

Clean Harbors Las Vegas

Application for Permit to Operate a Solid Waste Management Facility

Part 1

1. SNHD Application: Attached
2. Land Use Approval: Attached
3. Property Deed or Lease Agreement: Attached
4. Zoning Maps: See Attached
5. Site Photographs: Attached

SNHD APPLICATION

6. Solid Waste Types Proposed for Acceptance Complete and attach the SOLID WASTE TYPES PROPOSED FOR ACCEPTANCE form			
7. Facility Operations	<i>Hours of Operations</i> 7:00 A.M. to 5:00 P.M.		<i>Days of Operation</i> Monday through Friday
Open to the Public (If no, type N/A)	<i>Hours of Operations</i> n/a		<i>Days of Operation</i> n/a
8. Name of Property Owner	ie Corporation, Sole Proprietorship, or Last Name, First Name & Middle Initial Kobold Construction GP		
Telephone Number(s)	702-396-4148		
Address	<i>Street Address</i> 1258 W. Mission Blvd.	<i>City, State, Zip</i> Ontario, California, 91762	
9. Professional Engineer or Consultant	<i>Last Name</i> Carrier	<i>First Name</i> Christopher	<i>Middle Initial</i> A
License Number/Engineer Discipline (if applicable)	024060 – Civil Engineer		
Firm Name	Broadbent & Associates, Inc.		
Telephone Number(s)	702-563-0600	<i>Cell Phone Number</i> 702-278-0415	
Address	<i>Street Address</i> 8 West Pacific Ave.	<i>City, State, Zip</i> Henderson, Nevada, 89015	
Email Address	ccarrier@broadbentinc.com		
<p><i>This application form and supporting documents, as required by the current version of the Application Guide for this facility type, are hereby submitted to SNHD to apply for a permit to operate or modify a solid waste management facility. We understand that receipt of this application does not constitute an approval to operate or modify the facility. We understand that this application must be approved by SNHD and a permit issued before the operation or modification of the facility. We certify that the Report of Design supports the Report of Operating Plan. We certify that, to the best of our knowledge, the information provided on this application and submitted with this application in the supporting documents is complete and accurate and complies with the requirements specified in the current version of the Application Guide for this facility type and the Solid Waste Management Authority Regulations for this type of Solid Waste Management Facility.</i></p>			
10. Certifications			
 <p>PE stamp, expiration date, signature and signature date</p>	Signature of Applicant Agent (facility owner or operator)		
	Printed name of Applicant Agent (facility owner or operator)	William Roberts	
	Title of Applicant Agent (facility owner or operator)	Facility Coordinator	
	Telephone Number	702-396-4148	
	Date of Signing		



APPLICATION FORM FOR PERMIT/PERMIT MODIFICATIONS TO OPERATE A SOLID WASTE MANAGEMENT FACILITY

For SNHD Use Only

CONTROL/PERMIT NUMBER: _____

☐ New Permit
☐ Waiver/Variance

☐ Revision - Major Modification
☐ Revision - Minor Modification

1. Type of Solid Waste Management Facility

- | | | |
|--|---|---|
| <input type="checkbox"/> Class I Disposal Site

<input type="checkbox"/> Compost Plant

<input checked="" type="checkbox"/> Recycling Center

<input type="checkbox"/> Waste Grease Facility | <input type="checkbox"/> Class II Disposal Site

<input type="checkbox"/> Materials Recovery Facility

<input type="checkbox"/> Solid Waste Storage Bin Facility

<input type="checkbox"/> Waste Tire Management Facility | <input type="checkbox"/> Class III Disposal Site

<input type="checkbox"/> Medical Waste Management Facility

<input type="checkbox"/> Transfer Station

<input type="checkbox"/> Waste to Energy/Fuel Facility |
|--|---|---|

2. Name of Facility

Clean Harbors Environmental Services, Inc.

Fictitious Firm Name (dba) n/a

Facility Address

<i>Street Address</i> 4435 East Colton Ave.	<i>City, State, Zip</i> Las Vegas, Nevada, 89115
<i>Telephone Number</i> 702-396-4148	<i>Emergency Telephone Number</i> 702-758-6019
<i>Jurisdiction</i> Clark County - 89115	<i>Zoning Classification (e.g. M-1, M-2, etc)</i> M-1 Light Manufacturing
<i>Parcel Number (s)</i> 140-08-401-016	

Mailing Address

<i>Street Address/PO Box</i> 4435 East Colton Ave.	<i>City, State, Zip</i> Las Vegas, Nevada, 89115
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Contact Information

<i>Name</i> William Roberts	
<i>Phone Number</i> 702-758-6019	<i>Email Address</i> roberts.william@cleanharbors.com

3. Name of Facility/ Business Owner (Legal)

ie Corporation, Sole Proprietorship, or Last Name, First Name & Middle Initial
Clean Harbors Environmental Services, Inc.

Mailing Address

<i>Street Address</i> 4435 East Colton Ave.	<i>City, State, Zip</i> Las Vegas, Nevada, 89115
--	---

Telephone Number(s)

<i>Telephone Number</i> 702-396-4148	<i>Fax Number</i>
---	-------------------

4. Name of Facility/ Business Operator

ie Corporation, Sole Proprietorship, or Last Name, First Name & Middle Initial
Clean Harbors Environmental Services, Inc.

Address

<i>Street Address</i> 4435 East Colton Ave.	<i>City, State, Zip</i> Las Vegas, Nevada, 89115
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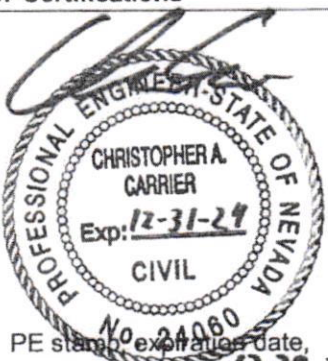
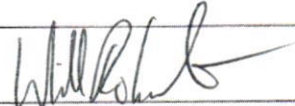
Telephone Number(s)

<i>Telephone Number</i> 702-396-4148	<i>Emergency Telephone Number</i> 702-758-6019
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5. Facility Design Parameters

<i>Inside Area (Sq. Ft):</i> n/a	<i>Storage Capacity (cubic yards)</i> 24 cubic yards	<i>Processing Capacity (i.e. cubic yds/day; tons/day)</i> 50 cubic yards/month
<i>Total Area (Sq. Ft):</i> 43,000		

MODIFICATION DESCRIPTION: N/A

6. Solid Waste Types Proposed for Acceptance Complete and attach the SOLID WASTE TYPES PROPOSED FOR ACCEPTANCE form			
7. Facility Operations	Hours of Operations 7:00 A.M. to 5:00 P.M.		Days of Operation Monday through Friday
Open to the Public (If no, type N/A)	Hours of Operations n/a		Days of Operation n/a
8. Name of Property Owner	ie Corporation, Sole Proprietorship, or Last Name, First Name & Middle Initial Kobold Construction GP		
Telephone Number(s)	702-396-4148		
Address	Street Address 1258 W. Mission Blvd.	City, State, Zip Ontario, California, 91762	
9. Professional Engineer or Consultant	Last Name Carrier	First Name Christopher	Middle Initial A
License Number/Engineer Discipline (if applicable)	024060 – Civil Engineer		
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10. Certifications			
 <p>PE stamp, expiration date, signature and signature line</p>	Signature of Applicant Agent (facility owner or operator)		
	Printed name of Applicant Agent (facility owner or operator)	William Roberts	
	Title of Applicant Agent (facility owner or operator)	Facility Coordinator	
	Telephone Number	702-396-4148	
	Date of Signing	12/27/2022	

SOLID WASTE TYPES PROPOSED FOR ACCEPTANCE

Solid Waste Categories and Types

(Check all that apply)

☐ Paper (All Types)

☐ Carboard

☐ Plastic (All Types)

☐ Glass (All Types)

☐ Textiles

Metals

☐ Ferrous Scrap Metals

☐ Non-Ferrous Scrap Metals

☒ Other (Specify) Used oil filters

Organic Material

☐ Green Waste

☐ Food Waste

☐ BioSolids

☐ Restaurant Grease

☐ Rendered Animal Matter

☐ Manure

☐ Other (Specify) _____

Construction & Demolition Debris (C&D)

☐ Asphalt

☐ Concrete

☐ Carpet

☐ Carpet Padding

☐ Drywall

☐ Wood

☐ Other (Specify) _____

Special Waste

☐ Waste Tires

☐ Paint

☐ Fluorescent Lamps

☐ Household Hazardous Waste

☐ Other (Specify) _____

Universal Wastes

☐ Lead-Acid Batteries (automotive)

☐ Mercury Devices & Waste

☐ Lithium Batteries

☐ Fluorescent Lamps/Bulbs

☐ Other (Specify) _____

E-Wastes

☐ Batteries (alkaline & rechargeable)

☐ Computers

☐ Cell Phones

☐ CRTs

☐ Televisions (Plasma, LED, LCD)

☐ Other (Specify) _____

Other (Specify)

☐ _____

☐ _____

☐ _____

☐ _____

☐ _____

☐ _____

☐ _____

LAND USE APPROVAL



Department of Comprehensive Planning

500 S Grand Central Pkwy • Box 551741 • Las Vegas NV 89155-1741
(702) 455-4314 • Fax (702) 455-3271

Nancy A. Amundsen, Director

NOTICE OF FINAL ACTION

December 16, 2021

CLAYTON NEILSEN
6765 W. RUSSELL RD, STE 200
LAS VEGAS, NV 89118

REFERENCE: UC-21-0583

On the date indicated above, a Notice of Final Action was filed with the Clark County Clerk, Commission Division, pursuant to NRS 278.0235 and NRS 278.3195, which starts the commencement of the twenty-five (25) day limitation period specified therein.

The above referenced application was presented before the Clark County Planning Commissioners at their regular meeting of **December 07, 2021** and was **APPROVED** subject to the conditions listed below. You will be required to comply with all conditions prior to the issuance of a building permit or a business license, whichever occurs first.

Time limits to commence, complete or review this approval, apply only to this specific application. A property may have several approved applications on it with each having its own expiration date. **It is the applicant's responsibility to keep the application current.**

CONDITIONS OF APPROVAL -

Current Planning

- Work with the Las Vegas Metropolitan Police Department for the installation of security cameras and surveillance operation;
- No gathering of individuals in an area that would result in an average density of greater than 25 persons per acre per hour during a 24-hour period, not to exceed 50 persons per acre at any time.
- Applicant is advised that the County is currently rewriting Title 30 and future land use applications, including applications for extensions of time, will be reviewed for conformance with the regulations in place at the time of application; a substantial change in circumstances or regulations may warrant denial or added conditions to an extension of time; the extension of time may be denied if the project has not commenced or there has been no substantial work towards completion within the time specified; and that this application must commence within 2 years of approval date or it will expire.

Building Department - Fire Prevention

- Applicant is advised that operational permits may be required for this facility and to contact Fire Prevention for further information at (702) 455-7316.

Clark County Water Reclamation District (CCWRD)

- Applicant is advised that the property is already connected to the CCWRD sewer system; and that if any existing plumbing fixtures are modified in the future, then additional capacity and connection fees will need to be addressed.

BOARD OF COUNTY COMMISSIONERS

MARILYN KIRKPATRICK, Chair • JAMES B. GIBSON, Vice Chair
MICHAEL NAFT • JUSTIN C. JONES • TICK SEGERBLOM • ROSS MILLER • WILLIAM MCCURDY II
YOLANDA T. KING, County Manager



PROPERTY DEED OR LEASE AGREEMENT

April 21, 2021

Manager
Clean Harbors
4435 E Colton Ave, #101-106
Las Vegas NV, 89115

RE: Notice of Property Ownership Change
4405-4435 Colton Avenue, Las Vegas NV 89115

Dear Manager,

We recently acquired the above referenced property. For your records I have attached the assignment of lease and a copy of the deed showing verification of such ownership change. We are in the process of obtaining a property manager for the project. In the meantime, should you need anything, below is my contact information. Regarding rental payment, you will be notified in the coming days on where to send future payments. As such, do not send payment to the prior owner. We are looking forward to a long-term relationship with your company as our tenant.

Sincerely,

Bravo Whiskey Properties LLC. and Kobold Construction L.P.

Barret Woods
Barret Woods
Asset Manager
bwoods@lee-assoc.com
714-515-2057
3535 Inland Empire Blvd
Ontario, CA 91764

A.P.N.: 140-08-401-015
140-08-401-016

File No: NCS-1050196-HHLV (ad)

R.P.T.T.: \$35,955.00

Inst #: 20210419-0001722
Fees: \$42.00
RPTT: \$35955.00 Ex #:
04/19/2021 12:57:48 PM
Receipt #: 4495549
Requestor:
First American Title Insu
Recorded By: WIHD Pgs: 10
Debbie Conway
CLARK COUNTY RECORDER
Src: ERECORD
Ofc: ERECORD

When Recorded Mail To: Mail Tax Statements To:
Kobold Construction GP
1258 W. Mission Blvd.
Ontario, CA 91762

GRANT, BARGAIN and SALE DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Colton Properties, LLC, a Nevada limited liability company as to an undivided 20% interest, JEM Commercial, LLC, a California limited liability company as to an undivided 40% interest, and Van Nuys Capital, LLC, a California limited liability company as to an undivided 40% interest.

do(es) hereby *GRANT, BARGAIN and SELL* to

Kobold Construction GP, a California general partnership

the real property situate in the County of Clark, State of Nevada, described as follows:

THAT PORTION OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 8, TOWNSHIP 20 SOUTH RANGE 62 EAST M.D.M., DESCRIBED AS FOLLOWS:

LOTS ONE (1) AND TWO (2) AS SHOWN BY MAP THEREOF IN FILE 99 OF PARCEL MAPS, PAGE 73, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

TOGETHER with all tenements, hereditaments and appurtenances, including easements and water rights, if any, thereto belonging or appertaining, and any reversions, remainders, rents, issues or profits thereof.

Subject to

1. All general and special taxes for the current fiscal year.

2. Covenants, Conditions, Restrictions, Reservations, Rights, Rights of Way and Easements now of record.
3. All (a) Leases, (b) matters reasonably discoverable or ascertainable by inspection or an accurate ALTA survey of the Property, (c) zoning ordinances and regulations and any other laws, ordinances or governmental regulations restricting or regulating the use, occupancy or enjoyment of the Property, and (d) any other matters created, permitted or approved by the grantee.

Dated: 04/01/2021

Van Nuys Capital, LLC, a California limited liability company

By: 

Name: Shahram Shoushani

Title: Manager

shahram shoushani

Colton Properties LLC, a Nevada limited liability company

SIGNED IN COUNTERPART

By: _____

Name: Shahram Moalemzadeh

Title: Manager

Jem Commercial, LLC, a California limited liability company

SIGNED IN COUNTERPART

By: _____

Name: Shahram Fahimian

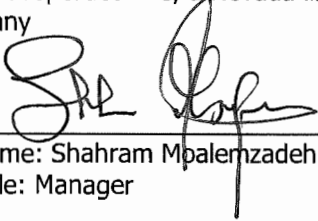
Title: Manager

Van Nuys Capital, LLC, a California limited liability company

SIGNED IN COUNTERPART

By: _____
Name: Shahram Shoushani
Title: Manager

Colton Properties LLC, a Nevada limited liability company

By:  _____
Name: Shahram Moalemzadeh
Title: Manager

Shahram moalemzadeh

Jem Commercial, LLC, a California limited liability company

SIGNED IN COUNTERPART

By: _____
Name: Shahram Fahimian
Title: Manager

Van Nuys Capital, LLC, a California limited liability company

SIGNED IN COUNTERPART

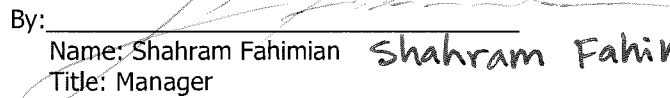
By: _____
Name: Shahram Shoushani
Title: Manager

Colton Properties LLC, a Nevada limited liability company

SIGNED IN COUNTERPART

By: _____
Name: Shahram Moalemzadeh
Title: Manager

Jem Commercial, LLC, a California limited liability company

By:  _____
Name: Shahram Fahimian **Shahram Fahimian**
Title: Manager

STATE OF **NEVADA** *California*)
 : ss.
COUNTY OF **CLARK** *Los Angeles*)

This instrument was acknowledged before me on April - 7 - 2021 by
Shahram Shoushani as Manager of Van Nuys Capital, LLC, a California limited liability company.

[Signature]
Notary Public
(My commission expires: April - 17 - 2022)



Shannon Ninio

STATE OF **NEVADA**)
 : ss.
COUNTY OF **CLARK**)

This instrument was acknowledged before me on _____ by
Shahram Moalemezadeh as Manager of Colton Properties LLC, a Nevada limited liability company.

Notary Public
(My commission expires: _____)

STATE OF **NEVADA**)
 : **ss.**
COUNTY OF **CLARK**)

This instrument was acknowledged before me on _____ by
Shahram Shoushani as Manager of Van Nuys Capital, LLC, a California limited liability company.

Notary Public
(My commission expires: _____)

STATE OF **NEVADA**)
 : **ss.**
COUNTY OF **CLARK**)

This instrument was acknowledged before me on _____ by
Shahram Moalemzadeh as Manager of Colton Properties LLC, a Nevada limited liability company.

