

**MULTI-TENANT  
MIXED-USE PROJECT  
OFFICE  
LEASE AGREEMENT**

**████████████████████**, LLC

as Landlord

and

**ROCKY MOUNTAIN INSTITUTE**

as Tenant

\_\_\_\_\_, 2017

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## MULTI-TENANT MIXED-USE PROJECT OFFICE LEASE AGREEMENT

This Multi-Tenant Mixed-Use Project Office Lease Agreement is made and entered into as of the Effective Date by and between [REDACTED], LLC, a Delaware limited liability company (“Landlord”), and Rocky Mountain Institute, a Colorado nonprofit corporation (“Tenant”).

### DEFINITIONS

Capitalized terms used in this Lease have the meanings given them on the attached Exhibit A, or as otherwise provided herein.

### BASIC TERMS

The following Basic Terms are applied under and governed by the particular sections in this Lease pertaining to the following information:

- Premises:** Those premises to be known as Suite 200 and constructed on the second floor of the North Building, as depicted on Exhibits C and D to this Lease. Such Premises will contain approximately 14,302 Rentable Square Feet, and approximately 11,918 of Useable Square Feet, measured in accordance with the Architect’s statement of measurement prepared pursuant to Section 1.1 hereof. The load factor used to determine the foregoing RSF number is [REDACTED]
- Lease Term:** Five (5) years, commencing on the Commencement Date.
- Commencement Date:** August 15, 2017.
- Extension Option:** One (1) option to extend the Term for five (5) years, pursuant to the terms contained in Exhibit J attached hereto.
- Base Rent:** Base Rent during the Lease Term will be as set forth in the following schedule:

Lease Year	Dates	Annual Base Rent per RSF	Annual Base Rent	Monthly Installments
1	8/15/2017 – 8/31/2018	[REDACTED]	[REDACTED]	[REDACTED]
2	9/1/2018 – 8/31/2019	[REDACTED]	[REDACTED]	[REDACTED]
3	9/1/2019 – 8/31/2020	[REDACTED]	[REDACTED]	[REDACTED]
4	9/1/2020 – 8/31/2021	[REDACTED]	[REDACTED]	[REDACTED]
5	9/1/2021 – 8/31/2022	[REDACTED]	[REDACTED]	[REDACTED]

- Tenant’s Pro Rata Share of Expenses:** Estimated \$ [REDACTED] per Rentable Square Foot for calendar year 2017.
  - Project Expenses 14.82% (14,302RSF/96,500RSF)
  - Office Space Expenses 15.53% (14,302RSF/92,100RSF)
- Tenant Improvement Allowance:** \$ [REDACTED] per Usable Square Foot of the Premises.

- 8. **Security Deposit:** \$ [REDACTED] (two months' Rent for the first Lease Year)
- 9. **Permitted Uses:** General office and administrative uses and lawful uses incidental thereto, in compliance with applicable Boulder zoning regulations, and for no other business or purpose.
- 10. **Parking Spaces:** Subject to the terms of Section 17.2 and Exhibit H of this Lease:
  - (a) Project Parking Spaces: 10
  - (b) Off-Site Parking Spaces: 30
  - (c) Garage Bicycle Parking Spaces: 20

11. **Property Manager/Rent Payment:**

[REDACTED], LLC  
c/o [REDACTED]  
[REDACTED], Boulder, CO 80301  
Telephone: [REDACTED]  
Email: [REDACTED]

12. **Address of Landlord for Notices:**

[REDACTED], LLC  
c/o [REDACTED]  
[REDACTED] Boulder, CO 80301  
Telephone: [REDACTED]  
Email: [REDACTED]

13. **Address of Tenant for Notices:**

Rocky Mountain Institute  
1820 Folsom Street  
Boulder, CO 80302  
Attn: [REDACTED]  
Telephone: [REDACTED]  
Email: [REDACTED]  
FEI Number: [REDACTED]

From and after the date Tenant takes occupancy of the Premises: the Premises.

- 14. **Brokers:** For Tenant: N/A  
For Landlord: N/A

- 15. **Finalization of Exhibits and Blanks:** Landlord will develop the Project and Building materially as depicted in Exhibits C and D. However, as the Project design evolves, Tenant acknowledges and agrees that Landlord may make minor modifications to such Exhibits C and D; provided that such modifications do not materially affect or alter the Premises or jeopardize the achievement of NZE. A change in the core and shell plans and specifications



that negatively affects NZE (defined below) for the Project, including the Premises and Common Area, is considered a material effect. Landlord will promptly notify Tenant of any such modifications to Exhibits C and D.

## **ARTICLE 1. LEASE OF PREMISES AND LEASE TERM**

### **1.1 Premises.**

#### **1.1.1 Premises.**

On the terms and subject to the conditions described in this Lease, Landlord leases the Premises to Tenant and Tenant leases the Premises from Landlord. Landlord reserves unto itself the exterior face of exterior walls and the exterior face of service corridor walls, chases, ducts, risers, plenums, utility and service rooms/closets and cabinets, the roof, and the use of the aforesaid areas and the right to install, maintain, use, repair and replace such pipes, ductwork, support columns, conduits, utility lines, tunneling, wires and the like, in, through, under or above the Premises, through ceiling plenum areas, column space and in or beneath floor slabs and otherwise as may be reasonably necessary or advisable for the servicing, alterations, addition or deletion of other portions of the Project. The Premises will contain approximately the number of Rentable Square Feet set forth in the Basic Terms. Tenant acknowledges that Exhibits C and D set forth the current plan for the general layout of the Project and Building, but will not be deemed to be a warranty, representation or agreement on the part of Landlord that the Project, Building or spaces therein will be developed as depicted. Landlord may make such improvements, departures, deletions, or additions to said plan as Landlord, in its sole discretion, may from time to time find appropriate provided that they do not materially affect or alter the Project, including the Premises and the Common Area.

