was “effective” as of October 20, 2017, the Lease Term could not
 21 commence until SPC erected the building. The construction of the building was governed by the
 22 Design Construction Agreement (also called the Work Letter Agreement) that was attached as
 23 Exhibit D-1 to the Lease (the “Construction Agreement”). Under the Construction Agreement,
 24 SPC was responsible “for all matters that must be accomplished to complete the construction of the
 25 building and all leasehold improvements to be initially constructed therein[.]” (Lease, Exhibit D-
 26 1(I)(C).) The Construction Agreement contained specific provisions governing the scope of the

27
 28 ¹ A true and correct copy of the Lease is attached hereto and incorporated by reference herein as
Exhibit A.

1 Landlord's Work, including a process by which CP Logistics was entitled to request changes in the
 2 design of the building and a process for allocating the costs associated with such requested changes
 3 to CP Logistics. (Exhibit D-1, Section II.)

4 8. On or about March 2, 2018, SPC secured construction financing from Bobs LLC, a
 5 Nevada limited liability company with a principal place of business at 60 South Spring Street, Los
 6 Angeles, CA ("Bobs"), secured by the Property. Pursuant to Article 23 of the Lease, on March 2,
 7 2018 Bobs, SPC and CP Logistics entered into and recorded a Subordination, Non-Disturbance and
 8 Attornment Agreement ("SNDA"), ensuring that in the event of a foreclosure of the property by
 9 Bobs, in which ownership of the Property would change hands, the new owner would step into the
 10 shoes of SPC, and the Lease and CP Logistics' rights as a Tenant would remain intact. During
 11 construction, it was determined that the greenhouse cooling system was inadequate. What had
 12 originally been designed and specified in the plans was too small and would be incapable of keeping
 13 the greenhouse cool during the heat of summer in the desert environment of Cathedral City. This
 14 led to an initial Change Order on the project, referred to as CO #1.

15 9. CO #1 was not controversial at the time, but thereafter SPC began demanding that
 16 CP Logistics sign additional Change Orders.² As time went on, it became clear to CP Logistics
 17 that SPC was using "Change Orders" to absorb the cost overruns on the Project and improperly
 18 shift them to CP Logistics. CP Logistics is informed and believes that SPC did so because it grossly
 19 underestimated the construction costs and failed to properly manage the construction in a manner
 20 that appropriately controlled costs. Indeed, the original budget of \$54 million has now reportedly
 21 ballooned to over \$110 million. SPC did not employ any cost controls and, upon information and
 22 belief, failed to conduct any competitive bidding. Indeed, SPC did not even secure a fixed budget
 23 for the scope of Landlord's Work from its selected General Contractor, making a cost-effective
 24 Project that adhered to the \$54 million Budget an impossibility.

25 10. SPC's mismanagement of the Project also led to massive construction delays. SPC

26
 27 ² The term Change Orders is used here only because that is how SPC labeled them. In reality,
 28 they are not true change orders because they reflect costs that were already incurred prior to any
 request that CP Logistics authorize the additional work allegedly performed and contain charges
 that do not relate to any change in the plans initiated by CP Logistics.

1 was supposed to finish and deliver the Building on the Property to CP Logistics by June 2018
2 initially and recommitted to November 2018, but was unable to meet either of the dates for a variety
3 of reasons including the inability to obtain all required permits for occupancy by said dates, not
4 having commitments from utility companies to deliver services to the site by these dates, and the
5 inability to professionally manage the Project through completion. Moreover, SPC did not even
6 require its General Contractor to provide updated schedules with any regularity and, as a result, the
7 construction often proceeded for months on end without the aid of an accurate and up-to-date
8 schedule.

9 11. Beginning with CO #3, SPC became increasingly aggressive in attributing unrelated
10 costs to the HVAC system change and demanding their payment while CP Logistics continued to
11 push for transparency in the numbers and scrutinized the additional costs. While CP Logistics
12 succeeded in getting SPC to withdraw payment demands for certain items, SPC refused to do so
13 for many other disputed cost items. SPC repeatedly cautioned that the failure to pay the Change
14 Orders would result in the contractors SPC hired to suspend work, putting the construction of the
15 building at risk. Faced with that threat and given its desire to get the Project completed so that it
16 could occupy the Property and produce revenue, CP Logistics was left with little choice but to
17 accede to SPC's payment demands and reserve rights to recover monies wrongfully assessed later.
18 Consequently, CP Logistics began including language in the Change Orders that payments were
19 being made under protest and the assessment of costs would be subject to an audit at the end of
20 construction.