Notary Public
(My commission expires: _____)

SEE ATTACHED CALIF. Notary Certificate

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Los Angeles

On April 12, 2021 before me, Debra Lee Lane, Notary Public

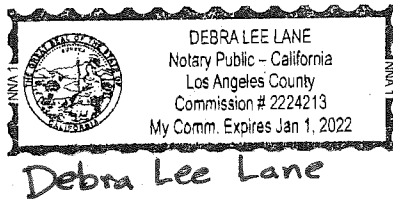
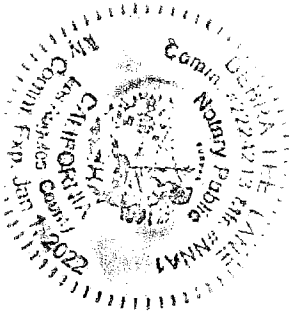
Date

Here Insert Name and Title of the Officer

personally appeared Shahram Moalemzadeh

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Debra Lee Lane
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Grant, Bargain and Sale Deed

Document Date: April 12, 2021

Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Shahram Moalemzadeh

Signer's Name: _____

☒ Corporate Officer – Title(s): MANAGER

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian of Conservator

☐ Trustee ☐ Guardian of Conservator

☐ Other: _____

☐ Other: _____

Signer is Representing: Colton Properties, LLC

Signer is Representing: _____

A Nevada LLC

STATE OF ~~NEVADA~~ CALIFORNIA)
 : ss.
COUNTY OF ~~CLARK~~ LOS ANGELES)

This instrument was acknowledged before me on APRIL 5, 2021 by
**Shahram Fahimian as Manager of Jem Commercial, LLC, a California limited liability
company.**



Notary Public

(My commission expires: JANUARY 27, 2022)



Erika Penaloza

This Notary Acknowledgement is attached to that certain Grant, Bargain Sale Deed dated **April
01, 2021** under Escrow No. **NCS-1050196-HHLV**.

**STATE OF NEVADA
DECLARATION OF VALUE**

1. Assessor Parcel Number(s)

- a) 140-08-401-015
b) 140-08-401-016
c) _____
d) _____

2. Type of Property

- a) ☐ Vacant Land b) ☐ Single Fam. Res.
c) ☐ Condo/Twnhse d) ☐ 2-4 Plex
e) ☐ Apt. Bldg. f) ☒ Comm'l/Ind'l
g) ☐ Agricultural h) ☐ Mobile Home
i) ☐ Other _____

FOR RECORDERS OPTIONAL USE ONLY

Book _____ Page: _____

Date of Recording: _____

Notes: _____

3. a) Total Value/Sales Price of Property: \$7,050,000.00
b) Deed in Lieu of Foreclosure Only (value of property) (\$ _____)
c) Transfer Tax Value: \$7,050,000.00
d) Real Property Transfer Tax Due \$35,955.00

4. **If Exemption Claimed:**

- a. Transfer Tax Exemption, per 375.090, Section: _____
b. Explain reason for exemption: _____

5. Partial Interest: Percentage being transferred: 100 %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature: _____

Capacity: Grantor

Signature: _____

Capacity: Grantee

**SELLER (GRANTOR) INFORMATION
(REQUIRED)**

Van Nuys Capital, LLC and Colton
Properties LLC and Jem
Print Name: Commercial, LLC
c/o Madison Management Group
LLC
2934 1/2 Beverly Glen Circle Unit
Address: #396
City: Los Angeles
State: CA Zip: 90077

**BUYER (GRANTEE) INFORMATION
(REQUIRED)**

Print Name: Kobold Construction GP
Address: 1258 W. Mission Blvd.
City: Ontario
State: CA Zip: 91762

COMPANY/PERSON REQUESTING RECORDING (required if not seller or buyer)

First American Title Insurance
Company National Commercial
Print Name: Services
Address: 8311 W. Sunset Road, Suite 100
City: Las Vegas

File Number: NCS-1050196-HHLV ad/ JH
State: NV Zip: 89113

(AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED)

LEASE AGREEMENT

FOURTH AMENDMENT TO LEASE

THIS FOURTH AMENDMENT TO LEASE ("Fourth Amendment") is made and entered into as of the 1st day of July, 2021, by and between KOBOLD CONSTRUCTION GENERAL PARTNERSHIP, a California General Partnership ("Lessor") as successor in interest by acquisition to GLOBAL COMMERCIAL HOLDINGS, LLC, a Nevada limited liability company and COLTON PROPERTIES, LLC, a Nevada limited liability company ("Original Lessor") and CLEAN HARBORS ENVIRONMENTAL SERVICES, INC., a Massachusetts corporation ("Lessee"), as successor in interest by merger to H2O Environmental Inc., an Idaho corporation ("Original Lessee"). All capitalized terms used but not defined herein shall have the meanings given to them in the Lease, as defined below, unless another meaning is clearly indicated.

RECITALS:

WHEREAS, the Original Lessor and Original Lessee entered into that certain Lease dated November 7, 2011, Addendum 1 of same date, First Amendment dated December 31, 2014, and Second Amendment dated December 28, 2017, and Original Lessor and Lessee entered into that certain Third Amendment dated January 1, 2021 (collectively, the "Lease"), for those certain premises located at 4435 Colton Ave., Suites 101-108 located in the city of Las Vegas, county of Clark, State of Nevada, with zip code 89115, containing approximately 12,392 square feet of office and warehouse area and approximately 43,692 square feet of yard area (collectively, the "Premises");

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the parties agree that the Recitals are true and correct and by this reference incorporated herein as if fully set forth, and the parties further covenant and agree as follows:

- 1. Extension.** Notwithstanding any provisions contained in the Lease to the contrary, Lessor and Lessee hereby agree to amend Section 1.3 of the Lease, and Paragraph 1 of the Third Lease Amendment, extending the term of the Lease as follows:

Term: The term is extended until December 31, 2026 (the "Extended Term").

- 2. Base Rent.** Notwithstanding any provisions contained in the Lease to the contrary, Lessor and Lessee hereby agree to amend Section 1.5 of the Lease and Paragraph 2 of the Third Amendment as follows:

Base Rent: \$17,098/month ("Base Rent"), payable on or before the first (1st) day of each month commencing September 1, 2021 with annual increases as set forth herein. Base Rent consists of \$10,981 per month allocable to the office and warehouse area and \$6,117 per month for the yard area. The Base Rent shall increase as provided below throughout the Extended Term for the office/warehouse space and yard.

Months	Office Base Rent	Yard Base Rent	Total Base Rent
September 1, 2021 – August 31, 2022	██████████	██████████	██████████.
September 1, 2022 – August 31, 2023	██████████	██████████	██████████.
September 1, 2023 – August 31, 2024	██████████	██████████	██████████.
September 1, 2024 – August 31, 2025	\$ ██████████	██████████	██████████
September 1, 2025 – August 31, 2026	\$ ██████████	██████████	██████████
September 1, 2026 – December 31, 2026	\$ ██████████	██████████	██████████.

For the purposes of clarification, the Base Rent is due in full every month for the entire Premises and in the event Lessee fails to pay Base Rent in full, Lessor shall be entitled to all remedies at law and as set forth in the Lease as to the entire Premises.

3. **Estimated Common Area Operating Expenses.** Estimated Common Area Maintenance Charges shall continue to be due in addition to Base Rent per Lessee's pro rata share, currently in the amount of ██████████. for the duration of the Extended Term and in accordance with the terms of the Lease. Lessee shall continue to pay the Asphalt Reimbursement set forth in the First Amendment.
4. **Expansion of Premises:** Lessee is hereby expanding into the entire building located at 4435 E. Colton Avenue. Thus, the new address and definition of "Premises" is 4435 E. Colton Avenue, Suite 101-108. The total occupied warehouse/office is increased from 12,392 square feet to now 14,642 square feet.

At Tenant's option, Landlord, at its sole cost and expense, will demolish any portion of the built out offices for the Expanded Premises provided at least one office and restroom remain. Tenant shall provide notification and a revised layout for the newly expanded space within 60 days of execution of this amendment.

5. **Yard Area Asphalt:** Landlord, at its sole cost and expense, shall install asphalt in all currently non surfaced paved areas of the rear yard area.
6. **Option to Extend:** See Exhibit A.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Lessor and Lessee have executed this Fourth Amendment as of the date set forth above.

LESSOR

KOBOLD CONSTRUCTION GENERAL
PARTNERSHIP, A CALIFORNIA GENERAL
PARTNERSHIP

By: _____

Name Printed: Robert Kobold

Title: General Partner

Address: 1258 W. Mission Blvd., Ontario
CA 91762

Telephone: 714.515.2057

LESSEE

CLEAN HARBORS ENVIRONMENTAL
SERVICES, INC., a Massachusetts
corporation

DocuSigned by:

By: Bryan Girts

Name Printed: Bryan K. Girts

Title: Vice President, Real Estate

Address: 42 Longwater Drive
Norwell, MA 02061

Telephone: 781.792.5000

Federal ID No.: [REDACTED]



EXHIBIT A

OPTION(S) TO EXTEND

STANDARD LEASE ADDENDUM

Dated: July 1, 2021

By and Between

Lessor: KOBOLD CONSTRUCTION GENERAL PARTNERSHIP, A CALIFORNIA GENERAL PARTNERSHIP

Lessee: CLEAN HARBORS ENVIRONMENTAL SERVICES, INC., a Massachusetts corporation

Property Address: 4435 Colton Ave., Suites 101-108, Las Vegas, NV 89115
(street address, city, state, zip)

Paragraph: 6

A. OPTION(S) TO EXTEND:

Lessor hereby grants to Lessee the option to extend the term of this Lease for two (2) additional sixty (60) month period(s) commencing when the prior term expires upon each and all of the following terms and conditions:

(i) In order to exercise an option to extend, Lessee must give written notice of such election to Lessor and Lessor must receive the same at least six (6) but not more than nine (9) months prior to the date that the option period would commence, time being of the essence. If proper notification of the exercise of an option is not given and/or received, such option shall automatically expire. Options (if there are more than one) may only be exercised consecutively.

~~(ii) The provisions of paragraph 39, including those relating to Lessee's Default set forth in paragraph 39.4 of this Lease, are conditions of this Option.~~

(iii) Except for the provisions of this Lease granting an option or options to extend the term, all of the terms and conditions of this Lease except where specifically modified by this option shall apply.

(iv) This Option is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and without the intention of thereafter assigning or subletting.

(v) The monthly rent for each month of the option period shall be calculated as follows, using the method(s) indicated below:

(Check Method(s) to be Used and Fill in Appropriately)

☐ I. Cost of Living Adjustment(s) (COLA)

a. On (Fill in COLA Dates): the Base Rent shall be adjusted by the change, if any, from the Base Month specified below, in the Consumer Price Index of the Bureau of Labor Statistics of the U.S. Department of Labor for (select one): ☐ CPI W (Urban Wage Earners and Clerical Workers) or ☐ CPI U (All Urban Consumers), for (Fill in Urban Area): . All Items (1982-1984 = 100), herein referred to as "CPI".

b. The monthly Base Rent payable in accordance with paragraph A.I.a. of this Addendum shall be calculated as follows: the Base Rent set forth in paragraph 1.5 of the attached Lease, shall be multiplied by a fraction the numerator of which shall be the CPI of the calendar month 2 months prior to the month(s) specified in paragraph A.I.a. above during which the adjustment is to take effect, and the denominator of which shall be the CPI of the calendar month which is 2 months prior to (select one): ☐ the first month of the term of this Lease as set forth in paragraph 1.3 ("Base Month") or ☐ (Fill in Other "Base Month"): . The sum so calculated shall constitute the new monthly Base Rent hereunder, but in no event, shall any such new monthly Base Rent be less than the Base Rent payable for the month immediately preceding the rent adjustment.

c. In the event the compilation and/or publication of the CPI shall be transferred to any other governmental department or bureau or agency or shall be discontinued, then the index most nearly the same as the CPI shall be used to make such calculation. In the event that the Parties cannot agree on such alternative index, then the matter shall be submitted for decision to the American Arbitration Association in accordance with the then rules of said Association and the decision of the arbitrators shall be binding upon the parties. The cost of said Arbitration shall be paid equally by the Parties.

☒ II. Market Rental Value Adjustment(s) (MRV)

a. On (Fill in MRV Adjustment Date(s)) January 1, 2027 and January 1, 2032 the Base Rent shall be adjusted to the "Market Rental Value" of the property as follows:

1) Four months prior to each Market Rental Value Adjustment Date described above, the Parties shall attempt to agree upon what the new MRV will be on the adjustment date. If agreement cannot be reached, within thirty days, then:

(a) Lessor and Lessee shall immediately appoint a mutually acceptable appraiser or broker to establish the new MRV within the next 30 days. Any associated costs will be split equally between the Parties, or

(b) Both Lessor and Lessee shall each immediately make a reasonable determination of the MRV and submit such determination, in writing, to arbitration in accordance with the following provisions:

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(i) Within 15 days thereafter, Lessor and Lessee shall each select an independent third party ☐ appraiser or ☒ broker ("Consultant" - check one) of their choice to act as an arbitrator (Note: the parties may not select either of the Brokers that was involved in negotiating the Lease). The two arbitrators so appointed shall immediately select a third mutually acceptable Consultant to act as a third arbitrator.

(ii) The 3 arbitrators shall within 30 days of the appointment of the third arbitrator reach a decision as to what the actual MRV for the Premises is, and whether Lessor's or Lessee's submitted MRV is the closest thereto. The decision of a majority of the arbitrators shall be binding on the Parties. The submitted MRV which is determined to be the closest to the actual MRV shall thereafter be used by the Parties.

(iii) If either of the Parties fails to appoint an arbitrator within the specified 15 days, the arbitrator timely appointed by one of them shall reach a decision on his or her own, and said decision shall be binding on the Parties.

(iv) The entire cost of such arbitration shall be paid by the party whose submitted MRV is not selected, ie. the one that is NOT the closest to the actual MRV.

2) When determining MRV, the Lessor, Lessee and Consultants shall consider the terms of comparable market transactions which shall include, but not be limited to, rent, rental adjustments, abated rent, lease term and financial condition of tenants.

3) Notwithstanding the foregoing, the new Base Rent shall not be less than the rent payable for the month immediately preceding the rent adjustment.

b. Upon the establishment of each New Market Rental Value:

1) the new MRV will become the new "Base Rent" for the purpose of calculating any further Adjustments, and

2) the first month of each Market Rental Value term shall become the new "Base Month" for the purpose of calculating any further Adjustments.

☐ ~~III. Fixed Rental Adjustment(s) (FRA)~~

~~The Base Rent shall be increased to the following amounts on the dates set forth below:~~

~~On (Fill in FRA Adjustment Date(s)):~~

~~The New Base Rent shall be:~~

☐ **IV. Initial Term Adjustments**

The formula used to calculate adjustments to the Base Rent during the original Term of the Lease shall continue to be used during the extended term.

B. NOTICE:

Unless specified otherwise herein, notice of any rental adjustments, other than Fixed Rental Adjustments, shall be made as specified in paragraph 23 of the Lease.

C. BROKER'S FEE:

The Brokers shall be paid a Brokerage Fee for each adjustment specified above in accordance with paragraph 15 of the Lease or if applicable, paragraph 9 of the Sublease.

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STANDARD INDUSTRIAL/COMMERCIAL MULTI-TENANT LEASE - NET

1. Basic Provisions ("Basic Provisions").

1.1 Parties: This Lease ("Lease"), dated for reference purposes only as November 7, 2011, made by and between GLOBAL COMMERCIAL HOLDINGS, LLC & COLTON PROPERTIES, LLC, both a Nevada Limited Liability Company (collectively, "Lessor") and H2O Environmental, Inc. ("Lessee"), (collectively the "Parties", or individually a "Party").

1.2(a) Premises: That certain portion of the Project (as defined below), including all improvements therein or to be provided by Lessor under the terms of this Lease, commonly known by the street address of 4435 E. Colton Avenue, Suites 101-106, located in the City of Las Vegas, County of Clark, State of Nevada, with zip code 89115, and containing approximately 12,392 square feet of Warehouse and +/-43,692/SF of yard. ("Premises").

In addition to Lessee's rights to use and occupy the Premises as hereinafter specified, Lessee shall have non-exclusive rights to the any utility raceways of the building containing the Premises ("Building") and to the common Areas (as defined in Paragraph 2.7 below), but shall not have any rights to the roof or exterior walls of the Building or to any other buildings in the Project. The Premises, the Building, the Common Areas, the land upon which they are located, along with all other buildings and improvements thereon, are herein collectively referred to as the "Project." (See also Paragraph 2)

1.2(b) Parking: Parking subject to Paragraph 2.6.

1.3 Term: Thirty-Six (36) months ("Original Term") commencing December 1, 2011 ("Commencement Date") and ending November 30, 2014 ("Expiration Date"). Upon the Expiration Date, this Lease shall terminate and Lessee shall surrender and vacate the Premises in accordance with Paragraph 7.4. (See also Paragraph 25)

1.4 Early Possession: N/A ("Early Possession Date"). (See also Paragraph 3.2)

1.5 Base Rent: per month ("Base Rent"), payable on the first (1st) day of each month commencing February 1, 2012. (See also Paragraph 4).

☒ If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted; shall Option to Renew be executed.

1.6 Lessee's Share of Common Area Operating Expenses: Currently estimated at ("Lessee's Share"). Lessee's Share 25.76%, has been calculated by dividing the approximate square footage of the Premises (12,736.50/SF) by the approximate square footage of the Project (49,450/SF). In the event that the size of the Premises and/or the Project are modified during the term of this Lease, Lessor shall recalculate Lessee's Share to reflect such modification. Lessee's Share is currently estimated to be equal to \$0.12 per month for 2011.

1.7 Base Rent and Other Monies Paid Upon Execution:

- (a) Base Rent: for the period of February 1-29th, 2012.
- (b) Common Area Operating Expenses: for the period of December 1-31st, 2011.
- (c) Security Deposit: Includes last two month's base rent with CAMS. ("Security Deposit").
- (e) Total Due \$ Upon Execution of this Lease:

1.8 Agreed Use: General office operations and Industrial and Hazardous Waste Remediation and equipment associated with it and for no other purpose. (See also Paragraph 6)

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

1.10 Real Estate Brokers: (See also Paragraph 15)

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

- ☐ N/A represents Lessor exclusively ("Lessor's Broker");
- ☐ N/A represents Lessee exclusively ("Lessee's Broker"); or
- ☒ Linda Gonzales & Tom Elkington of Commerce Real Estate Solutions, Cushman & Wakefield Alliance Member represents both Lessor and Lessee ("Dual Agency").