21 12. Starting with CO #3, CP Logistics at times borrowed money from SPC to pay the
22 Change Order amounts allocated to CP Logistics, including those amounts under protest. The
23 parties engaged in a course of conduct in which the loans were renewed and updated several times,
24 and eventually the loans were consolidated into a single note.

25 13. Although disputes remained over a substantial portion of the Change Order Costs
26 assessed by SPC, CP Logistics continued to make payments under protest (and "borrow" money
27 from SPC to make a portion of these payments) rather than risk suspension of the Project. In
28 October 2019, CP Logistics paid \$1.7 million to SPC. SPC allocated most of that amount to the

1 payment of Change Orders and credited \$263,000 against the note balance. As late as November
 2 6, 2019, SPC made no claim CP Logistics was in default on the payment of Change Orders. Instead,
 3 SPC stated that it “basically kicked any reimbursement to us for C.O. costs down the road...”

4 14. By this time, CP Logistics had invested an additional \$23 million in the Project over
 5 and above the original budget of \$54 million (including \$8 million in direct payment to vendors for
 6 equipment). On November 25, 2019, without warning and in an apparent effort to abscond with
 7 CP Logistics’ investment and freeze it out of a project that CP Logistics had brought to SPC in the
 8 first place, SPC wrongfully claimed CP Logistics was in default of the Lease and the Lease subject
 9 to termination. SPC did so on trumped up grounds.

10 15. More specifically, in a November 25, 2019 letter sent by its outside counsel (the
 11 “First Termination Notice”), SPC claimed that CP Logistics was in default on payment of an
 12 unspecified amount of Change Order Costs (SPC’s notice failed to provide any details regarding
 13 the sums allegedly due and owing, or when such amounts were due and owing) and had failed to
 14 obtain various licenses to operate its business which, in reality are not required until the building is
 15 occupied and business commences. The latter ground is especially specious given that Lease says
 16 nothing regarding a date by which the licenses must be obtained, the completion of the building is
 17 already a year and a half overdue, and a realistic estimate for completion at that time was November
 18 2020. The First Termination Notice stated that the Lease would be terminated effective December
 19 30, 2019 notwithstanding the fact that the Termination provisions (Lease, Section 11), apply only
 20 during the Lease Term and there is no dispute the Lease Term has not commenced given that the
 21 building has yet to be completed and is not ready for occupancy.

22 16. On December 5, 2019, counsel for CP Logistics responded to the First Termination
 23 Notice outlining the reasons why it was invalid and demanded it be withdrawn. SPC never
 24 responded and did not withdraw the First Termination Notice. Consequently, CP Logistics was
 25 forced to file this arbitration.

26 17. Simultaneous with the filing of this demand, CP Logistics sought judicial relief to
 27 enjoin SPC from terminating the Lease. SPC opposed that application and claimed, among other
 28 things, that it had a statutory right to file an unlawful detainer action under California law to evict

1 CP Logistics. Although the Court denied the injunction application, SPC never proceeded with its
2 threat to terminate the Lease.

3
4 18. Specifically, on December 27, 2019, SPC's counsel notified CP Logistics of its
5 intention to file an unlawful detainer action upon termination of the Lease, which it claimed would
6 occur as of December 30, 2019 based on the alleged defaults asserted in the First Termination
7 Notice.

8
9 19. On January 6, 2020, SPC served CP Logistics with a 3-day Notice to Quit (the
10 "Notice to Quit"), claiming CP Logistics allegedly failed to pay "the full amount of Rent and other
11 amounts due under the Lease for certain change order associated with the construction at the
12 Premises, totaling in aggregate \$3,393,947.51." SPC demanded that CP Logistics pay or vacate
13 the Premises within three days, warned that should CP Logistics fail to do so it would commence
14 an unlawful detainer to recover possession of the Premises, and claimed that, in the absence of
15 payment, the Lease would be deemed to be forfeited.

16 20. Notwithstanding the passage of the deadlines unilaterally imposed by SPC in the
17 First Termination Notice and the Notice to Quit, on January 14, 2020, SPC served CP Logistics
18 with a new termination notice (the "Second Termination Notice"), this time claiming that the
19 \$3,393,947.51 identified in the Notice to Quit all constituted "Additional Rent," as that term is
20 defined in the Lease, and providing a new 30-day cure period after which, according to SPC, the
21 Lease would be deemed terminated.

22 21. On January 30, 2020, CP Logistics responded to the Second Termination Notice,
23 outlining the reasons why the notice was defective, including as before that the termination
24 provisions do not apply until the lease commences. Moreover, CP Logistics reiterated that it paid
25 under protest far more in disputed change order costs than the \$3,393,947.51 alleged to be due and
26 owing and reminded SPC that CP Logistics invested \$23 million in the construction of the building.

27 22. CP Logistics demanded that SPC promptly withdraw the Second Termination
28 Notice and that its failure to do so would constitute a breach of the Lease.

23. SPC never responded to CP Logistics' January 30, 2020 letter and did not withdraw the Second Termination Notice.

24. SPC also never filed an unlawful detainer action in the California courts. Instead, SPC has now stipulated that any and all claims related to the Lease shall be brought in this Arbitration pursuant to the terms of the Arbitration provisions in the Lease.

25. Upon information and belief, since CP Logistics rebuffed SPC's attempt to compel the payment of an additional \$3.39 million in construction costs under the threat of termination, the Project has stalled.

ARBITRATION AGREEMENT

26. As set forth above, this case arises out of SPC's anticipatory breach of the Lease and improper attempts to pass unrelated costs disguised as Change Order Costs to CP Logistics that were instead incurred as a result of SPC's mismanagement of the Project, thereby further breaching the terms of the Lease.

27. The parties have agreed to waive their rights to a jury trial and to resolve disputes through binding arbitration before JAMS. More specifically, the Lease provides:

Waiver of Right to Jury Trial. To the extent now or hereafter permitted by law, Landlord and Tenant waive their respective rights to a trial by jury of any contract or tort claim, counterclaim, cross-complaint, or cause of action in any action, proceeding, or hearing brought by either party against the other on any matter arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, or Tenant's use or occupancy of the Premises, including any claim of injury or damage or the enforcement of any remedy under any current or future law, statute, regulation, code or ordinance. (Section 35.1.)

JAMS. Any dispute that is required by the express terms of this Lease to be resolved by arbitration, shall be resolved by neutral binding arbitration before a panel of three arbitrators in accordance with the commercial/real estate and/or construction (as is applicable) rules of JAMS arbitration. Judgment on the award rendered by the arbitrators may be entered in any Court having jurisdiction over the dispute. (Section 35.2.)

Venue. Any arbitration hearings shall be held in Cathedral City,

1 California, or any other venue mutually agreed by both parties in
2 writing. (Section 35.4.)

3 28. The parties have since affirmed, by means of a Stipulation, that pursuant to these
4 provisions of the Lease, the parties would submit to binding arbitration any and all claims
5 concerning the Lease.

6 **EVENTS SINCE THE FILING OF THE AMENDED DEMAND**

7 29. Since the filing of Amended Demand for Arbitration, ownership of both SPC and
8 the Property has changed hands.

9 30. First, on or about May 29, 2020, Bristol Capital Investors LLC foreclosed on the
10 membership interests in SPC as a result of SPC's default on a \$5 million loan it secured from Bristol
11 in November 2017. As a result of that foreclosure, control of SPC changed hands.

12 31. Second, on or about September 1, 2020, Bobs foreclosed on the Property as a result
13 of SPC's default under a \$33 million loan it had initially secured from Bobs on March 2, 2018.
14 Upon information and belief, Bobs was the lone bidder at the foreclosure sale and now owns the
15 Property. In accordance with Article 23.2 of the Lease and Paragraph 5 of the SNDA, Bobs now
16 is the Landlord under the Lease, with CP Logistics remaining as Tenant.

17 32. Both before and after the foreclosure, CP Logistics contacted Bobs and its counsel
18 and confirmed that it remained the Tenant, that this Arbitration was pending, and that, under the
19 terms of the SNDA, notwithstanding any foreclosure, the Lease would remain intact, CP Logistics
20 would remain as Tenant and Bobs would step into the shoes of SPC, as the new Landlord.