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

1.11 Guarantor. The obligations of the Lessee under this Lease are to be guaranteed by William Parsons and John Bradley ("Guarantor"). (See also Paragraph 36 and Exhibit "B")

1.12 Attachments. Attached hereto are the following, all of which constitute a part of this Lease: Addendum 1; Exhibit "A" Premises/Project Plan, Uniform Disclaimer - Exhibit "B" Guaranty; Exhibit "C" Agency Disclosure, Duties Owed & Consent to Act and Exhibit "D" (second Guaranty).

2. Premises.

2.1 Letting. Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. Unless otherwise provided herein, any statement of size set forth in this Lease, or that may have been used in calculating Rent, is an approximation, which the Parties agree, is reasonable and any payments based thereon are not subject to revision whether or not the actual size is more or less. **NOTE: Lessee is advised to verify the actual size prior to executing this Lease.**

2.2 As Is. Lessor has delivered the Premises to Lessee in "as is" condition. Except as provided in Addendum 1, including specifically, but not limited to, its floors, "as is" and "with all faults" and acknowledges that neither Lessor nor any member, manager, employee, representative or agent of Lessor has made, or shall make, any representation or warranty whatsoever as to the Premises or the property of which the Premises form a part, or the suitability thereof for Lessee's intended use. Lessee acknowledges that Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefore as the same relate to its occupancy of the Premises.

2.3 Intentionally Omitted.

2.4 Acknowledgements. Lessee acknowledges that: (a) it has been advised by Lessor and/or Brokers to satisfy itself with respect to the condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements and the Americans with Disabilities Act), and their suitability for Lessee's intended use, (b) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises, and (c) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease.

units will be permitted.

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

2.6 Common Areas - Definition. The term "Common Areas" is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Project and interior utility raceways and installations **2.5 Vehicle Parking.** Lessee and Lessee's customers, suppliers, employees, and invitees have the non-exclusive right to park in common with other lessees in the parking facilities as designated by Lessor. Said parking spaces shall be used for parking by vehicles no larger than full-size passenger automobiles or pick-up trucks, herein called "Permitted Size Vehicles." Lessor may regulate the loading and unloading of vehicles by adopting Rules and Regulations as provided in Paragraph 2.9. No vehicles other than Permitted Size Vehicles may be parked in the Common Area without the prior written permission of Lessor. In addition:

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

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

(c) Lessee shall not park vehicles in front of other occupied units.

(d) Lessee shall not work on vehicles outside of Premises.

(e) No storage, repairs or cleaning of vehicles, parts, or equipment outside the within the Unit that are provided and designated by the Lessor from time to time for the general non-exclusive use of Lessor, Lessee and other tenants of the Project and their respective employees, suppliers, shippers, customers, contractors and invitees, including parking areas, loading and unloading areas, trash areas, roadways, walkways, driveways and landscaped areas.

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

2.8 Common Areas - Rules and Regulations. Lessor or such other person(s) as Lessor may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to establish, modify, amend and enforce reasonable rules and regulations ("Rules and Regulations") for the management, safety, care, and cleanliness of the grounds, the parking and unloading of vehicles and the preservation of good order, as well as for the convenience of other

occupants or tenants of the Building and the Project and their invitees. Lessee agrees to abide by and conform to all such Rules and Regulations, and shall use its best efforts to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Lessor shall not be responsible to Lessee for the non-compliance with said Rules and Regulations by other tenants of the Project.

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

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

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

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

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

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

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

3. **Term.**

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

3.2 **Early Possession.** If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such early possession. All other terms of this Lease (including but not limited to the obligations to pay Lessee's Share of Common Area Operating Expenses, Real Property Taxes and insurance premiums and to maintain the Premises) shall be in effect during such period. Any such early possession shall not affect the Expiration Date.

3.3 **Intentionally Omitted.**

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

4. **Rent.**

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

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

(a) **"Common Area Operating Expenses"** are defined, for purposes of this Lease, as all costs incurred by Lessor relating to the ownership and operation of the Project, including, but not limited to, the following:

(i) The operation, repair and maintenance, in neat, clean, good order and condition, and if necessary the replacement, of the following:

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

(bb) Exterior signs and any tenant directories.

(cc) Any fire sprinkler systems.

(dd) Any service contracts provided by Lessor, and other expenses incurred by Lessor, for HVAC and/or swamp coolers servicing the Premises and/or the Common Areas.

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

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

(iv) Reserves set aside for maintenance, repair and/or replacement of Common Area improvements and equipment.

(v) Real Property Taxes (as defined in Paragraph 10).

(vi) The cost of the premiums for the insurance maintained by Lessor pursuant to Paragraph 8.

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

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

(ix) The cost of any capital improvement to the Building or the Project.

(x) An administrative fee equal to fifteen percent (15%) of all the Common Area Operating Expense to cover administrative and overhead cost.

(xi) A management fee equal to five percent (5%) of any and all gross revenues, including, without limitation, Rent, deposits (including, but not limited to, security deposits), refunds, tax rebates, and any and all receipts, revenues or income of the Project of any kind or nature whatsoever.

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

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

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

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

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

4.3 Payment. Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States, without offset or deduction (except as specifically permitted in this Lease), on or before the day on which it is due. All monetary amounts shall be rounded to the nearest whole dollar. In the event that any invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of \$100 in addition to any Late Charge and Lessor, at its option, may require all future Rent be paid by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent and Common Area Operating Expenses, and any remaining amount to any other outstanding charges or costs.

5. Security Deposit. Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount due already due Lessor, for Rents which will be due in the future, and/or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10

days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 90 days after the expiration or termination of this Lease, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease.

6. Use.

6.1 Use. Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Other than guide, signal and seeing eye dogs, Lessee shall not keep or allow in the Premises any pets, animals, birds, fish, or reptiles. Lessor may in its sole discretion withhold or delay its consent to any written request for a modification of the Agreed Use.

6.2 Hazardous Substances.

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

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

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

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

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

(f) **Lessor Termination Option.** If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefore (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 6 times the then monthly Base Rent, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 6 times the then monthly Base Rent. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

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

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

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

7.1 **Lessee's Obligations.**

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

(b) **Service Contracts.** Lessee shall, at Lessee's sole expense, procure and maintain contracts, with copies to Lessor, in customary form and substance for, and with contractors specializing and experienced in the maintenance of the following equipment and improvements, if any, if and when installed on the Premises: (i) HVAC equipment, (ii) swamp coolers, (iii) boiler and pressure vessels, and (iv) clarifiers. However, Lessor reserves the right, upon notice to Lessee, to procure and maintain any or all of such service contracts, and Lessee shall reimburse Lessor, upon demand, for the cost thereof.

(c) **Failure to Perform.** If Lessee fails to perform Lessee's obligations under this Paragraph 7.1, Lessor may enter upon the Premises after 10 days' prior written notice to Lessee (except in the case of an emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf, and put the Premises in good order, condition and repair, and

Lessee shall promptly pay to for all costs incurred in performance of such maintenance or repair, including twenty percent (20%) of such costs for Lessor's supervision, immediately upon demand.

7.2 Lessor's Obligations. Subject to the provisions of Paragraphs 2.2 (Condition), 4.2 (Common Area Operating Expenses), 6 (Use), 7.1 (Lessee's Obligations), 9 (Damage or Destruction) and 14 (Condemnation), Lessor, subject to reimbursement as Common Area Operating Expenses pursuant to Paragraph 4.2, shall keep in good order, condition and repair the foundations, exterior walls, structural condition of interior bearing walls, exterior roof, fire sprinkler system, Common Area fire alarm and/or smoke detection systems, fire hydrants, parking lots, walkways, parkways, driveways, landscaping, fences, signs and utility systems serving the Common Areas and all parts thereof, as well as providing the services for which there is a Common Area Operating Expense pursuant to Paragraph 4.2. Lessor shall not be obligated to paint the exterior or interior surfaces of exterior walls nor shall Lessor be obligated to maintain, repair or replace windows, doors or plate glass of the Premises. There shall be no abatement of rent and no liability of Lessor by reason of any injury arising from the making of or failure to make any repairs, alterations, or improvements in or to any portion of the Building or the Premises or in or to fixtures, appurtenances, and equipment therein. Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, the making of or failure to make any repairs, alterations, or improvements in or to any portion of the Building or the Premises or in or to fixtures, appurtenances, and equipment therein. Lessee expressly waives the benefit of any statute now or hereafter in effect to the extent it is inconsistent with the terms of this Lease.

7.3 Utility Installations; Trade Fixtures; Alterations.

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

(b) **Consent.** Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating, or removing the roof or any existing walls, will not affect the electrical, plumbing, HVAC, and/or life safety systems, and the cumulative cost thereof during this Lease as extended does not exceed a sum equal to 3 month's Base Rent in the aggregate or a sum equal to one month's Base Rent in any one year. Notwithstanding the foregoing, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor. In connection with any Alterations and and/or Utility Installations, Lessee shall comply in all respects with NRS 108.2403 and (to the extent Lessee establishes a construction disbursement account pursuant to NRS 108.2403) NRS 108.2407.

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

(d) **Alarm Systems.** No alarm system shall be attached to the exterior walls of the Building. When installing a system, the alarm box must be inside of the unit. Lessee shall, at Lessee's sole expense, be responsible for removal of alarm system and restoring the Premises to its original condition.

7.4 Ownership; Removal; Surrender; and Restoration.

(a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises.

Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

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

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

8. Insurance; Indemnity.

8.1 **Payment of Premiums.** The cost of the premiums for the insurance policies required to be carried by Lessor, pursuant to Paragraph 8.3(a), shall be a Common Area Operating Expense. Premiums for policy periods commencing prior to, or extending beyond, the term of this Lease shall be prorated to coincide with the corresponding Commencement Date or Expiration Date.

8.2 Liability Insurance.

(a) **Carried by Lessee.** Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$1,000,000 per occurrence with an annual aggregate of not less than \$2,000,000. Such insurance shall further insure Lessor and Lessee against liability for property damage of at least \$500,000.00. Lessee shall add Lessor as an additional insured by means of an endorsement at least as broad as the Insurance Service Organization's "Additional Insured-Managers or Lessors of Premises" Endorsement. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "insured contract" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. Lessee shall provide an endorsement on its liability policy(ies) which provides that its insurance shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

8.3 Property Insurance - Building, Improvements and Rental Value.

(a) **Building and Improvements.** Lessor shall obtain and keep in force a policy or policies of insurance in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Premises. The amount of such insurance shall be equal to the full insurable replacement cost of the Premises, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee under Paragraph 8.4. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located.

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

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

8.4 Lessee's Property; Business Interruption Insurance.

(a) **Property Damage.** Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed \$10,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations. Lessee shall provide Lessor with written evidence that such insurance is in force.

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

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

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

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

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

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

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

9. **Damage or Destruction .**

9.1 **Definitions.**

(a) **"Premises Partial Damage"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 3 months or less from the date of the damage or destruction, and the cost thereof does not exceed a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total. Notwithstanding the foregoing, Premises Partial Damage shall not include damage to windows, doors, and/or other similar items which Lessee has the responsibility to repair or replace pursuant to the provisions of Paragraph 7.1.

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

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

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

(e) **"Hazardous Substance Condition"** shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance as defined in Paragraph 6.2(a), in, on, or under the Premises which requires repair, remediation, or restoration.

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

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

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

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

adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate on the date specified in the termination notice and Lessee's option shall be extinguished.

9.6 Abatement of Rent; Lessee's Remedies; Waiver.

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

(b) **Remedies.** Except for such abatement of Rent provided for in Section 9.6 (a), Lessee shall not be entitled to any abatement, compensation, reduction, or reimbursement from Lessor as a result of any damage, destruction, repair, or restoration of or to the Premises.

(c) **Waiver.** Lessee waives the protection of any statute, code or judicial decision which grants a Lessee the right to terminate a lease in the event of the substantial destruction of the leased property. Lessee agrees that the provisions of this Section 9 shall govern the rights and obligations of Lessor and Lessee in the event of any casualty to the Premises.

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

10. Real Property Taxes.

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

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

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

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

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

11. Utilities and Services. Lessee shall contract directly with the utility providers and pay for all water, gas, heat, light, power, telephone, trash disposal and other utilities and services supplied to the Premises, together with any taxes thereon. Notwithstanding the provisions of Paragraph 4.2, if at any time in Lessor's sole judgment, Lessor determines that Lessee is using a disproportionate amount of water, electricity or other commonly metered utilities, or that Lessee is generating such a large volume of

trash as to require an increase in the size of the trash receptacle and/or an increase in the number of times per month that it is emptied, then Lessor may increase Lessee's Base Rent by an amount equal to such increased costs. There shall be no abatement of Rent and Lessor shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Lessor's reasonable control or in cooperation with governmental request or directions.

12. Assignment and Subletting.

12.1 Lessor's Consent Required.

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

(b) Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 20% or more of the voting control of Lessee shall constitute a change in control for this purpose.

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

(d) An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(c), or a noncurable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a noncurable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 150% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Lessee shall be subject to similar adjustment to 150% of the price previously in effect, and (ii) all fixed and non-fixed rental adjustments scheduled during the remainder of the Lease term shall be increased to 150% of the scheduled adjusted rent.

(e) Lessor may, in its sole discretion withhold consent to a proposed assignment or subletting if Lessee is in Default at the time consent is requested.

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

(g) If Lessor consents to any assignment or sublease and Lessee receives rent or other consideration, either initially or over the term of the assignment or sublease, in excess of the Rent called for hereunder, or, in case of the sublease of a portion of the Premises, in excess of such Rent fairly allocable to such portion ("Profits"), then Lessee shall pay Lessor promptly after its receipt, one hundred percent (100%) of such Profits.

12.2 Terms and Conditions Applicable to Assignment and Subletting.

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

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

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

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

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together

with a fee of \$1,500 as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Paragraph 36)

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

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

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

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

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

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

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

13. Default; Breach; Remedies.

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

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

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

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

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

(e) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 2.9 hereof, other than those described in subparagraphs 13.1(a), (b), (c) or (d), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that

more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

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

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

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

13.2 Remedies. If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. Lessee shall pay to Lessor an amount equal to 120% of the costs and expenses incurred by Lessor in such performance upon receipt of an invoice therefor. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (ii) of this Section 13.2 (a) shall be computed by allowing interest on unpaid amounts at the rate of fifteen percent (15%), or such lesser amount as may then be the maximum lawful rate, accruing the date such payments are due until paid. The worth at the time of award of the amount referred to in provision (iii) of this Section 13.2 (a) shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover damages under Paragraph 12. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

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

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

13.3 Inducement Recapture. Any agreement for free or abated rent or other charges, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "Inducement Provisions", shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The

acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

13.4 Late Charges. Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within 5 days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall immediately pay to Lessor a one-time late charge equal to the greater of: (i) 10% of each such overdue amount, or (ii) Fifty and 00/100 Dollars (\$50.00) for each day Rent remains unpaid from and after the fifth (5th) day following the date the same is due. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 Interest. Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due as to scheduled payments (such as Base Rent) or within 30 days following the date on which it was due for non-scheduled payment, shall bear interest from the date when due, as to scheduled payments, or the 31st day after it was due as to non-scheduled payments. The interest ("Interest") charged shall be computed at (i) the rate of 15% per annum, or (ii) the Prime Rate plus five (5) percentage points per annum, whichever is greater, but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 Breach by Lessor.

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

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

15. Brokers.

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

16. Estoppel Certificates.

(a) Each Party (as "Responding Party") shall within 10 days after written notice from the other Party (the "Requesting Party") execute, acknowledge and deliver to the Requesting Party a statement in writing in substantially the form attached hereto as Attachment "___" ("Estoppel Certificate"), plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective

purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate.

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

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

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

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

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

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

22. **No Prior or Other Agreements.** This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective

23. **Notices.**

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

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

24. **Waivers.**

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

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

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

25. **No Right To Holdover.** Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then the Base Rent shall be increased to 200% of the Base Rent applicable immediately preceding the expiration or termination. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee and Lessor expressly reserves the right to require Lessee to surrender possession of the Premises to Lessor upon the expiration or earlier termination of the Lease.

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

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

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

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

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

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

29.3 **Non-Disturbance.** With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a non-disturbance agreement (a "**Non-Disturbance Agreement**") from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises.

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

30. **Attorneys' Fees.** If any Party brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "**Prevailing Party**" shall include, without limitation, a Party who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach (\$500 is a reasonable minimum per occurrence for such services and consultation).

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

32. **Auctions.** Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent, which consent may be withheld in Lessor's sole discretion.

33. **Signs.** Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last 6 months of the term hereof. Lessee shall not place any sign upon the Premises or Project without Lessor's prior written consent, which consent may be withheld in Lessor's sole discretion. All signs must comply with all Applicable Requirements.

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

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

36. **Guarantor.**

36.1 **Execution.** The Guarantors, if any, shall each execute a guaranty in a form approved by Lessor in its sole discretion.

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

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

38. **Intentionally Omitted.**

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

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

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

42. **Authority; Multiple Parties; Execution.**

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

(b) If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and severally liable hereunder. It is agreed that any one of the named Lessees shall be empowered to execute any

amendment to this Lease, or other document ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

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

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

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

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

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

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

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

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

Amendment to this Lease, or other document ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

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

48. **Disclosure:** Landlord and Tenant acknowledge (based on what is represented to them) that Shahram Moalemzadeh (also known as Shawn Molem) is a licensed real estate broker/salesperson in Nevada and California. Landlord and Tenant further acknowledge that in relation to this lease, Shahram Moalemzadeh is only acting in his capacity as a manager of Global Commercial Holdings, LLC & Colton Properties, LLC and is not acting in his capacity as a licensed real estate broker/salesperson. Landlord and Tenant acknowledge that Shahram Moalemzadeh does not represent any party to this lease as a licensed real estate broker/salesperson and has not entered into a brokerage agreement or any other representation agreement with any party to this Lease. Accordingly, Landlord and Tenant acknowledge that Shahram Moalemzadeh does not owe a duty to any party hereto imposed upon licensed real estate broker/salespersons by Nevada or California law.