21 33. Bobs is aware of CP Logistics' rights and of the terms of the Lease and SNDA, not
22 only because of the communications noted in the preceding paragraph, but because, in related
23 litigation seeking to enjoin the foreclosure sale from proceeding, Bobs and its principal admitted in
24 writing that CP Logistics asserted rights as a Tenant under both the Lease and the SNDA.

25 34. In addition, CP Logistics informed Bobs that certain equipment belonging to CP
26 Logistics remained in the Building and could not be sold as part of the foreclosure sale. Bobs
27 acknowledged the assertion of this claim.

28 35. In the month since the foreclosure, Bobs has failed to acknowledge CP Logistics'

1 rights and, instead, has informed CP Logistics that it intends to challenge CP Logistics' rights as a
2 tenant.

3 36. In addition, knowing CP Logistics held certain cannabis licenses with the City of
4 Cathedral City (the "City") for the Building, CP Logistics recently learned that Bobs contacted the
5 City seeking to secure new cannabis licenses for the Building and, upon information and belief,
6 misrepresented that CP Logistics was no longer the tenant and had no future involvement in the
7 Building.

8 37. On October 1, 2020, we received an email from SPC's counsel indicating that "on
9 September 30, 2020, Ramon Road Production Campus, LLC f/k/a Sunniva Productions Campus,
10 LLC filed a petition under chapter 7 of the Bankruptcy Code, *In re Ramon Road Production*
11 *Campus, LLC, Central District of California*, Bankruptcy Court, Riverside Division, Case No.
12 6:20-bk-16627-WJ.

13 38. Notwithstanding this filing, a genuine dispute remains as to the validity of the
14 Lease and CP Logistics' rights as Tenant thereunder, which is now being challenged by the new
15 landlord, Bobs, as confirmed by its recent actions.

17 **CLAIM I – ANTICIPATORY BREACH OF CONTRACT --**

18 **(Against SPC and Bobs)**

19 39. CP Logistics incorporates the allegations in paragraphs 1 through 38 by this
20 reference.

21 40. As alleged herein, a contract (*i.e.*, the Lease) exists between CP Logistics and SPC
22 for the construction and long-term occupancy of a customized facility that meets CP Logistics'
23 specialized needs on a unique piece of real property in a municipality that allows for the specific
24 use contemplated by the Lease.

25 41. CP Logistics has performed, or was excused from performing, all or substantially
26 all of the significant things that the Lease required it to do.

27 42. All the conditions required for SPC's performance under the Lease have occurred
28

1 or been waived and/or excused. CP Logistics has demanded that SPC perform its contractual
2 obligations.

3 43. SPC has failed and refused, and continues to fail and refuse, to honor its contractual
4 obligations and has repudiated the contract by wrongfully attempting to terminate it on at least two
5 occasions. Accordingly, SPC has anticipatorily breached the Contract.

6 44. Due to the uniqueness of the real property in which CP Logistics has an interest and
7 the specialized needs of the business the parties agreed CP Logistics was permitted to conduct on
8 such real property, CP Logistics' remedies at law are inadequate. Accordingly, CP Logistics seeks
9 specific performance of the Lease, including an order obligating Bobs, as the current owner of the
10 Property, to complete the Building and provide possession to CP Logistics upon achieving
11 Substantial Completion.

12 45. CP Logistics also seeks a declaration that there has been no default under or
13 termination of the Lease on the grounds set forth in SPC's various Notices detailed above, and, as
14 a result, CP Logistics remains the Tenant and the Lease remains in full force and effect.

15 46. CP Logistics also seeks damages from SPC for the damages incurred by delays in
16 the commencement of the Lease as a result of SPC's non-performance, including without limitation
17 lost profits.

18 47. In the alternative, and only in the event the Arbitration Panel determines specific
19 performance is not appropriate and CP Logistics is not entitled to occupy the Building as a Tenant,
20 CP Logistics seeks damages against SPC in accordance with proof, including without limitation
21 the \$23 million it has invested in the Building to date, a return of any and all equipment paid for or
22 financed by CP Logistics, including equipment already installed in the Building, and CP Logistics'
23 lost profits.

24 **CLAIM II -- ANTICIPATORY BREACH OF CONTRACT BY BOBS**

25 **(Against Bobs)**

26 48. CP Logistics incorporates the allegations in paragraphs 1 through 47 by this
27 reference.
28

1 49. On March 2, 2018, Bobs, SPC and CP Logistics signed and recorded the SNDA
2 pursuant to Section 23.1 of the Lease.

3 50. Pursuant to Section 5 of the SNDA, Bobs agreed that “in the event of a transfer of
4 the Property to Lender or any purchaser from Lender (after Lender has taken title to the Property
5 by foreclosure or deed in lieu thereof) or pursuant to a trustee’s sale conducted under the Deed of
6 Trust (‘Purchaser’) the Lease shall continue in full force and effect as a direct lease between Lender
7 or Purchaser and Lessess, upon and subject to all the terms of the Lease for the balance of the term.”
8

9 51. Further, Section 5 of the SNDA prohibits Bobs from disturbing CP Logistics’ rights
10 under the Lease absent a default and failure to cure.

11 52. Contrary to SPC’s prior assertions, there has been no default under or termination
12 of the Lease on the grounds set forth in SPC’s various Notices detailed above, and, as a result, CP
13 Logistics remains the Tenant and the Lease remains in full force and effect.

14 53. CP Logistics has repeatedly informed Bobs, both before and after the foreclosure,
15 that under the terms of the SNDA, upon a foreclosure the Lease “shall continue in full force and
16 effect as a direct lease between” Bobs and CP Logistics.

17 54. Nevertheless, since foreclosing on the Property, Bobs has indicated it has no
18 intention to honor the Lease or the terms of the SNDA and, upon information and belief, advised
19 third parties, including the City, that CP Logistics has no rights under the Lease. Bobs has taken
20 this position despite previously acknowledging CP Logistics’ assertion of its rights in this
21 Arbitration.
22

23 55. By its unequivocal conduct, Bobs had made clear it has no intention to honor its
24 obligations under Section 5 of the SNDA. Accordingly, Bobs has anticipatorily breached the
25 SNDA.
26

27 56. Due to the uniqueness of the real property in which CP Logistics has an interest and
28 the specialized needs of the business the parties agreed CP Logistics was permitted to conduct on

1 such real property, CP Logistics' remedies at law are inadequate. Accordingly, CP Logistics seeks
 2 specific performance of the Lease and SNDA, including an order obligating Bobs, as the current
 3 owner of the Property, to complete the Building and provide possession to CP Logistics upon
 4 achieving Substantial Completion.

5 57. CP Logistics also seeks a declaration that, under the terms of the SNDA, the Lease
 6 remains in full force and effect, that CP Logistics remains the Tenant and that Bobs is bound to
 7 refrain from disturbing CP Logistics' enjoyment of their rights under the Lease.

8 58. CP Logistics also seeks damages from Bobs for the damages incurred by its failure to
 9 comply with the terms of the SNDA in accordance with proof, including without limitation CP
 10 Logistics' legal fees incurred in enforcing its rights under the SNDA.

11 **CLAIM III -- BREACH OF CONTRACT BASED ON WRONGFUL**

12 **ASSESSMENT OF CHANGE ORDER COSTS**

13 **(Against SPC)**

14 59. CP Logistics incorporates the allegations in paragraphs 1 through 58 by this
 15 reference.
 16

17 60. Under the Construction Agreement, SPC was "responsible for all matters that must
 18 be accomplished to complete the construction of the Building and all leasehold improvements" in
 19 accordance with the Approved Base Building Plans and Approved TI Plans, all of which were
 20 deemed Landlord's Work.
 21

22 61. CP Logistics had no obligation to pay for any portion of the Landlord's Work.

23 62. CP Logistics did have an obligation to pay for any "incremental, justifiable and
 24 documented additional costs associated with any change order to the Approved TI Plans requested
 25 by Tenant" as detailed in the Construction Agreement, which costs are defined as Change Order
 26 Costs.
 27
 28

63. During the course of the Project, CP Logistics requested a change to the HVAC system, which change was approved by SPC and documented as Change Order No. 1.

64. Although CP Logistics had an obligation to pay Change Order Costs, that obligation did not extend to costs associated with the Approved Base Building Plans and Approved TI Plans.

65. Notwithstanding, SPC, in breach of the Lease, wrongfully charged CP Logistics with costs associated with the Approved Base Building Plans and Approved TI Plans under the guise that they were legitimate Change Order Costs. Among other things, CP Logistics believes that SPC attempted to assess CP Logistics with these wrongful charges because it had grossly mismanaged the Project, had far exceeded the Budget, and could not secure additional financing from its lender as a result. Not only did SPC seek to pass onto CP Logistics construction costs that were unrelated to the approved HVAC change, but SPC even sought to charge CP Logistics wrongfully with financing costs and alleged liquidated damages based on construction delays SPC's own mismanagement caused.