By LESSOR:

Global Commercial Holdings, LLC, and Colton Properties, LLC, both a Nevada Limited Liability Company

Date: 11/11/2011
By: [Signature]
Name Printed: SHAHRAM MOALEMZADEH
Title: MANAGER
Address: 6399 Wilshire Blvd., Suite 812, Los Angeles, CA 90048
Telephone: (323) 655-5444
Facsimile: (323) 651-1888

By LESSEE:

H2O ENVIRONMENTAL, INC.

Date: 11-9-11
By: [Signature]
Name Printed: Patrick Heveman
Title: President
Address: 6679 S. Supply Way, Boise, ID 83716, (208) 514-5244

ADDENDUM 1

This Addendum "1" to Lease is executed concurrently with and is part of that certain Lease dated November 7, 2011 and hereinafter referred to as "Lease", which is attached hereto, by and between Global Commercial Holdings & Colton Properties, LLC, both a Nevada Limited Liability Company, ("Lessor") and H2O Environmental, Inc. ("Lessee") for that property known as 4435 E. Colton Avenue, Suites 101-106, Las Vegas, NV 89115. In the event any conflict between this Addendum "1" to Lease and the Lease, the provisions of this Addendum "1" to Lease shall prevail. Unless otherwise provided, all capitalized terms shall have the same meaning as set forth in the Lease.

BASE RENT: 12/01/2011-1/31/2012: \$0.00, Plus CAM
2/01/2012-11/30/2012: [REDACTED] Plus CAM
12/01/2012-1/31/2013: \$0.00, Plus CAM
02/01/2013-11/30/2013: [REDACTED] Plus CAM
12/01/2013-1/31/2014: \$0.00, Plus CAM
02/01/2014-11/30/2014: [REDACTED] Plus CAM

ABATEMENT: Months 1, 2, 13, 14, 25 & 26. cam is still due.

OPERATING EXPENSES: Lessee shall be responsible for its pro-rata share of all Common Area Maintenance ("CAM") expenses associated with the occupancy, maintenance and management of the Building, including, but not limited to: taxes, insurance, maintenance and repairs, utilities, landscaping, and management. CAM expenses are currently estimated at \$.12/SF. [REDACTED] per month.

YARD: Approximately +/-43,692/SF of Yard is included in this lease agreement.

POSSESSION: Lessor will allow Lessee occupancy of the leased premises subject to the following requirements:

1. Lessor's receipt of a fully executed Lease.
2. Lessor's receipt of the first month's base rent [REDACTED] first month's CAM \$ [REDACTED] and a security deposit of the last two (2) month's base rent and two (2) months of CAM [REDACTED] total due at lease execution, [REDACTED]
3. Lessor's receipt of Lessee's liability insurance as required in the Lease documents.

SECURITY DEPOSIT: Lessee will pay to Lessor upon execution of the Lease, a security deposit of last two month's base rent and CAM of [REDACTED]

LESSEE IMPROVEMENTS: Lessee shall take possession of the premises in its "as-is" condition and broom clean condition. Any and all improvements required by Lessee shall be done at Lessee's sole cost and expense. Lessee must have Lessor's prior written approval before construction, pursuant to the conditions of this Lease

BUILDINGS SIGNAGE: Lessee may, at its sole cost and expense, install signage at the premises with the Lessor's and Clark County's prior written consent, Lessee will be responsible to obtain all required permits related to signage.

AMERICANS WITH DISABILITIES ACT: Please be advised that an owner or Lessee of real property may be subject to the Americans with Disabilities Act (the ADA); a Federal law codified at 42 USC Section 12101 et seq. Among other requirements of the ADA that could apply to your property, Title III of the ADA requires owners and Lessees of "public accommodations" to remove barriers to access by disabled persons and provide auxiliary aids and services for hearing, vision or speech impaired persons. The regulations under Title III of the ADA are codified at 28 CFR Part 36.

Commerce Real Estate Solutions, Cushman Wakefield Alliance Member recommends that you and your attorney review the ADA and the regulations and, if appropriate, your proposed lease agreement to determine if this law would apply to you, and the nature of the requirements. These are legal issues. You are responsible for conducting your own independent investigation of these issues. Commerce Real Estate Solutions, Cushman Wakefield Alliance Member cannot give you legal advice on these issues.

AGENCY DISCLOSURE:

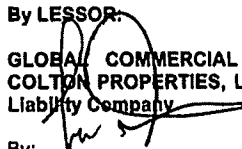
Lessor and Lessee acknowledge that Linda Gonzales and Tom S. Elkington of Commerce Real Estate Solutions, Cushman Wakefield Alliance Member is representing the Lessor and Lessee in this lease negotiation.


NOT AN OFFER:

Preparation of this Lease by Lessor or Lessor's agent and submission of same to Lessee shall not be deemed an offer to Lessee to lease. This Lease shall become effective and binding upon the parties hereto only upon mutual execution by both parties. Lessee shall be aware that Lessor's customary practice is not to reserve the space, which is the subject of this Lease Agreement, until such time as this Lease has been fully executed by both parties. As a result, Lessor may have made or subsequently may make other proposals on the space, which is the subject of this Lease Agreement.

Executed at: LA, CA
On: 11/15/2011

By LESSOR:


GLOBAL COMMERCIAL HOLDINGS, LLC &
COLTON PROPERTIES, LLC, a Nevada Limited
Liability Company

By: 
Name Printed: SHAHEEN KHAN
Title: MANAGER
Address: 6399 Wilshire Blvd., Suite 812, Los
Angeles, CA 90048
Telephone: (323) 655-5444
Facsimile: (323) 651-1888

Executed at: LAS VEGAS, NV
On: 11-9-11

By LESSEE:


H2O ENVIRONMENTAL, INC.


By: 
Name Printed: Patrick Heynen
Title: President
Address: 6679 S. Supply, Boise, ID 83716
Telephone: (208) 514-5244

EXHIBIT "C"
UNIFORM DISCLAIMER FORM - LEASE FORM

1. **LEGAL EFFECT.** Lessor and Lessee acknowledge that the Proposal to Lease contained herein is not a lease and that it is solely to establish deal points which will be used as the basis for the preparation of a lease by Lessor. The lease shall be subject to Lessor's and Lessee's approval and only a fully executed and delivered lease shall constitute a legally binding lease for the Premises. Broker makes no warranty or representation to Lessor or Lessee that acceptance of this Proposal to Lease will guaranty the execution of a lease for the Premises.

Lessor and Lessee acknowledge that Broker is not qualified to practice law, nor authorized to give legal advice or counsel you as to any legal matters affecting this document. Broker hereby advises Lessor and Lessee to consult with their respective attorneys in connection with any questions each may have as to legal ramifications or effects of this document, prior to its execution.

2. **FORM OF LEASE.** This proposed document is a standard form document and Broker makes no representations or warranties with respect to the adequacy of this document for either Lessor's or Seller's particular purposes. Broker has, at the direction of Lessor and/or Lessee, "filled in the blanks" from information provided to Broker based on prior correspondence, discussions of the parties with respect to the Proposal to Lease and subsequent counteroffers between the parties hereto. By initialing this paragraph, Lessor and Lessee acknowledge and agree that this document is delivered to each subject to the express condition that Broker has merely followed the instructions of the parties in preparing this document, and does not assume any responsibility for its accuracy, completeness or form. Lessor and Lessee acknowledge and agree that in providing this document, Broker has acted to expedite this transaction on behalf of Lessor and Lessee and has functioned within the scope of professional ethics by doing so.

Lessor's Initials:

Lessee's Initials:

3. **NO INDEPENDENT INVESTIGATION.** Lessor and Lessee acknowledge and understand that any financial statements, information, reports, or written materials of any nature whatsoever, as provided by the parties to Broker, and thereafter submitted by Broker to either Lessor and/or Lessee, are so provided without any independent investigation by Broker, and as such Broker assumes no responsibility or liability for the accuracy or validity of the same. Any verification of such submitted documents is solely and completely the responsibility of the party to whom such documents has been submitted.
4. **NO WARRANTY.** Lessor and Lessee acknowledge and agree that no warranties, recommendations, or representations are made by the broker as to the accuracy, the legal sufficiency, the legal effect of the tax consequences of any of the documents submitted by Broker to Lessor and/or Lessee referenced in Paragraph 3 above, nor of the legal sufficiency, legal effect, or tax consequences of the transactions contemplated thereby. Furthermore, Lessor and Lessee acknowledge and agree that Broker has made no representations concerning the ability of the Lessee to use the Premises as intended, nor of the sufficiency or adequacy of the Premises for their intended use and Lessee is relying solely on its own investigation of the Premises in accepting this Proposal to Lease.
5. **NOTICE REGARDING HAZARDOUS WASTES OR SUBSTANCES AND UNDERGROUND STORAGE TANKS.** Although Broker will disclose any knowledge it actually possesses with respect to the existence of any hazardous wastes, substances, or underground storage tanks at the Premises, Broker has not made any independent investigations or obtained reports with respect thereto, except as may be described in a separate written document signed by Broker. All parties hereto acknowledge and understand that Broker makes no representations regarding the existence or nonexistence of hazardous wastes, substances, or underground storage tanks at the Premises. Each party should contact a professional, such as a civil engineer, geologist, industrial hygienist or other persons with experience in these matters to advise you concerning the property.
6. **DISCLOSURE RESPECTING AMERICANS WITH DISABILITIES ACT.** The United States Congress has recently enacted the Americans with Disabilities Act. Among other things, this act is intended to make many business establishments equally accessible to persons with a variety of disabilities; modifications to real property may be required. State and local laws also may mandate changes. Broker is not qualified to advise you as to what, if any, changes may be required now or in the future. Broker recommends that you consult the attorneys and qualified design professionals of your choice for information regarding these matters.
7. **ATTORNEYS' FEES.** In any action, proceeding or arbitration arising out of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs.
8. **ENTIRE AGREEMENT.** This document constitutes the entire agreement between parties with respect to the subject matter contained herein and supersedes all prior or contemporaneous agreements, representations, negotiations and understandings of the parties, other than such writings as may be executed and/or delivered by the parties pursuant hereto. There are no oral agreements or implied covenants by the Lessor or Lessee or by their respective employees, or other representatives.

DATE

LESSOR: Global Commercial Holdings, LLC &
Colton Properties, LLC

DATE

LESSEE: H2O Environmental, Inc.

EXHIBIT "D"

DUTIES OWED BY A NEVADA REAL ESTATE LICENSEE

This form does not constitute a contract for services nor an agreement to pay compensation.

In Nevada, a real estate licensee is required to provide each party to a real estate transaction with a form setting forth the duties owed by the licensee.

Licensee: The licensee(s) in the real estate transaction are Linda Gonzales & Tom S. Elkington whose license number(s) is/are 49667 & 76360. The licensees are acting for the **Lessor:** Global Commercial Holdings, LLC & Colton Properties, LLC, a Nevada Limited Liability Company.

Broker: The broker is Allen M. Hillis, whose company is Commerce CRG of Nevada, LLC.

Licensee's Duties Owed to All Parties:

A Nevada real estate licensee shall:

1. Not deal with any party to a real estate transaction in a manner which is deceitful, fraudulent or dishonest.
2. Exercise reasonable skill and care with respect to all parties to the real estate transaction.
3. Disclose to each party to the real estate transaction as soon as practicable:
 - a. Any material and relevant facts, data or information which licensee knows, or with reasonable care and diligence the licensee should know, about the property.
 - b. Each source from which licensee will receive compensation.
4. Abide by all other duties, responsibilities and obligations required of the licensee in law or regulations.

Licensee's Duties Owed to the Client:

A Nevada real estate licensee shall:

1. Exercise reasonable skill and care to carry out the terms of the brokerage agreement and the licensee's duties in the brokerage agreement.
2. Not disclose, except to the licensee's broker, confidential information relating to a client for 1 year after the revocation or termination of the brokerage agreement, unless licensee is required to do so by court order or the client gives written permission.
3. Promote the interest of the client by:
 - a. Seeking a sale, lease or property at the price and terms stated in the brokerage agreement or at a price acceptable to the client.
 - b. Presenting all offers made to, or by the client as soon as practicable.
 - c. Disclosing to the client material facts of which the licensee has knowledge concerning the real estate transaction.
 - d. Advising the client to obtain advice from an expert relating to matters which are beyond the expertise of the licensee.
 - e. Accounting to the client for all money and property the licensee receives in which the client may have an interest.


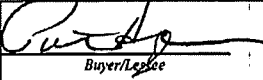
Duties Owed By a broker who assigns different licensees affiliated with the brokerage to separate parties. Each licensee shall not disclose, except to the real estate broker, confidential information relating to client.

Licensee Acting for Both Parties: You understand that the licensee _____ may or _____ may not, in the future

(Client Init) (Client Init)

act for two or more parties who have interests adverse to each other. In acting for these parties, the licensee has a conflict of interest. Before a licensee may act for two or more parties, the licensee must give you a "Consent to Act" form to sign.

I/We acknowledge receipt of a copy of this list of licensee duties, and have read and understand this disclosure.

	
<u>Seller/Lessor</u>	<u>Buyer/Lessee</u>
<u>11/11/11</u>	<u>11-9-11</u>
<u>Time</u>	<u>10:00 am</u>
<u>Date</u>	<u>Date</u>
<u>Time</u>	<u>Time</u>
<u>Seller/Lessor</u>	<u>Buyer/Lessee</u>
<u>Date</u>	<u>Date</u>
<u>Time</u>	<u>Time</u>

CONSENT TO ACT

This form does not constitute a contract for services nor an agreement to pay compensation.

DESCRIPTION OF TRANSACTION: The real estate transaction is the sale and purchase *or* X lease of
Property Address: 4435 E. Colton Avenue, Suites 101-106, Las Vegas, NV 89115

In Nevada, a real estate licensee may act for more than one party in a real estate transaction; however, before the licensee Does so; he or she must obtain the written consent of each party. This form is that consent. Before you consent to having a licensee represent both yourself and the other party, you should read this form and understand it.

Licensee: The licensee in this real estate transaction is Linda Gonzales & Tom Elkington ("Licensee") whose license number is 49667 & 76360 and who is affiliated with Commerce Real Estate Solutions ("Brokerage").

Seller/Landlord Global Commercial Holdings, LLC & Colton Properties, LLC
Print Name

Buyer/Tenant H2O Environmental, Inc.
Print Name

CONFLICT OF INTEREST: A licensee in a real estate transaction may legally act for two or more parties who have interests adverse to each other. In acting for these parties, the licensee has a conflict of interest.

DISCLOSURE OF CONFIDENTIAL INFORMATION: Licensee will not disclose any confidential information for one year after the revocation or termination of any brokerage agreement entered into with a party to this transaction, unless Licensee is required to do so by a court of competent jurisdiction or is given written permission to do so by that party. Confidential information includes, but it is not limited to, the client's motivation to purchase, trade or sell, which if disclosed, could harm one party's bargaining position or benefit the other.

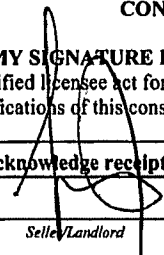
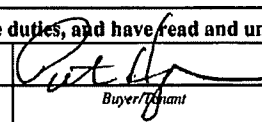
DUTIES OF LICENSEE: Licensee shall provide you with a "Duties Owed by a Nevada Real Estate Licensee" disclosure form which lists the duties a licensee owes to all parties of a real estate transaction, and those owed to the licensee's client. When representing both parties, the licensee owes the same duties to both seller and buyer. Licensee shall disclose to both Seller and Buyer all known defects in the property, any matter that must be disclosed by law, and any information the licensee believes may be material or might affect Seller's/Landlord's or Buyer's/Tenant's decisions with respect to this transaction.

NO REQUIREMENT TO CONSENT: You are not required to consent to this licensee acting on your behalf. You may

- Reject this consent and obtain your own agent,
- Represent yourself,
- Request that the licensee's broker assign you your own licensee.

CONFIRMATION OF DISCLOSURE AND INFORMATION CONSENT

BY MY SIGNATURE BELOW, I UNDERSTAND AND CONSENT: I am giving my consent to have the above identified licensee act for both the other party and me. By signing below, I acknowledge that I understand the ramifications of this consent, and that I acknowledge that I am giving this consent without coercion.

I/We acknowledge receipt of a copy of this list of licensee duties, and have read and understand this disclosure.					
	<u>11/11/2011</u>			<u>11-5-11</u>	<u>10:00 am</u>
Seller/Landlord	Date	Time	Buyer/Tenant	Date	Time
Seller/Landlord	Date	Time	Buyer/Tenant	Date	Time

Suite 101

Suite 102

Suite 103

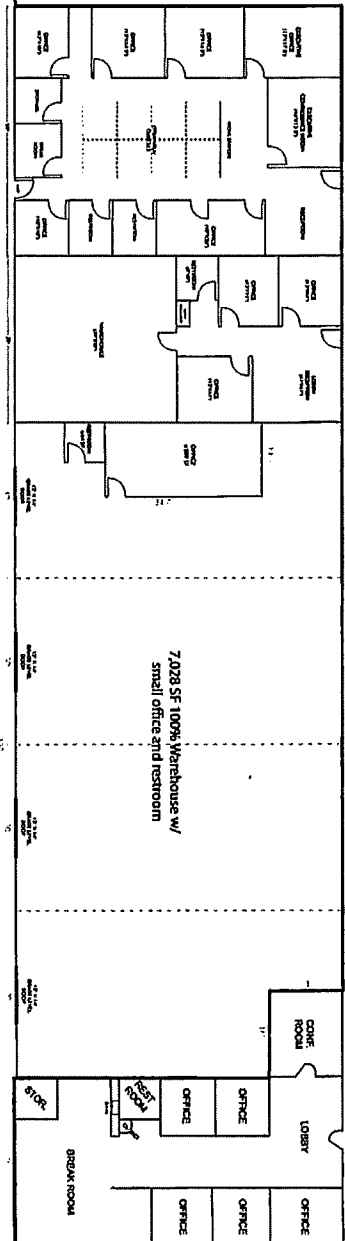
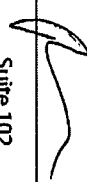
Suite 104

Suite 105

Suite 106

Suite 107

X



Yard - 43,692 SF

Handwritten mark or signature.

EXHIBIT B

GUARANTY

The undersigned ("Guarantor") as a material inducement to and in consideration of the execution by Global Commercial Holdings and Colton Properties, LLC, both a Nevada Limited Liability Company (collectively, the "Landlord") of that certain Real Estate Lease (the "Lease") of even date herewith between Landlord and H2O Environmental, Inc. ("Tenant"), relating to premises located at 4435 E. Colton Avenue, Suites 101-106, Las Vegas, NV 89115, hereby agrees as follows:

1. Guarantor hereby unconditionally guarantees the performance of, and unconditionally promises to perform, all of the obligations of Tenant under the Lease and any and all extensions and modifications thereof, including, but not limited to, the obligation to pay rent thereunder.

2. In such manner, upon such terms and at such times as Landlord shall deem best, and without notice to or the consent of Guarantor, Landlord may alter, compromise, extend or change the time or manner for the performance of any obligation hereby guaranteed, amend or modify the Lease in any manner, substitute or add any one or more guarantors, accept additional or substituted security for the performance of any such obligation, or release or subordinate any security therefore, any and all of which may be accomplished without any effect on the obligations of Guarantor hereunder. No exercise or non-exercise by Landlord of any right hereby given, no dealing by Landlord with Tenant, any other guarantor or other person, and no change, impairment or suspension of any right or remedy of Landlord shall in any way affect any of the obligations of Guarantor hereunder or any security furnished by Guarantor or give Guarantor any recourse against Landlord.

3. Guarantor hereby waives and agrees not to assert or take advantage of the following:

(a) Any right to require Landlord to proceed against Tenant or any other person or to proceed or exhaust any security held by Landlord at any time or to pursue any other remedy in Landlord's power before proceeding against Guarantor;

(b) Any defense based on the statute of limitations in any action hereunder or in any action for the performance of any obligation hereby guaranteed;

(c) Any defense that may arise by reason of the incapacity, lack of authority, bankruptcy, death or disability of any other person or persons or the failure of Landlord to file or enforce a claim against the estate (in administration, bankruptcy or any other proceeding) of any other person or persons;

(d) Any right to receive demands, protests and notices of any kind including, but not limited to, notice of the existence, creation or incurring of any new or additional obligation or of any action or non-action on the part of Tenant, Landlord or any other person;

(e) Any defense based on an election of remedies including, but not limited to, any action by Landlord which shall destroy or otherwise impair any subrogation right of Guarantor or the right of Guarantor to proceed against Tenant for reimbursement, or both;

(f) Any duty on the part of Landlord to disclose to Guarantor any facts Landlord may now or hereafter know about Tenant, regardless of whether Landlord has reason to believe that such facts materially increase the risk beyond that which Guarantor intends to assume or has reason to believe that such facts are unknown to Guarantor or has a reasonable opportunity to communicate such facts to Guarantor, it being understood and agreed that Guarantor is fully responsible for being and keeping informed of the financial condition of Tenant and of all circumstances bearing on the risk of nonperformance of any obligation hereby guaranteed;

(g) Any right to receive notice of or to consent to any amendments that may hereafter be made to the Lease; and

(h) Any defense based on the fact that Guarantor's obligations hereunder are larger or more burdensome than that of Tenant's under the Lease.

4. Until all obligations hereby guaranteed shall have been fully performed, Guarantor shall have no right of subrogation and waives any right to enforce any remedy which Landlord now has or may hereafter have against Tenant and any benefit of, and any right to participate in, any security now or hereafter held by Landlord.

5. All existing and future obligations of Tenant to Guarantor, or any person owned in whole or in part by Guarantor, and the right of Guarantor to cause or permit itself or such person to withdraw any capital invested in Tenant are hereby subordinated to all obligations hereby guaranteed, and, without the prior written consent of Landlord, such obligations to Guarantor shall not be performed, and such capital shall not be withdrawn, in whole or in part, while Tenant is in default under the Lease.

6. All rights, powers and remedies of Landlord hereunder and under any other agreement now or at any time hereafter in force between Landlord and Guarantor shall be cumulative and not alternative, and such rights, powers and remedies shall be in addition to all rights, powers and remedies given to Landlord at law or in equity. This Guaranty of Lease is in addition to and exclusive of the guarantee of any other guarantor of any obligation of Tenant to Landlord.

7. The obligations of Guarantor hereunder are independent of the obligations of Tenant under the Lease, and, in the event of any default hereunder or under the Lease, a separate action or actions may be brought and prosecuted against Guarantor, whether or not Tenant is joined therein or a separate action or actions are brought against Tenant. Landlord may maintain successive actions for other defaults. Landlord's rights hereunder shall not be exhausted by its exercise of any of its rights or remedies or by any such action or by any number of successive actions until and unless all obligations hereby guaranteed shall have been fully performed.

8. Guarantor shall pay to Landlord, without demand, reasonable attorneys' fees and all costs and other expenses which Landlord shall expend or incur in collecting or compromising any obligation hereby guaranteed or in enforcing this Guaranty of Lease against Guarantor, whether or not suit is filed including, but not limited to, attorneys' fees, costs and other expenses incurred by Landlord in connection with any insolvency, bankruptcy, reorganization, arrangement or other similar proceeding involving Guarantor which in any way affects the exercise by Landlord of its rights and remedies hereunder.

9. Should any one or more provisions of this Guaranty of Lease be determined to be illegal or unenforceable, all other provisions shall nevertheless be effective.

10. This Guaranty of Lease shall inure to the benefit of Landlord and its successors and assigns, and shall bind the heirs, executors, administrators, successors and assigns of Guarantor. This Guaranty of Lease may be assigned by Landlord concurrently with the transfer of title to property covered by the Lease, and, when so assigned, Guarantor shall be liable to the assignees without in any manner affecting the liability of Guarantor hereunder.

11. Upon full performance of all obligations hereby guaranteed, this Guaranty of Lease shall be of no further force or effect.

12. No provision of this Guaranty of Lease or right of Landlord hereunder can be waived or modified, nor can Guarantor be released from Guarantor's obligations hereunder, except by a writing duly executed by Landlord.

13. When the context and construction so require, all words used in the singular herein shall be deemed to have been used in the plural and the masculine shall include the feminine and neuter and vice versa. The word "person" as used herein shall include any individual, company, firm, association, partnership, corporation, trust or other legal entity of any kind whatsoever.

14. If two (2) or more persons are signing this Guaranty of Lease as Guarantor, then all such persons shall be jointly and severally liable for the obligations of Guarantor hereunder.

15. This Guaranty of Lease shall be governed by and construed in accordance with the laws of the State of Nevada. In any action brought under or arising out of this Guaranty of Lease, Guarantor hereby consents to the jurisdiction of any competent court within the State of Nevada and hereby consents to service of process by any means authorized by Nevada law.

16. **TO THE EXTENT SUCH WAIVER IS PERMITTED BY LAW, THE GUARANTOR HEREBY WAIVES TRIAL BY JURY IN ANY ACTION OR PROCEEDING BROUGHT IN CONNECTION WITH THIS GUARANTY.**

This Guaranty of Lease shall constitute the entire agreement of Guarantor with respect to the subject matter hereof, and no representation, understanding, promise or condition concerning the subject matter hereof shall be binding upon Landlord unless expressed herein.

DATED: November 7, 2011

GUARANTOR(S):

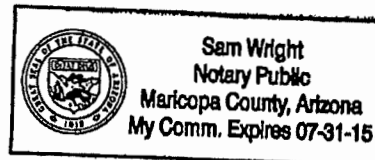
William Parsons
William Parsons

Social Security: 537-42-0495

SUBSCRIBED and SWORN to before

me this 7 day of November, 2011.

NOTARY PUBLIC in and for: Maricopa County, Arizona



Sam Wright

EXHIBIT D
2nd
GUARANTY

The undersigned ("Guarantor") as a material inducement to and in consideration of the execution by Global Commercial Holdings and Colton Properties, LLC, both a Nevada Limited Liability Company (collectively, the "Landlord") of that certain Real Estate Lease (the "Lease") of even date herewith between Landlord and H2O Environmental, Inc. ("Tenant"), relating to premises located at 4435 E. Colton Avenue, Suites 101-106, Las Vegas, NV 89115, hereby agrees as follows:

1. Guarantor hereby unconditionally guarantees the performance of, and unconditionally promises to perform, all of the obligations of Tenant under the Lease and any and all extensions and modifications thereof, including, but not limited to, the obligation to pay rent thereunder.

2. In such manner, upon such terms and at such times as Landlord shall deem best, and without notice to or the consent of Guarantor, Landlord may alter, compromise, extend or change the time or manner for the performance of any obligation hereby guaranteed, amend or modify the Lease in any manner, substitute or add any one or more guarantors, accept additional or substituted security for the performance of any such obligation, or release or subordinate any security therefore, any and all of which may be accomplished without any effect on the obligations of Guarantor hereunder. No exercise or non-exercise by Landlord of any right hereby given, no dealing by Landlord with Tenant, any other guarantor or other person, and no change, impairment or suspension of any right or remedy of Landlord shall in any way affect any of the obligations of Guarantor hereunder or any security furnished by Guarantor or give Guarantor any recourse against Landlord.

3. Guarantor hereby waives and agrees not to assert or take advantage of the following:

(a) Any right to require Landlord to proceed against Tenant or any other person or to proceed or exhaust any security held by Landlord at any time or to pursue any other remedy in Landlord's power before proceeding against Guarantor;

(b) Any defense based on the statute of limitations in any action hereunder or in any action for the performance of any obligation hereby guaranteed;

(c) Any defense that may arise by reason of the incapacity, lack of authority, bankruptcy, death or disability of any other person or persons or the failure of Landlord to file or enforce a claim against the estate (in administration, bankruptcy or any other proceeding) of any other person or persons;

(d) Any right to receive demands, protests and notices of any kind including, but not limited to, notice of the existence, creation or incurring of any new or additional obligation or of any action or non-action on the part of Tenant, Landlord or any other person;

(e) Any defense based on an election of remedies including, but not limited to, any action by Landlord which shall destroy or otherwise impair any subrogation right of Guarantor or the right of Guarantor to proceed against Tenant for reimbursement, or both;

(f) Any duty on the part of Landlord to disclose to Guarantor any facts Landlord may now or hereafter know about Tenant, regardless of whether Landlord has reason to believe that such facts materially increase the risk beyond that which Guarantor intends to assume or has reason to believe that such facts are unknown to Guarantor or has a reasonable opportunity to communicate such facts to Guarantor, it being understood and agreed that Guarantor is fully responsible for being and keeping informed of the financial condition of Tenant and of all circumstances bearing on the risk of nonperformance of any obligation hereby guaranteed;

(g) Any right to receive notice of or to consent to any amendments that may hereafter be made to the Lease; and

(h) Any defense based on the fact that Guarantor's obligations hereunder are larger or more burdensome than that of Tenant's under the Lease.

4. Until all obligations hereby guaranteed shall have been fully performed, Guarantor shall have no right of subrogation and waives any right to enforce any remedy which Landlord now has or may hereafter have against Tenant and any benefit of, and any right to participate in, any security now or hereafter held by Landlord.

5. All existing and future obligations of Tenant to Guarantor, or any person owned in whole or in part by Guarantor, and the right of Guarantor to cause or permit itself or such person to withdraw any capital invested in Tenant are hereby subordinated to all obligations hereby guaranteed, and, without the prior written consent of Landlord, such obligations to Guarantor shall not be performed, and such capital shall not be withdrawn, in whole or in part, while Tenant is in default under the Lease.

6. All rights, powers and remedies of Landlord hereunder and under any other agreement now or at any time hereafter in force between Landlord and Guarantor shall be cumulative and not alternative, and such rights, powers and remedies shall be in addition to all rights, powers and remedies given to Landlord at law or in equity. This Guaranty of Lease is in addition to and exclusive of the guarantee of any other guarantor of any obligation of Tenant in Landlord.

7. The obligations of Guarantor hereunder are independent of the obligations of Tenant under the Lease, and, in the event of any default hereunder or under the Lease, a separate action or actions may be brought and prosecuted against Guarantor, whether or not Tenant is joined therein or a separate action or actions are brought against Tenant. Landlord may maintain successive actions for other defaults. Landlord's rights hereunder shall not be exhausted by its exercise of any of its rights or remedies or by any such action or by any number of successive actions until and unless all obligations hereby guaranteed shall have been fully performed.

8. Guarantor shall pay to Landlord, without demand, reasonable attorneys' fees and all costs and other expenses which Landlord shall expend or incur in collecting or compromising any obligation hereby guaranteed or in enforcing this Guaranty of Lease against Guarantor, whether or not suit is filed including, but not limited to, attorneys' fees, costs and other expenses incurred by Landlord in connection with any insolvency, bankruptcy, reorganization, arrangement or other similar proceeding involving Guarantor which in any way affects the exercise by Landlord of its rights and remedies hereunder.

9. Should any one or more provisions of this Guaranty of Lease be determined to be illegal or unenforceable, all other provisions shall nevertheless be effective.

10. This Guaranty of Lease shall inure to the benefit of Landlord and its successors and assigns, and shall bind the heirs, executors, administrators, successors and assigns of Guarantor. This Guaranty of Lease may be assigned by Landlord concurrently with the transfer of title to property covered by the Lease, and, when so assigned, Guarantor shall be liable to the assignees without in any manner affecting the liability of Guarantor hereunder.

11. Upon full performance of all obligations hereby guaranteed, this Guaranty of Lease shall be of no further force or effect.

12. No provision of this Guaranty of Lease or right of Landlord hereunder can be waived or modified, nor can Guarantor be released from Guarantor's obligations hereunder, except by a writing duly executed by Landlord.

13. When the context and construction so require, all words used in the singular herein shall be deemed to have been used in the plural and the masculine shall include the feminine and neuter and vice versa. The word "person" as used herein shall include any individual, company, firm, association, partnership, corporation, trust or other legal entity of any kind whatsoever.

14. If two (2) or more persons are signing this Guaranty of Lease as Guarantor, then all such persons shall be jointly and severally liable for the obligations of Guarantor hereunder.

15. This Guaranty of Lease shall be governed by and construed in accordance with the laws of the State of Nevada. In any action brought under or arising out of this Guaranty of Lease, Guarantor hereby consents to the jurisdiction of any competent court within the State of Nevada and hereby consents to service of process by any means authorized by Nevada law.

16. **TO THE EXTENT SUCH WAIVER IS PERMITTED BY LAW, THE GUARANTOR HEREBY WAIVES TRIAL BY JURY IN ANY ACTION OR PROCEEDING BROUGHT IN CONNECTION WITH THIS GUARANTY.**

This Guaranty of Lease shall constitute the entire agreement of Guarantor with respect to the subject matter hereof, and no representation, understanding, promise or condition concerning the subject matter hereof shall be binding upon Landlord unless expressed herein.

DATED: 11 - 8, 2011

GUARANTOR(S):

John Bradley Social Security [REDACTED]

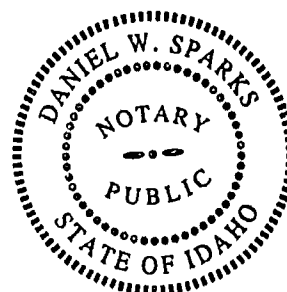
SUBSCRIBED and SWORN to before

me this 8TH day of NOVEMBER, 2011.

NOTARY PUBLIC in and for: ADA COUNTY, IDAHO

Daniel W. Sparks

Exp. 6/1/17



LEASE ASSIGNMENT AND THIRD AMENDMENT TO LEASE

THIS THIRD AMENDMENT TO LEASE ("Third Amendment") is made and entered into as of the 1st day of January, 2021, by and between GLOBAL COMMERCIAL HOLDINGS, LLC, a Nevada limited liability company, and COLTON PROPERTIES, LLC, a Nevada limited liability company (collectively, "Lessor") and CLEAN HARBORS ENVIRONMENTAL SERVICES INC., a Massachusetts corporation ("Lessee"), as successor in interest by merger to H2O Environmental Inc., an Idaho corporation ("Original Lessee"). All capitalized terms used but not defined herein shall have the meanings given them in the Lease, as defined below, unless another meaning is clearly indicated.

RECITALS:

WHEREAS, the Lessor and Original Lessee entered into that certain Lease dated November 7, 2011, Addendum 1 of same date, First Amendment dated December 31, 2014 and Second Amendment dated December 28, 2017 (collectively, the "Lease"), for those certain premises located at 4435 Colton Ave., Suites 101-106 located in the city of Las Vegas, county of Clark, State of Nevada, with zip code 89115, containing approximately 12,392 square feet of office and warehouse area and approximately 43,692 square feet of yard area (collectively, the "Premises");

WHEREAS, Lessee is the successor-in-interest by merger to Original Lessee;

WHEREAS, Original Lessee desires to assign the Lease to Lessee, Lessee desires to accept such assignment and be bound by all the terms and covenants of the Lease, and Lessor approves of the assignment;

WHEREAS, Lessor and Lessee desire to extend the Extended Term of the Lease subject to all the terms contained in the Lease as amended and the Base Rent provided for herein;

WHEREAS, Lessor and Lessee desire that this Third Amendment extend the Original Term of the Lease to expire on December 31, 2023;

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the parties agree that the Recitals are true and correct and by this reference incorporated herein as if fully set forth, and the parties further covenant and agree as follows:

1. **Extension.** Notwithstanding any provisions contained in the Lease to the contrary, Lessor and Lessee hereby agree to amend Section 1.3 of the Lease to extend the term of the Lease as follows:

Term: Thirty-Six (36) months ("Extended Term") commencing January 1, 2021 and ending December 31, 2023 ("Expiration Date"). Upon the Expiration Date, this Lease shall terminate and Lessee shall surrender and vacate the Premises in accordance with Paragraph 7.4. (See also Paragraph 25).

2. **Base Rent.**

Notwithstanding any provisions contained in the Lease to the contrary, Lessor and Lessee hereby agree to amend Section 1.5 of the Lease as follows:



Base Rent: [REDACTED] ("Base Rent"), payable on the first (1st) day of each month commencing January 1, 2021 with annual increases as set forth herein. (See also Paragraph 4). Base Rent consists of [REDACTED] per month allocable to the office and warehouse area and \$6,117.00 per month for the yard area. The Base Rent shall increase as provided below throughout the Extended Term for the office/warehouse space and yard.