66. CP Logistics disputed a substantial portion of the alleged Change Order Costs assessed by SPC but eventually paid them (or agreed to pay them) under protest and subject to audit rights after the completion of the construction of the Building.

67. CP Logistics seeks damages in accordance with proof, including all Change Order Costs that were improperly charged by SPC. CP Logistics is entitled to such monetary relief regardless of whether it prevails on its claim for specific performance.

CLAIM IV -- CONVERSION

(Against Bobs)

68. CP Logistics incorporates the allegations in paragraphs 1 through 67 by this reference.

69. As detailed in Claim II, SPC, the former Landlord, wrongfully charged CP Logistics millions in Change Order Costs that should, in reality, were costs that should have been paid by SPC. In addition, CP Logistics paid millions for equipment necessary for the operation of the

1 facility, the ownership of which never passed to SPC. While much of that equipment has been
2 partially installed, all of its remains in the Building.

3 70. Bobs, as the new owner of the Building by virtue of foreclosure, is now in possession
4 of the Building (including CP Logistics' equipment) and, as such, is the beneficiary of
5 improvements in the Building paid for by CP Logistics through the wrongful assessment of Change
6 Order Costs and other payments. The right to possess the monies used to pay the wrongful Change
7 Order Costs belongs to CP Logistics, as does the right to possession of the equipment.

8 71. Despite being aware of CP Logistics' claim to this money and equipment, Bobs has
9 failed to return the wrongful Change Order Costs to CP Logistics or to return (or pay for) any of
10 the equipment since securing ownership of the Building. Instead, upon information and belief,
11 Bobs has made claims to third parties that CP Logistics has no rights in the Building. CP Logistics
12 has not consented to Bob's failure to return the Change Order Costs or equipment.

13 72. As a result, Bobs converted monies belonging to CP Logistics and CP Logistics has
14 been damaged as a result.

15 73. CP Logistics seeks damages in accordance with proof, including all Change Order
16 Costs that were improperly charged by SPC and the cost of its equipment. CP Logistics is entitled
17 to such monetary relief, regardless of whether it prevails on its claim for specific performance,
18 except to the extent CP Logistics recovers such monies from SPC.
19
20

21 **CLAIM V – DECLARATORY RELIEF**

22 **(Against Bobs)**

23 74. CP Logistics incorporates the allegations in paragraphs 1 through 73 by this
24 reference.

25 75. An actual controversy has arisen and now exists by and among CP Logistics, SPC
26 and Bob's, as successor in interest to SPC, concerning their respective rights and obligations
27 under the Lease. CP Logistics contends, and SPC denies, that SPC's non-performance and
28

1 mismanagement of the Project caused Project delays and an increased cost of construction. CP
 2 Logistics desires a judicial determination of the respective rights and duties of the parties under
 3 the Lease as follows:

4
 5 76. The initial Target Date for Substantial Completion of Landlord's Work was June
 6 2018 and the initial budget for the Project was \$54 million. Both milestones have been exceeded
 7 substantially. The Project has yet to achieve Substantial Completion and the projected
 8 construction costs have ballooned to over \$110 million dollars.

9 77. Pursuant to Section III of the Construction Agreement, to the extent delays in
 10 achieving Substantial Completion of Landlord's Work and/or delivery of the Premises to CP
 11 Logistics were not caused by Tenant Delay, then CP Logistics is entitled to "day-to-day rental
 12 abatement until such time as the Premises are delivered to Tenant" and/or other damages,
 13 including without limitation lost profits.

14 78. Pursuant to Section 3.1 of the Lease, the amount of Base Rent is calculated as a
 15 percentage of Project Costs and determined by the Budget (as amended). CP Logistics contends,
 16 and SPC denies, that an audit of the construction records will confirm that SPC's mismanagement
 17 of the Project caused the budgeted construction costs to more than double from the initial \$54
 18 million Budget. CP Logistics is entitled to declaration that the calculation of Base Rent should
 19 exclude any excess construction costs incurred as a result of SPC's mismanagement of the Project
 20 and/or of its selected General Contractor.