<u>Months</u>	<u>Office Base Rent</u>	<u>Yard Base Rent</u>	<u>Total Base Rent</u>
January * 2021 – December 2021 *January base rent for office abated by ½ as set forth herein	[REDACTED]	[REDACTED]	[REDACTED]
January 2022 – December 2022	[REDACTED]	[REDACTED]	[REDACTED].
January 2023 – December 2023	[REDACTED]	[REDACTED]	[REDACTED].

For the purposes of clarification, the Base Rent is due in full every month for the entire Premises and in the event Lessee fails to pay Base Rent in full, Lessor shall be entitled to all remedies at law and as set forth in the Lease as to the entire Premises. Lessee shall not be entitled to possession of the either the office or the yard if it has not paid Base Rent in full for both.

Base Rent for the office and warehouse area shall be abated by ½ for the month of January 2021 so that total Base Rent for January 2021 only shall be [REDACTED]. Notwithstanding the foregoing, yard Base Rent and Common Area Maintenance Charges for the month of January 2021 shall not be abated.

3. **Estimated Common Area Operating Expenses.** Estimated Common Area Maintenance Charges shall continue to be due in addition to Base Rent per Lessee's pro rata share, currently in the amount of [REDACTED] for the duration of the Extended Term and in accordance with the terms of the Lease. Lessee shall continue to pay the Asphalt Reimbursement set forth in the First Amendment.

4. **Assignment.** Original Lessee hereby assigns, to Lessee all of Original Lessee's rights and interests in the Lease ("Assignment"). Lessor hereby approves of Lessee as an assignee of the Lease. Lessee agrees to pay all Base Rent due as of the commencement date of the Extended Term, and to assume and perform all duties and obligations required pursuant to the terms of the Lease.



5. **REPRESENTATIONS AND WARRANTIES.** Lessee represents and warrants that it is the successor-in-interest by merger to Original Lessee and that as such, it is an authorized signatory to this Agreement pursuant to Section 45 of the Lease and that Original Lessee's separate signature is not required to effectuate the terms of this Agreement, including the assignment contained herein. To the extent Original Lessee's signature is deemed to be required to effectuate the terms of this Agreement, Lessee's signature shall qualify as Original Lessee's signature. Breach of this representation and warranty shall constitute a material breach of the Lease.

6. **AS IS.** Lessor has delivered the Premises to Lessee in its "as is" condition, and Lessee acknowledges that neither Lessor nor any member, manager, employee, representative or agent of Lessor has made any representation or warranty whatsoever as to the Premises or the property of which the Premises form a part, or the suitability thereof for Lessee's intended use. Lessee acknowledges that Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefore as the same relate to its occupancy of the Premises.

7. **Miscellaneous.**

a. Except as specifically provided to the contrary herein, all of the rest and remaining terms and conditions of the Lease and subsequent amendments thereto shall remain in full force and effect, including, but not limited to, any and all provisions pertaining to common area maintenance charges. In the event of any conflict between the provisions of this Third Amendment and the provisions of the Lease or the First or Second Amendments, the provisions of this Third Amendment shall control.

b. If any provision of this Third Amendment or the application thereof to any Person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Third Amendment and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

c. This Third Amendment is intended by the parties hereto to be a complete integration of all of the promises, agreements, conditions, understandings, warranties, and representations among the parties with respect to its subject matter, and there are no promises, agreements, conditions, understandings, warranties, or representations, oral or written, express or implied, among them other than as set forth herein.

d. This Third Amendment may be executed in multiple counterparts, each of which shall have the force and effect of an original on the day and year first written above.

e. This Third Amendment shall be governed by and construed in accordance with the laws of the State of Nevada.

f. Lessee and Lessor acknowledge that Shahram Moalemzadeh (also known as Shawn Molem) is a licensed real estate broker/salesperson in Nevada and California. Lessee and Lessor further acknowledge that in relation to this Third Amendment, Shahram Moalemzadeh is acting only in his capacity as a manager and/or member of Colton Properties, LLC and is not acting in a capacity as a licensed broker/salesperson. Lessee and Lessor acknowledge that Shahram Moalemzadeh does not represent any party to this Third Amendment. Accordingly, Lessee and

A handwritten signature in black ink, appearing to be a stylized 'S' or 'Sh', located in the bottom right corner of the page.

Lessor acknowledge that Shahram Moalemzadeh does not owe a duty to any party hereto imposed upon licensed real estate brokers/salespersons by Nevada or California law.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Lessor and Lessee have executed this Third Amendment as of the date set forth above.

LESSORS

GLOBAL COMMERCIAL HOLDINGS, LLC
a Nevada limited liability company and
COLTON PROPERTIES, LLC,
a Nevada limited liability company

By: 

Name Printed: SHAHRAM MOALEMZADEH

Title: Manager

Address: 8730 Wilshire Blvd., Suite 410,
Beverly Hills, CA 90211

Telephone: (310) 734-4044

Facsimile: (310) 734-4055

LESSEE

CLEAN HARBORS
ENVIRONMENTAL SERVICES
INC., a Massachusetts Corporation

By: 

Name Printed: Michael L Battles

Title: Executive Vice President

Address: 42 Longwater Drive
Norwell, MA 02061

Telephone: 781 792 5000

Facsimile: 781 792 5000

Federal ID No.: [REDACTED]



Manager
Clean Harbors
4435 E Colton Ave, #101-106
Las Vegas NV, 89115

RE: 4405-4435 Colton Avenue-Change of Property Management

To whom it may concern,

We are pleased to announce, Legacy Property Management has been chosen by the owner, Kobold Construction General Partners and Bravo Whiskey LLC., to oversee the Property Management activities effective **May 1, 2021**. We will be responsible for overseeing the daily operations of the property, including, but not limited to maintenance, facilitating, and monitoring all vendors and assisting tenants with any lease related issues or questions.

Rental Payments: Rent, if paid by physical check should be made payable and sent to the following:

Kobold Construction Partnership
2110 East Flamingo Road Suite 350
Las Vegas, NV 89119

If you wish to make payments via ACH, please use the following information when setting up your payment:

Bank Name:	JP Morgan Chase Bank N.A.
Routing Number:	██████████
Account Number:	██████████
Account Name:	Kobold Construction Partnership
Address:	3535 Inland Empire Blvd. Ontario, CA 91764-4908

All rent payments are due on or before the first of the month. Please note that your security deposit is currently being held with the Landlord.

Our office is open Monday through Friday, (excluding Holidays) 8:00 a.m. to 5:00 p.m.

For your convenience, listed below is our phone number and the team members at Legacy Property Management and the general areas in which they will be assisting you. **702-463-9660**.

Manager/Broker: **Caroline Chavez** (Ext. 101) – contact for all lease related activities, property inspections and collection issues.
Assistant Property Manager: **Brandy Vallette** (ext. 104) – contact for all service-related inquiries and/or requests.

Should you have any questions, concerns or require additional information, please contact our office and we will be happy to assist you. We look forward to working with you.

Sincerely,

LEGACY PROPERTY MANAGEMENT on behalf of **Kobold Construction G.P.**

Legacy Commercial Real Estate Services
2110 E. Flamingo Rd. Ste 350. Las Vegas, NV 89119
Phone: 702. 463.9660/ Fax: 702.463.9656



Legacy Commercial Real Estate Services
2110 E. Flamingo Rd. Ste 350. Las Vegas, NV 89119
Phone: 702. 463.9660/ Fax: 702.463.9656

Colton Properties, LLC
JEM Commercial, LLC
Van Nuys Capital, LLC

April 9, 2021

Clean Harbors Environmental Service
Michael Battles
42 Longwater Drive
Norwell, MA 02061

Re: Lease concerning property located at 4435 E. Colton Ave., Ste 101-106, North Las Vegas, Nevada

Dear Tenant:

This is to notify you that Colton Properties, LLC, JEM Commercial, LLC, and Van Nuys Capital, LLC, the landlords under your Lease, have sold the real property that includes your leased premises (the "Real Property") to Kobold Construction GP, a California general partnership ("Kobold").

As of the date of the recordation of the Grant, Bargain and Sale Deed conveying the Real Property to Kobold, Kobold is your new landlord under the Lease. Rent and all other charges payable by you under the Lease shall be sent to the following address:

Kobold Construction GP
1258 Mission Blvd.
Ontario, CA 91762

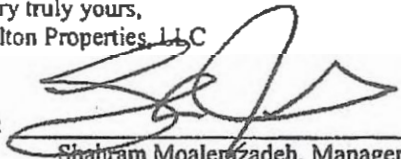
Further, all communications, inquiries, or service of process by you regarding your Lease should be directed Kobold at the above address.

Finally, this is to also advise you that your security deposit has been transferred to Kobold.

All rent and other charges due from you under your Lease related to any period prior to the date of this letter must be paid to the undersigned as your prior landlord at the following address:

Colton Properties, LLC
JEM Commercial, LLC
Van Nuys Capital, LLC
8730 Wilshire Blvd., Suite 410
Beverly Hills, CA 90211

Very truly yours,
Colton Properties, LLC

By: 
Shahram Moalemmzadeh, Manager

JEM Commercial, LLC

By: 
Shahram Fahimian, Manager

Van Nuys Capital, LLC

By: 
Shahram Shoushani, Manager

cc: Kobold Construction GP

4843-1442-1733.1

**GENERAL PARTNERSHIP
OPERATING AGREEMENT
OF
KOBOLD CONSTRUCTION GENERAL PARTNERSHIP**
a California General Partnership

This is a general Operating Agreement that has been personalized for your company. Before signing this agreement, it should be reviewed and edited by the company's Members and/or attorney to meet your company's specific needs and to conform to any statutory changes.

OPERATING AGREEMENT

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EXHIBITS

Exhibit A – Members

OPERATING AGREEMENT

This General Partnership Operating Agreement for Kobold Construction General Partnership, effective as of April 1, 2021, is (a) adopted by the Managers also referred to as Asset Manager and (b) executed and agreed to, for good and valuable consideration, by the Partners or also referred to as Members.

Article 1 **FORMATION OF THE COMPANY**

1.1 **FORMATION.** The Company was formed as a General Partnership with the state of California.

1.2 **NAME.** The name of the Company is Kobold Construction General Partnership and all Company business must be conducted in that name or such other names that may be selected by the Board of Managers and that comply with applicable law.

1.3 **REGISTERED OFFICE; REGISTERED AGENT; OFFICES.** The registered office and registered agent of the Company in the State of California shall be as specified in the Certificate or as designated by the Board of Managers in the manner provided by applicable law. The offices of the Company shall be at such places as the Board of Managers may designate, which need not be in the State of California.

1.4 **PURPOSES.** The purpose of the Company is set forth in the Certificate.

1.5 **FOREIGN QUALIFICATION.** Prior to the Company's conducting business in any jurisdiction other than California, the Board of Managers shall cause the Company to comply with all requirements necessary to qualify the Company as a foreign limited liability company in that jurisdiction.

1.6 **TERM.** The term of existence of the Company is perpetual from the date the Certificate became effective and shall continue in existence until earlier wound up and terminated in accordance with this Agreement.

1.7 **NO STATE-LAW PARTNERSHIP.** The Members intend that the Company not be a partnership (including a limited partnership) or joint venture, and that no Member or Manager be a partner or joint venturer of any other Member or Manager, for any purposes other than applicable federal tax laws, and this Agreement may not be construed to suggest otherwise.

Article 2 **UNITS / MEMBERS**

2.1 UNITS. Unless and until the Board of Managers determines otherwise, the Company shall be authorized to issue one class of Units. The total number of Units which the Company is authorized to issue shall be 1,000. Units of the Company may be issued, as authorized by the Board of Managers in accordance with the terms of this Agreement. Subject to the terms of this Agreement, the Board of Managers shall be authorized to (i) select persons to receive Units, (ii) determine the form and substance of issuances of Units, and the conditions and restrictions, if any, subject to which such issuances will be made and (iii) certify that the conditions and restrictions applicable to any issuance have been met. It is not necessary that all authorized Units be issued or outstanding. The total number of authorized Units may not be increased without the approval of a Majority of the Members. Except as set forth in this Agreement, no Member, acting in his capacity as a Member, has any right to act for or bind the Company. As of the Effective Date, the Members of the Company, and their respective Membership Interests in the Company, are set forth on the annexed Exhibit A. Subject to the approval of a Majority of the Members, the Board of Managers may, at any time, create and issue additional Units to existing Members or to other Persons, and such other Persons may be admitted to the Company as Members, at the direction of the Board of Managers at the time of admission. The terms of admission or issuance must specify the Membership Interests applicable thereto and may provide for the creation of different classes or groups of Units/Members and having different rights, powers, and duties. The Board of Managers may reflect the creation of any new class or group in an amendment to this Agreement indicating the different rights, powers, and duties. Any such admission is effective only after the new Member has executed and delivered to the Company an instrument containing the notice address of the new Member, the assignee's ratification of this Agreement and agreement to be bound by it, and its confirmation that the representations and warranties in Section 2.3 are true and correct with respect to it. The provisions of this Section 2.1 shall not apply to Transfers of Membership Interests or admissions of Assignees in connection therewith, such matters being governed by Article 8.

2.2 CERTIFICATE OF UNITS; SECURITIES.

(a) Certificate. The Units may be represented by a certificate of membership as determined by the Board of Managers. The exact contents of a certificate of membership may be determined by action of the Board of Managers but certificates shall be issued substantially in conformity with the following requirements. The certificates of membership shall be respectively numbered serially, as they are issued and shall be signed by the officers of the Company designated by the Board of Managers. Each certificate of membership shall state the name of the Company, the fact that the Company is organized under the laws of the State of California as a limited liability company, the name of the Person to whom the certificate is issued, the date of issuance, and the number, class and, if applicable, series of Units represented thereby. Each certificate of membership shall be otherwise in such form as may be determined by the Board of Managers. Such certificates shall bear the following restrictive legend:

THE SECURITIES REPRESENTED BY THIS CERTIFICATE OF MEMBERSHIP HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"). THESE SECURITIES HAVE BEEN ACQUIRED FOR INVESTMENT AND NOT WITH A VIEW TO DISTRIBUTION OR RESALE, AND MAY NOT BE TRANSFERRED WITHOUT AN EFFECTIVE REGISTRATION STATEMENT

COVERING THE TRANSFER OF SUCH SECURITIES UNDER THE SECURITIES ACT, OR PURSUANT TO A TRANSACTION EXEMPT FROM SUCH REGISTRATION REQUIREMENTS (ACCOMPANIED BY AN OPINION OF COUNSEL REASONABLY SATISFACTORY TO THE COMPANY THAT REGISTRATION IS NOT REQUIRED UNDER SUCH SECURITIES ACT).

THE SALE, PLEDGE, HYPOTHECATION OR TRANSFER OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE IS SUBJECT TO THE TERMS AND CONDITIONS OF A CERTAIN AGREEMENT BY AND AMONG THE LIMITED LIABILITY COMPANY AND THE HOLDERS OF CERTIFICATES OF MEMBERSHIP OF THE LIMITED LIABILITY COMPANY. COPIES OF SUCH AGREEMENT MAY BE OBTAINED UPON WRITTEN REQUEST TO THE SECRETARY OF THE LIMITED LIABILITY COMPANY.

(b) Cancellation of Certificate. Except as herein provided with respect to lost, stolen, or destroyed certificates, no new certificates of membership shall be issued in lieu of previously issued certificates of membership until former certificates for a like number of Units shall have been surrendered and cancelled. All certificates of membership surrendered to the Company for transfer shall be cancelled.

(c) Replacement of Lost, Stolen or Destroyed Certificate. Any Member claiming that its certificate of membership is lost, stolen, or destroyed may make an affidavit or affirmation of that fact and request a new certificate. Upon the giving of a satisfactory indemnity to the Company as reasonably required by the Board of Managers, a new certificate may be issued of the same tenor and representing the same number of Units as was represented by the certificate alleged to be lost, stolen, or destroyed.

(d) Registration of Transfer. To the extent permitted by this Agreement, Units shall be transferable upon the books of the Company by the holders thereof, in person or by their duly authorized attorneys or legal representatives, upon surrender to the Company by delivery thereof to the person in charge of the Unit transfer book and ledger. Such certificates shall be cancelled and new certificates shall thereupon be issued. A record shall be made of each transfer. Whenever any transfer of Units shall be made for collateral security, and not absolutely (to the extent permitted under this Agreement), it shall be so expressed in the entry of the transfer if, when the certificates are presented, both the transferor and transferee request the Company to do so. The Board of Managers shall have power and authority to make such rules and regulations as it may deem necessary or proper concerning the issue, transfer and registration of certificates for Units of the Company.

2.3 REPRESENTATIONS AND WARRANTIES. Each Member hereby represents and warrants to the Company and each other Member as follows:

(a) the Member has duly executed and delivered this Agreement, and it constitutes the legal, valid and binding obligation of that Member enforceable against it in accordance with its terms (except as may be limited by bankruptcy, insolvency or similar laws of general application and by the effect of general principles of equity regardless of whether considered at law or in equity);

(b) the Member's authorization, execution, delivery, and performance of this Agreement does not and will not (i) conflict with, or result in a breach, default, or violation of, (y) any contract or agreement to which that Member is a party or is otherwise subject, or (z) any law, order, judgment, decree, writ, injunction, or arbitral award to which that Member is subject; or (ii) require any consent, approval, or authorization from, filing or registration with, or notice, any Governmental Authority or other Person, unless such requirement has already been satisfied;

(c) the Member is familiar with the existing or proposed business, financial condition, properties, operations, and prospects of the Company; he has asked such questions, and conducted such due diligence, concerning such matters and concerning its acquisition of the Units as he has desired to ask and conduct, and all such questions have been answered to his full satisfaction; he has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of an investment in the Company; he understands that owning the Units involves various risks, including the restrictions on Transfer set forth in Article 8, the lack of any public market for the Units, the risk of owning his Units for an indefinite period of time and the risk of losing his entire investment in the Company; he is able to bear the economic risk of such investment; he is acquiring his Units for investment, solely for his own beneficial account and not with a view to or any present intention of directly or indirectly selling, offering, offering to sell or transfer, participating in any distribution, or otherwise Transferring all or a portion of his Units; and he acknowledges that the Units have not been registered under the Securities Act or any other applicable federal or state securities laws, and that the Company has no intention, and shall not have any obligation, to register or to obtain exemption from registration for the Units or to take action so as to permit sales pursuant to the Securities Act.

2.4 NO PREEMPTIVE RIGHTS. Should the Company issue additional Units, the Membership Interest of the Members will be reduced and no Member shall have the "right" (often referred to as "preemptive right") to purchase any such additional Units in the Company that might be offered for sale in the future.

2.5 WITHDRAWAL. A Member may not withdraw from the Company.

2.6 INFORMATION.

(a) The Members agree that the Managers may determine, due to contractual obligations, business concerns, or other considerations, that certain information regarding the business, affairs, properties, and financial condition of the Company should be kept confidential and not provided to some or all other Members, and that it is not just or reasonable for those Members to examine or copy that information.

(b) Each Member shall reimburse the Company for all costs and expenses incurred by the Company in connection with the Member's inspection and copying of the Company's books and records.

2.7 LIABILITY TO THIRD PARTIES. No Member shall be liable for the debts, obligations, or liabilities of the Company, including under a judgment decree or order of a court.

2.8 EXPULSION. A Member may not be expelled from the Company.

2.9 SPOUSES OF MEMBERS. Spouses of Members do not become Members as a result of such marital relationship. Each spouse of a Member shall sign a Consent of Spouse form, substantially in the form of Exhibit B, agreeing to be bound by the terms hereof including, without limitation, the term providing that ownership by a spouse is not permitted.

Article 3

CAPITAL CONTRIBUTIONS AND LIABILITY OF MEMBERS

3.1 CAPITAL CONTRIBUTIONS. The initial Capital Contributions of each of the Members as of the date hereof are set forth on the annexed Exhibit A.

3.2 RETURN OF CONTRIBUTIONS. A Member is not entitled to the return of any part of its Capital Contributions or to be paid interest in respect of either its Capital Account or its Capital Contributions. An unrepaid Capital Contribution is not a liability of the Company or of any Member.

3.3 LOANS BY MEMBERS. If the Company does not have sufficient cash to pay its obligations, any Member(s) that may agree to do so with the consent of the Managers may advance all or part of the needed funds to or on behalf of the Company, at such interest rate and on such other terms as such Member and the Board of Managers may agree. An advance constitutes a loan from the Member to the Company and is not a Capital Contribution.

Article 4

DISTRIBUTIONS AND ALLOCATIONS

4.1 DISTRIBUTIONS IN GENERAL. At such time as determined by the Board of Managers, but in no event no less often than annually on or before the sixtieth (60th) day after the end of each Fiscal Year, the Board of Managers shall determine the extent, if any, of Distributable Cash. If the Board of Managers determines that Distributable Cash exists for each Fiscal Year (or such shorter period for which the distribution is made), the Board of Managers may distribute to the Members, pro rata, in proportion to their respective Units, all or a portion of the Distributable Cash.

4.2 DISTINGUISHING BETWEEN CAPITAL GAINS AND ORDINARY INCOME. The definition of Profits includes any type of income, whether ordinary or capital, and Losses includes both ordinary and capital losses.

4.3 RELIANCE ON ADVICE OF ACCOUNTANTS AND ATTORNEYS. The Managers will have no liability to the Members or the Company if the Managers rely upon the written opinion of tax counsel or accountants retained by the Company with respect to all matters (including disputes) relating to computations and determinations required to be made under this Article 4 or other provisions of this Agreement.

4.4 MEMBER ACKNOWLEDGMENT. The Members agree to be bound by the provisions of this Article 4 in reporting their shares of Company income and loss for income-tax purposes.

Article 5

MANAGEMENT / GOVERNANCE / MEETINGS

5.1 MANAGEMENT BY MANAGERS.

(a) Subject to the provisions of Section 5.2, the powers of the Company shall be exercised by or under the authority of, and the business and affairs of the Company shall be managed under the direction of the Board of Managers. Each Manager shall devote such time to the affairs of the Company as is reasonably necessary for performance by the Manager of his duties.

(b) In managing the business and affairs of the Company and exercising its powers, the Board of Managers shall act (i) collectively through resolutions adopted at meetings and in written consents pursuant to Section 5.4 and Section 5.8; and (ii) through committees and individual Managers to which authorities and duties have been delegated pursuant to Section 5.5. Decisions or actions taken by the Board of Managers in accordance with this Agreement (including this Section 5.1 and Section 5.2 shall constitute decisions or actions by the Company and shall be binding on each Manager, Member, Officer (as defined in Section 5.9), and employee of the Company.

5.2 DECISIONS REQUIRING MEMBER CONSENT. Notwithstanding any power or authority granted the Managers by the Certificate or this Agreement, (a) the Managers may not make any decision or take any action for which the consent of the Members is expressly required by the Certificate or this Agreement, without first obtaining such consent, and (b) the Managers may not make any of the following decisions or actions without first obtaining the consent of a Majority of the Members:

(a) causing or permitting the Company to be a party to a merger, conversion, share exchange, interest exchange, or any other transaction not authorized by the Members.

(b) causing or permitting the Company to sell all or substantially all of its assets;

(c) causing or permitting the Company to enter into or engage in any transaction, contract, agreement or arrangement that (i) is unrelated to the Company's purpose (as set forth in the Certificate and in Section 1.4), (ii) otherwise contravenes the Certificate or this Agreement, (iii) would make it impossible to carry on the ordinary business of the Company, or (iv) is not apparently for the carrying on of the business of the Company in the usual way; or

(d) causing or permitting the Company (i) to fail to comply with any provisions of applicable law, (ii) to fail to obtain, or comply with, all material permits and authorizations from governmental entities required for it to conduct its business, or (iii) to agree to the cancellation, amendment, restatement, or relinquish of any material rights under, any such material permit or authorization.

Each Member may, with respect to any vote, consent, or approval that it is entitled to grant pursuant to this Agreement, grant or withhold such vote, consent, or approval in its sole discretion.

5.3 SELECTION OF MANAGERS. The number of the Board of Managers of the Company shall initially consist of one (1) Manager. The initial Board of Managers shall consist of Barret Woods. A Manager may be removed from the Board of Managers and shall cease to be a Manager upon the earliest to occur of only the following events: (a) such Manager shall engage in gross negligence or willful misconduct in the performance of his duties as a Manager and, as a result thereof, shall be removed by a Majority of the Members at a meeting of the Members called for that purpose; (b) such Manager shall resign as a Manager, by giving notice of such resignation to the Company and the Members; or (c) such Manager shall die. Any vacancy in any Manager position may be filled by a Majority of the Members at a meeting of the Members called for that purpose.

5.4 MEETINGS OF MANAGERS. Regular meetings of the Board of Managers may be held on such dates and at such times as shall be determined by the Board of Managers, with notice of the establishment of such regular meeting schedule being given to each Manager that was not present at the meeting at which it was adopted. Special meetings of the Board of Managers may be called by any Manager by notice thereof (specifying the place and time of such meeting) that is delivered to each other Manager at least two (2) days prior to such meeting. Neither the business to be transacted at, nor the purpose of, such special meeting need be specified in the notice (or waiver of notice) thereof. Unless otherwise expressly provided in this Agreement, at any meeting of the Board of Managers, a Majority of the Managers shall constitute a quorum for the transaction of business, and the affirmative vote or written consent by a Majority of the Managers present at a meeting at which a quorum is present shall be the act of the Board of Managers. The provisions of this Section 5.4 shall be inapplicable at any time that there is only one Manager.

5.5 COMMITTEES OF MANAGERS; DELEGATION OF AUTHORITY. The Board of Managers may designate one or more committees, each of which shall be comprised of one or more of the Managers, and may designate one or more of the Managers as alternate members of any committee. Any such committee, to the extent provided in the resolution establishing it, shall have and may exercise all of the authority that may be exercised by the Board of Managers. Regular and special meetings of such committee shall be held in the manner designated by the Board of Managers or, if not so designated, by such committee. The Board of Managers may dissolve any committee at any time. In addition, the Board of Managers may delegate to one or more Managers such authority and duties, and assign to them such titles, as the Board of Managers may deem advisable. Any such delegation may be revoked at any time by the Board of Managers.

5.6 COMPENSATION. The Managers shall be entitled to be reimbursed for out-of-pocket costs and expenses incurred in the course of their service hereunder.

5.7 MEETINGS OF MEMBERS. An annual meeting of the Members for the transaction of such business as may properly come before the meeting shall be held on such date and at such time as the Board of Managers shall specify in the notice of the meeting, which shall be delivered to each Member at least ten (10) days prior to such meeting. Special meetings of the Members may be called by the Board of Managers or by Members having among them at least twenty percent

(20%) of the Units of all Members. Any such meeting shall be held on such date and at such time as the Person calling such meeting shall specify in the notice of the meeting, which shall be delivered to each Member at least ten (10) days prior to such meeting. Only business within the purpose or purposes described in the notice (or waiver thereof) for such meeting may be conducted at such meeting. Unless otherwise expressly provided in this Agreement, at any meeting of the Members, a Majority of the Members, represented either in person or by proxy, shall constitute a quorum for the transaction of business, and an act of a Majority of the Members shall be the act of the Members.

5.8 PROVISIONS APPLICABLE TO ALL MEETINGS. In connection with any meeting of the Members, the Board of Managers or any committee of the Board of Managers, the following provisions shall apply:

(a) Any such meeting shall be held at the principal place of business of the Company, unless the notice of such meeting (or resolution of the Board of Managers or committee, as applicable) specifies a different place, which need not be in the State of (State name).

(b) Attendance of a Person at such meeting (including pursuant to Section 5.8(e)) shall constitute a waiver of notice of such meeting, except where such Person attends the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

(c) A Person may vote at such meeting by a written proxy executed by that Person and delivered to another Manager, Member, or member of the committee, as applicable. A proxy shall be revocable unless it is stated to be irrevocable.

(d) Any action required or permitted to be taken at such a meeting may be taken without a meeting, without prior notice, and without a vote if a consent or consents in writing, setting forth the action so taken, is signed by the Managers, Members, or members of the committee, as applicable, having not fewer than the minimum number of Units or votes that would be necessary to take the action at a meeting at which all Members, Managers, or members of the committee, as applicable, entitled to vote on the action were present and voted.

(e) Managers, Members, or members of the committee, as applicable, may participate in and hold such meeting by means of conference telephone, video conference, or similar communications equipment by means of which all Persons participating in the meeting can hear each other.

5.9 OFFICERS. The Board of Managers may designate one or more Persons to be officers of the Company and any Officers so designated shall have such title, authorities, duties, and salaries as the Board of Managers may delegate to them. Any Officer may be removed as such, either with or without cause, by the Board of Managers.

5.10 LIMITATIONS ON LIABILITY OF MANAGERS. The liability of the Managers to the Company and the Members shall be limited to the greatest extent allowed by law.

5.11 CONFLICTS OF INTEREST / DEALINGS WITH MEMBERS AND AFFILIATES. Unless otherwise bound, the Members, and any of their Affiliates may engage in and possess interests in other ventures of any and every type and description, independently or with others, excluding ones in competition with the Company, with no obligation to offer to the Company or any other Member, Manager, or Officer the right to participate therein. The Company may transact business with any Member, Manager, Officer, or Affiliate thereof, provided the terms of those transactions are no less favorable than those the Company could obtain from unrelated third parties.

5.12 INDEMNIFICATION. **THE COMPANY SHALL INDEMNIFY, DEFEND, PROTECT AND HOLD HARMLESS EACH MANAGER AND OFFICER FROM AND AGAINST ALL ACTIONS, SUITS OR PROCEEDINGS, AND ALL OTHER CLAIMS, DEMANDS, LOSSES, DAMAGES, LIABILITIES, JUDGMENTS, AWARDS, PENALTIES, FINES, SETTLEMENTS, COSTS AND EXPENSES (INCLUDING COURT COSTS AND REASONABLE ATTORNEYS' FEES), ARISING OUT OF THE MANAGEMENT OF THE COMPANY OR SUCH MANAGER'S SERVICE OR STATUS AS A MANAGER OR SUCH OFFICER'S SERVICE OR STATUS AS AN OFFICER. THIS INDEMNITY SHALL APPLY TO MATTERS THAT ARISE OUT OF THE NEGLIGENCE, STRICT LIABILITY OR OTHER FAULT OR RESPONSIBILITY BY SUCH MANAGER OR OFFICER; PROVIDED, HOWEVER, THAT THIS INDEMNITY SHALL NOT APPLY TO MATTERS ARISING OUT OF THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR BREACH OF THIS AGREEMENT BY SUCH MANAGER OR OFFICER.**

Article 6

TAXES

6.1 TAX RETURNS. The Company shall prepare and timely file all federal, state, and local tax returns required to be filed by the Company. Each Member shall furnish to the Company all pertinent information in its possession relating to the Company's operations that is necessary to enable the Company's tax returns to be timely prepared and filed. The Company shall deliver a copy of each such return to the Members on or before ten (10) days prior to the due date of any such return, together with such additional information as may be required by the Members in order for the Members to file their individual returns reflecting the Company's operations. The Company shall bear the costs of the preparation and filing of its returns.

6.2 TAX ELECTIONS. The Company shall make the following elections on the appropriate tax returns:

- (a) to adopt the calendar year as the Company's fiscal year;
- (b) to adopt the method of accounting recommended by the Company's accountant and to keep the Company's books and records on the income tax basis;

Article 7
BOOKS, RECORDS, AND BANK ACCOUNTS

7.1 BOOKS AND RECORDS. The Managers shall keep or cause to be kept at the principal office of the Company complete and accurate books and records of the Company, supporting documentation of the transactions with respect to the conduct of the Company's business, and minutes of the proceedings of its Board of Managers, Members, and each committee of the Board of Managers. The books and records shall be maintained with respect to accounting matters in accordance with sound accounting practices, and the books and records shall be available at the Company's principal office for examination, subject to Section 2.6, for any purpose reasonably related to a Member's Interest in the Company, by any Member or the Member's duly authorized representative at any and all reasonable times during normal business hours.

7.2 REPORTS. Within ninety (90) days after the end of each taxable year, the Board of Managers shall cause to be sent to each Member at the end of the taxable year a complete accounting of the financial affairs of the Company for the taxable year then ended.

7.3 ACCOUNTS. The Board of Managers shall establish one or more separate bank and investment accounts and arrangements for the Company, which shall be maintained in the Company's name with financial institutions and firms that the Board of Managers determine. The Board of Managers may not commingle the Company's funds with the funds of any Manager or Member.

Article 8
RESTRICTIONS ON TRANSFER / PREFERENTIAL PURCHASE RIGHT / PURCHASE OPTION

8.1 RESTRICTION ON TRANSFERS. No Member may Transfer all or any portion of his Units except in strict accordance with this Article 8. Any Units transferred in contravention of this Article shall be void of all voting, inspection and other rights with respect to the pledgee/transferee and any such Transfer shall be null and void *ab initio* and shall be subject to purchase by the Company. Any transferor must sign a counterpart to this Agreement agreeing to be bound by all terms hereof prior to such transfer being deemed effective. Each Member specifically acknowledges that a breach of this Article 8 would cause the Company and the Members to suffer immediate and irreparable harm, which could not be remedied by the payment of money. In the event of a breach or threatened breach by a Member of the provisions of this Article 8, the Company or other Members shall be entitled to injunctive relief to prevent or end such breach, without the requirement to post bond. Nothing herein shall be construed to prevent the Company or other Members from pursuing any other remedies available to it for such breach or such threatened breach, including the recovery of damages, reasonable attorneys' fees and expenses.

8.2 PREFERENTIAL PURCHASE RIGHT.

(a) If a Member desires to Transfer all or any portion of its Membership Interest, it must first offer the Company and the other Members the right to purchase such Membership Interest (or portion thereof, as applicable), in accordance with Section 8.2(b);

provided, however, that compliance with Section 8.2(b) shall not be required in the case of the following dispositions:

(i) Transfers arising as a result of the bankruptcy or death of a Member, both of which are governed by Section 8.4; and

(ii) Transfers arising as a result of the occurrence of a divorce of a Member or the death of the spouse of a Member, which are governed by Section 8.5.

(b) Should any Member at any time desire to Transfer all or a portion of its Membership Interest pursuant to a bona fide offer from another Person, such Member shall promptly give notice thereof to the Company and the other Members. The Transfer Notice shall set forth all relevant information with respect to the proposed Transfer, including but not limited to the name and address of the prospective acquirer, the consideration to be received for the proposed Transfer, the precise Membership Interest that is the subject of the Transfer, the proposed closing date for the Transfer, and any other terms and conditions of the proposed Transfer. The Company (or its Designee), first, and then the other Members, second, shall have the preferential right to acquire all or a portion of such Membership Interest for the same purchase price, and on the same terms and conditions, as are set forth in the Transfer Notice, except as provided otherwise in this Section 8.2(b). The Company shall have thirty (30) days following its receipt of the Transfer Notice in which to notify the Transferring Member and the other Members whether the Company desires to exercise its preferential right, and if so, with respect to what portion of the offered Interest. If the Company does not exercise its right to purchase all or a portion of the offered Membership Interest, then the Members (other than the Transferring Member) shall have sixty (60) days following its receipt of the Transfer Notice in which to notify the Transferring Member and the Company whether such Member desires to exercise its preferential right, and if so, with respect to what portion of the offered Interest. If the Company or any Member does not respond during the applicable period, then the Company or the Member that failed to respond shall be deemed to have waived such right. If there is more than one Purchasing Member, each Purchasing Member shall participate in the purchase in the same proportion that its Membership Interest bears to the aggregate Membership Interests of all Purchasing Members (or on such other basis as the Purchasing Members may mutually agree).