21 79. Accordingly, CP Logistics seeks a judicial determination that:

- 22 a. it is entitled to rent abatement from Bobs and/or other damages from SPC
- 23 and/or Bobs, including lost profits, as a result of SPC's failure to achieve
- 24 Substantial Completion timely in an amount to be determined; and
- 25 b. the calculation of Base Rent excludes Project Costs that exceed the initial
- 26 Budget to the extent they were incurred as a result of SPC's
- 27 mismanagement of the Project.
- 28

PRAYER FOR RELIEF

WHEREFORE, CP Logistics prays for relief and judgment in its favor and against SPC as follows:

1. Specific performance by Bobs of the Lease and SNDA.
2. A declaration that there is no valid default under or termination of the Lease, that CP Logistics remains as Tenant, and that Bobs is bound to refrain from disturbing CP Logistics' enjoyment of their rights under the Lease.
3. Monetary damages from SPC for the delay in the Lease Commencement Date caused by SPC.
4. Monetary damages from Bobs for its anticipatory breach of the SNDA, including attorneys' fees incurred by CP Logistics for enforcing its rights pursuant to Section 10 of the SNDA.
5. In the alternative, and only in the event the Arbitration Panel determines that specific performance of the Lease is inappropriate, for damages against SPC according to proof including, without limitation, the \$23 million it has invested in the Building to date, a return of any and all equipment installed in the Buildings and paid for or financed by CP Logistics, and CP Logistics' lost profits.
6. Damages against SPC for its wrongful assessment of Change Order Costs in an amount according to proof.
7. Damages against Bobs for its conversion of Change Order Costs wrongfully charged by and paid to SPC in an amount according to proof to the extent such monies are not recovered from SPC, and damages for conversion of equipment owned by CP Logistics.
8. For a declaration of CP Logistics and Bobs' rights and obligations under the Lease, including without limitation:
 - a. CP Logistics' entitlement to and amount of rent abatement and/or other damages, including lost profits, as a result of SPC's failure to achieve Substantial Completion timely; and

b. a calculation of Base Rent that excludes construction costs in excess of the initial Budget to the extent they were incurred as a result of SPC's mismanagement of the Project and/or SPC's non-performance of its obligations under the Construction Agreement.

9. For judgment for costs of arbitration, including attorney's fees and interest to the extent permitted by law; and

10. For such other relief as is fair, just, and equitable.

Dated: October __, 2020

DENTONS US LLP

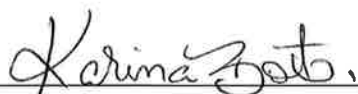
By: 

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This is **Exhibit "D"** referred to in Affidavit #1 of Jonathan S. Jemison made before me on the 7th day of January 2021



A Notary Public

KARINA BOTO
NOTARY PUBLIC OF NEW JERSEY
COMMISSION EXPIRES: 5/8/23

JAMS ARBITRATION
No. 1220064266

CP Logistics, LLC,
Claimant,

And

Sunniva Production Campus, LLC,
Respondent.

MINUTES RE NOTICE OF BANKRUPTCY

Given the Notice of Bankruptcy, all further arbitration proceedings in this matter are automatically stayed.

Dated: October 13, 2020



Franz E. Miller, Arbitrator
On Behalf of the Panel

PROOF OF SERVICE BY E-Mail

Re: CP Logistics, LLC vs. Sunniva Production Campus, LLC
Reference No. 1220064266

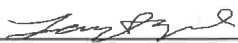
I, Laura Aguilar, not a party to the within action, hereby declare that on October 13, 2020, I served the attached MINUTES RE NOTICE OF BANKRUPTCY on the parties in the within action by electronic mail at Irvine, CALIFORNIA, addressed as follows:

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Sunniva Production Campus, LLC

I declare under penalty of perjury the foregoing to be true and correct. Executed at Irvine, CALIFORNIA on October 13, 2020.



Laura Aguilar
JAMS
laguilar@jamsadr.com

No. S2010103
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED**

AND

**IN THE MATTER OF THE CANADA BUSINESS CORPORATIONS ACT, R.S.C.
1985, c. C-44 AND THE BUSINESS CORPORATIONS ACT, S.B.C. 2002, c. 57**

AND

**IN THE MATTER OF SUNNIVA INC., SUNNIVA MEDICAL INC., 11111035
CANADA INC. AND 1167025 B.C. LTD**

PETITIONERS

AFFIDAVIT

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