8.3 OBLIGATIONS OF PERMITTED TRANSFEREES. In the case of any Transfer of Units made in accordance with Section 8.2, the transferee shall execute and deliver an appropriate instrument agreeing to be bound by this Agreement as a Member and such additional agreements or instruments as the Managers may require. Any permitted transferee of Units shall receive and hold such Units subject to this Agreement and all of the restrictions, obligations and rights created hereunder, and the Members and each transferee shall be bound by their obligations under this Agreement with respect to each subsequent transferee.

8.4 DEATH OR BANKRUPTCY. If a Member dies or suffers a Bankruptcy, the Company shall have the option to acquire the Units of the Deceased Member or the Bankrupt Member, by notifying the estate of the Deceased Member or the Bankrupt Member in writing of such exercise.

The Company may exercise the purchase option at any time following the death or Bankruptcy of the Member. The purchase price for the Units being purchased pursuant to this Section 8.4 shall be the Fair Market Value of the Units. Such amount shall be payable in three (3) equal annual installments, the first of such installment being due and payable within sixty (60) days of the exercise of the Company's option. If an option to purchase is exercised in accordance with the other provisions of this Section 8.4, the closing of such purchase shall occur at the principal place of business of the Company on the sixtieth (60th) day after the exercise of the Company's option, unless the parties to such closing agree upon a different place or date. At the closing, (a) the estate of the Deceased Member or the Bankrupt Member shall execute and deliver to the Company (i) an assignment of the Units, in form and substance reasonably acceptable to the Company, containing a general warranty of title as to such Units (including that such Units are free and clear of any encumbrances), and (ii) any other instruments reasonably requested by the Company to give effect to the purchase; and (b) the Company shall deliver to the estate of the Deceased Member or the Bankrupt Member (i) the portion of the Purchase Price required to be paid at the closing, in immediately available funds, and (ii) one or more unsecured promissory notes reflecting the payment terms established in this Section. The Units of the Members shall be deemed adjusted to reflect the effect of the purchase. If a Member dies or suffers a Bankruptcy, the Units held by the estate of the Deceased Member or the Bankrupt Member shall immediately be converted to a non-voting Units. Until such time as the Company exercises its option under this Section, the estate of the Deceased Member may Transfer the Units held by the Deceased Member.

8.5 PROCEDURE FOR SPOUSE-RELATED BUYOUT EVENTS. If a divorce of a Member or the death of a Member's spouse shall occur and the Member does not retain the entirety of his Membership Interest, the Member affected by such divorce or death shall promptly give notice thereof to the Company and the other Members. The Affected Member shall have the option to acquire such Spouse's Fraction, by notifying the Affected Member's spouse or former spouse (or his or her representative) of such exercise within sixty (60) days following the occurrence of the entry of a final decree of divorce or the death of a Member's spouse. If the Affected Member does not exercise his or her right, then the other Members shall have the option to acquire such Spouse's Fraction, by notifying the Affected Member's spouse or former spouse (or his or her representative) of such exercise within ninety (90) days following such Member's receipt of the notice described in the first sentence of this section. Any Member that does not respond during the applicable period shall be deemed to have waived his right. If more than one Member exercises his right, each exercising Member shall participate in the purchase in the same proportion that his Unit bears to the aggregate Units of all exercising Members (or on such other basis as the exercising Members may mutually agree). For purposes of this Agreement, a Spouse's Fraction means that portion (if any) of a Member's Unit that such Member's spouse, such Member's former spouse, such Member's spouse's estate, or such Member's former spouse's estate is determined to own by a court of competent jurisdiction or, in the absence of a judicial determination, by a written agreement between the Member and such spouse, such spouse's estate, such former spouse, or such former spouse's estate. The Person that is required to sell his or her Spouse's Fraction pursuant to this Section 8.5 is referred to herein as the "Seller," and the Person(s) that exercise a right to purchase the Spouse's Fraction pursuant to this Section 8.5 are referred to herein as the "Buyer(s)." The purchase price for the Unit or a Spouse's Fraction being purchased pursuant to this Section 8.5 shall be the Fair Market Value of the Spouse's Fraction. Such amount shall be payable in three (3) equal annual installments, the first of such installment being due and payable within sixty (60) days of the exercise of the option. If an option to purchase is exercised in

accordance with the other provisions of this Section 8.5, the closing of such purchase shall occur at the principal place of business of the Company on the sixtieth (60th) day after the determination of the Purchase Price, unless the parties to such closing agree upon a different place or date. At the closing, (a) the Seller shall execute and deliver to the Buyer(s) (i) an assignment of the Spouse's Fraction, in form and substance reasonably acceptable to the Buyer(s), containing a general warranty of title as to such Spouse's Fraction (including that such Unit or Spouse's Fraction is free and clear of any encumbrances), and (ii) any other instruments reasonably requested by the Buyer(s) to give effect to the purchase; and (b) the Buyer(s) shall deliver to the Seller (i) the portion of the Purchase Price required to be paid at the Closing, in immediately available funds, and (ii) one or more unsecured promissory notes reflecting the payment terms established in this Section. The Membership Interests of the Members shall be deemed adjusted to reflect the effect of the purchase.

8.6 FAILURE TO COMPLY. Any purported Transfer consummated without first complying with this Article 8 shall be null and void and of no effect whatsoever.

Article 9

WINDING UP AND TERMINATION

9.1 WINDING UP.

(a) Winding up of the Company is required upon the first of the following to occur:

- (i) The expiration of the Company's period of duration if not perpetual;
- (ii) Upon the affirmative vote of a Majority of the Members to wind up the Company; or
- (iii) The entry of a decree by a court of competent jurisdiction requiring the winding up of the Company.

(b) Upon the occurrence of an event requiring the winding up of the Company, the business and affairs of the Company shall cease except to the extent necessary to wind up the Company's business, and the assets of the Company shall be liquidated under this Article 9.

(c) Winding up of the Company shall be effective as of the day on which the event occurs giving rise to the winding up, but the Company shall not terminate until the winding up process has been completed.

(d) During the winding up of the Company, the Board of Managers may cause any part or all of the assets of the Company to be sold in such manner as the Board of Managers shall determine in an effort to obtain the best prices for such assets; provided, however, that the Board of Managers may distribute assets of the Company in kind to the Members to the extent practicable.

9.2 WINDING UP AND LIQUIDATION. On the occurrence of an event described in Section 9.1(a), the Board of Managers shall act as liquidator or may appoint one Manager as liquidator. The liquidator shall proceed diligently to wind up the affairs of the Company. Until final distribution, the liquidator shall continue to operate the Company properties with all of the power and authority of the Board of Managers. The costs of winding up shall be borne as a Company expense.

9.3 DISTRIBUTION OF ASSETS. In settling accounts during winding up, the assets of the Company shall be paid in the following order:

(a) First, to creditors, in the order of priority as provided by law, except those to Members of the Company on account of their Capital Contributions;

(b) Second, to fund reserves for liability not then due and owing and for contingent liabilities to the extent they were reasonable by the Board of Managers, provided that, upon the expiration of such period of time as the Board of Managers deem advisable, the balance of such reserves remaining after payment of such contingencies shall be distributed in the manner below;

(c) Third, any remainder shall be distributed to the Members of the Company, pro rata, in accordance with their respective Units.

9.4 DISTRIBUTIONS IN KIND. If any assets of the Company are distributed in kind, such assets shall be distributed to the Members entitled thereto as tenants-in-common in the same proportions as the Members would have been entitled to cash distributions if such property had been sold for cash and the net proceeds thereof distributed to the Members.

9.5 TERMINATION. When the winding up process has been completed, a Certificate of Termination shall be executed on behalf of the Company by a Manager and shall be filed with the Secretary of State of California, and the Board of Managers shall execute, acknowledge and file any and all other instruments necessary or appropriate to reflect the termination of the Company.

Article 10

AMENDMENT

10.1 AMENDMENTS TO THIS AGREEMENT. Except as provided in Section 10.2, no alterations, modifications, amendments or changes herein shall be effective or binding upon the parties hereto unless the same shall have been agreed to by a vote of a Majority of the Members. Any amendments to this Agreement that would have the effect, directly or indirectly, separately or cumulatively, of reducing the benefits to, or increasing the obligations or liabilities of, the Managers or the Members and any amendment to this Article 10 shall require additionally the express written consent of the Managers and the affected Member. A Member who fails to respond within fifteen (15) days of a notice of a proposed amendment shall be deemed to have voted in favor of it.

10.2 OTHER AMENDMENTS TO THIS AGREEMENT. In addition to any amendments otherwise authorized herein, this Agreement may be amended from time to time by the Board of Managers without the consent of any of the Members (i) to cure any ambiguity, to correct or

supplement any provision herein which may be inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Agreement which will not be inconsistent with the provisions of this Agreement; (ii) to admit any additional Members or reflect any change in address or Membership Interest of a Member; and (iii) to modify the provisions of this Agreement, if in the opinion of counsel to the Company and the Board of Managers such modification is necessary to cause the allocations contained therein to have substantial economic effect.

Article 11

GENERAL PROVISIONS

11.1 OFFSET. Whenever the Company is to pay any sum to a Member, any amounts that the Member owes the Company may be deducted from that sum before payment.

11.2 NOTICES. Except as expressly set forth to the contrary in this Agreement, all notices, requests, approvals or consents provided for or permitted to be given under this Agreement must be in writing and must be given either by depositing that writing in the United States mail, addressed to the recipient, postage paid, and registered or certified with return receipt requested or by delivering that writing to the recipient in person, by courier or by facsimile transmission; and a notice request or consent given under this Agreement is effective on receipt by the Person to receive it. All notices, requests and consents to be sent to a Member must be sent to or made at the addresses given for that Member on Exhibit A or such other address as that Member may specify by notice to the other Members. Whenever any notice is required to be given by law or by this Agreement, a written waiver thereof, signed by the Person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of that notice.

11.3 ENTIRE AGREEMENT; SUPERSEDURE. This Agreement constitutes the entire agreement of the Members relating to the Company and supersedes all prior contracts or agreements with respect to the Company, whether oral or written.

11.4 EFFECT OF WAIVER OR CONSENT. A waiver or consent, express or implied, to or of any breach or default by any Person in the performance by that Person of its obligations with respect to the Company is not a consent or waiver to or of any other breach or default in the performance by that Person of the same or any other obligations of that Person with respect to the Company. Failure on the part of a Person to complain of any act of any Person or to declare any Person in default with respect to the Company, irrespective of how long that failure continues, does not constitute a waiver by that Person of his or its rights with respect to that default until the applicable statute of limitations period has run.

11.5 BINDING EFFECT. Subject to the restrictions on Transfer set forth in this Agreement, this Agreement is binding on and shall inure to the benefit of the Members and their respective legal representatives, successors and permitted assigns.

11.6 GOVERNING LAW; SEVERABILITY. This Agreement is governed by and shall be construed in accordance with the law of the State of California, excluding any conflict of laws rule or principle that might refer the governance or the construction of this Agreement to the law of another jurisdiction. If any provision of this Agreement or the application thereof to any Person or

circumstance is held invalid or unenforceable to any extent, the remainder of this Agreement and the application of that provision to other Persons or circumstances is not affected thereby and that provision shall be enforced to the greatest extent permitted by law.

11.7 FURTHER ASSURANCES. Each Partner/Member shall execute and deliver any additional documents and instruments and perform any additional acts that may be necessary or appropriate to effect and perform the provisions of this Agreement and those transactions.

11.8 WAIVER OF CERTAIN RIGHTS. Each Partner/Member irrevocably waives any right it may have to maintain any action for the winding up and termination of the Company or for partition of the property of the Company.

11.9 NOTICE TO PARTNERS/MEMBERS OF PROVISIONS OF THIS AGREEMENT. By executing this Agreement, each Member acknowledges that he has actual notice of all of the provisions of this Agreement, including, without limitation, the restrictions on the transfer of Units set forth in Article 8. Each Member hereby agrees that this Agreement constitutes adequate notice of all these provisions.

11.10 NUMBERS AND GENDER. Where the context so indicates, the masculine shall include feminine and neuter, and the neuter shall include the masculine and feminine, the singular shall include the plural.

11.11 COUNTERPARTS. This Agreement may be executed in any number of counterparts with the same effect as if all signing parties had signed the same document. All counterparts shall be construed together and constitute the same instrument.

IN WITNESS WHEREOF, the General Partners/Members and Managers have executed this Agreement as of the Effective Date, although not necessarily executed on such date.

GENERAL PARTNER/MEMBER:

By: Robert Kobold
Robert Kobold

GENERAL PARTNER/MEMBER:

By: Marvin Kobold
Marvin Kobold

ASSET MANAGER:


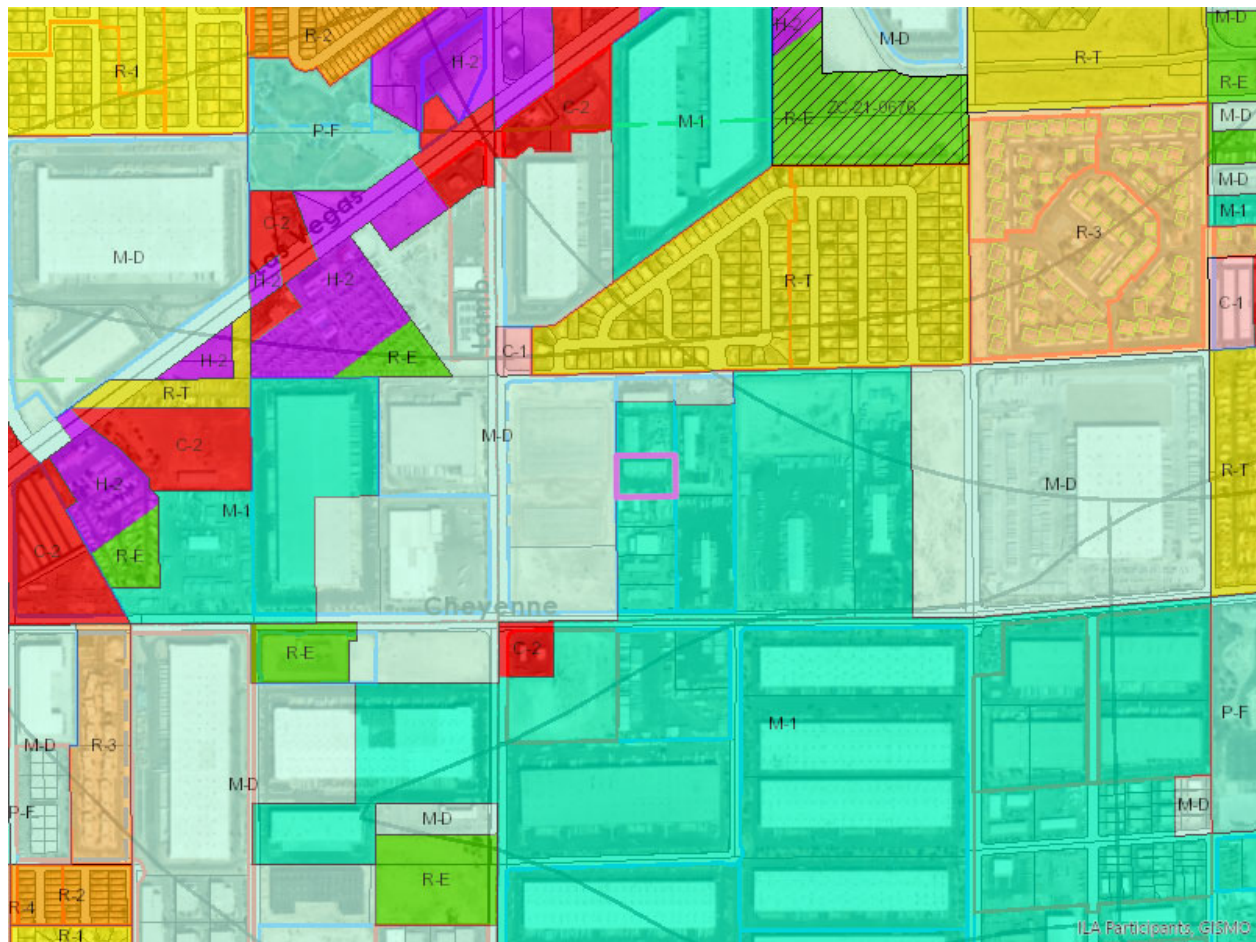
By:  _____
Barret Woods

EXHIBIT A

EQUITY HOLDERS
(AS OF THE EFFECTIVE DATE)

<u>NAME AND ADDRESS</u>	<u>NUMBER OF UNITS</u>	<u>INTEREST</u>
ROBERT KOBOLD	500	50%
MARVIN KOBOLD	500	50%
TOTAL	1000	100%

ZONING MAPS



The MAPS and DATA are provided without warranty of any kind, expressed or implied.
Date Created: 10/06/2022

Property Information

Parcel: 14008401016
Owner Name(s): KOBOLD CONSTRUCTION G P
Site Address: 4435 E COLTON AVE
Jurisdiction: Clark County - 89115
Zoning Classification: Light Manufacturing (M-1)
Planned Landuse: Business Employment (BE)

Misc Information

Subdivision Name: PARCEL MAP FILE 99 PAGE 73
Lot Block: Lot:2 Block:
Sale Date: 11/2021
Sale Price: \$7,050,000
Recorded Doc Number: 20211103 00001986
Flight Date: 2022-09-23

Construction Year: 2001
T-R-S: 20-62-8
Census tract: 4712
Estimated Lot Size: 1.73

Elected Officials

Commission:	B - Marilyn Kirkpatrick (D)	City Ward:	
US Senate:	Jacky Rosen, Catherine Cortez-Masto	US Congress:	4 - Steven A. Horsford (D)
State Senate:	2 - Mo Denis (D)	State Assembly:	28 - Edgar Flores (D)
School District:	B - Katie Williams	University Regent:	4 - Donald Sylvantee McMichael, Sr.
Board of Education:	4 - Rene Cantu	Minor Civil Division:	Las Vegas

SITE PHOTOGRAPHS



Aerial View



Main Entrance East Colton Ave.



Office Entrance and Parking



West Backlot Entrance/Exit



East Backlot Entrance/Exit



Waste Management Area - East



Waste Management Area - West



Bins and Collection Truck