#### **1.1.2 Measurement; Load Factor.**

The Rentable Square Footage of the Premises set forth in the Basic Terms is only an estimate and the exact measurement of the Premises will be determined at the completion of Landlord's Work pursuant to the Architect's statement of measurement delivered to Tenant at least ten (10) days prior to Landlord's delivery to Tenant of the Commencement Date Memorandum for its reasonable approval. The load factor used to determine the Rentable Square Footage of the Premises (the "Load Factor") will not be more than [REDACTED]. The Architect's statement of measurement will be prepared in accordance with the Measurement Methodology summarized in Exhibit C (the "Measurement Methodology"), and will set forth in reasonable detail the calculation of (i) the total Rentable Square Feet of the Project, (ii) the Rentable Square Feet of the Premises, including the Load Factor, (iii) the Usable Square Feet of the Premises, (iv) the total square feet of the Common Area, (v) the Rentable Square Feet of the retail, restaurant and commercial areas, and (vi) the calculation of Tenant's Pro Rata Share of Expenses. The calculations as so determined by the Architect will be included in the Commencement Date Memorandum referenced in Section 1.2.2 below, and the Base Rent, Tenant's Pro Rata Share of Project Expenses and of Office Space Expenses, the Tenant Improvement Allowance, the Security Deposit and other amounts that vary by the size of the Premises will be appropriately adjusted and set forth in the Commencement Date Memorandum. At Landlord's sole election, if there is an actual, physical increase or decrease in the Rentable Square Footage of the Project, Landlord's Architect may re-measure (in accordance with

the Measurement Methodology) the actual Rentable Area of the Project or the portion thereof increased or decreased within a reasonable time after such increase or decrease, and in such event, Landlord shall notify Tenant and deliver to Tenant for its reasonable approval the Architect's statement of measurement setting forth in reasonable detail the revised measurements of each component of the Project. Upon such approval, Tenant's Pro Rata Share and any other number or amount set forth in this Lease that is based upon Rentable Square Footage will thereafter be adjusted based on Landlord's Architect's re-measurement to reflect any difference in the actual Rentable Area and the Rentable Area specified in the Basic Terms or Commencement Date Memorandum, as applicable. At no time will the Rentable Area of the Project or all of the premises within the Project exceed the actual square footage of the Project, and at no time will the Load Factor be more than [REDACTED]. Landlord will recalculate the Rentable Square Footage of the Project each time a new lease is executed, and if such recalculation results in a decrease in Tenant's actual Load Factor below [REDACTED] the parties will amend the Lease to give Tenant the benefit of such decrease.

## **1.2 Term, Delivery and Commencement.**

### **1.2.1 Commencement and Expiration of Term.**

The Term of this Lease is the period stated in the Basic Terms. The Term will commence on the Commencement Date at 12:00 midnight and will expire on the last day of the last calendar month of the Term at 11:59 p.m.

### **1.2.2 Commencement Date Memorandum.**

Within a reasonable time after the Commencement Date, in order to place in writing the exact dates of commencement and termination of the Term and other matters concerning this Lease, Landlord will deliver to Tenant the Commencement Date Memorandum, substantially in the form attached hereto as Exhibit E, setting forth, among other things, the Commencement Date and the expiration date of the Lease as determined in accordance with this Lease. Tenant, within ten (10) days after receipt from Landlord, will execute and deliver to Landlord the Commencement Date Memorandum or notify Landlord of any matters therein with which Tenant reasonably disagrees; if notice of Tenant's disagreement is timely given, then the parties will confer in good faith to resolve any such disagreements. Tenant's failure to execute and deliver to Landlord the Commencement Date Memorandum will not affect any obligation of Tenant under this Lease. If Tenant does not timely execute and deliver to Landlord the Commencement Date Memorandum or timely notify Landlord of any matters therein with which Tenant reasonably disagrees, Landlord and any prospective purchaser or encumbrancer may conclusively rely on the information contained in the unexecuted Commencement Date Memorandum that Landlord delivered to Tenant. Additionally, absent any good faith dispute by Tenant, Landlord will have the rights and remedies provided in this Lease for breach by Tenant of a non-monetary covenant hereunder.

### **1.2.3 Tender of Possession.**

Landlord will exercise reasonable diligence in order to tender possession of the Premises to Tenant with Landlord's Work Substantially Complete in accordance with the Work Letter on or before the Commencement Date set forth in the Basic Terms. If Landlord is unable to tender

possession of the Premises to Tenant on or before the Commencement Date set forth in the Basic Terms for any reason other than Tenant Delay, the Commencement Date will be delayed by the number of days by which Landlord's Work was so delayed, and this Lease will continue in full force and effect in accordance with its terms. The delay of the Commencement Date will be in full satisfaction of any claims Tenant might otherwise have as a result of such delay; provided, however, that if: (a) on or before August 15, 2017, possession of the Premises has not been tendered to Tenant in accordance with the terms of this Lease for any reason other than Tenant Delay or Force Majeure, then Tenant will be entitled to two (2) days of free Base Rent for each day between August 15 and August 31 that tender of possession of the Premises does not occur in accordance with the terms hereof (such amount will be credited against the next due installments of Rent); and (b) on or before September 1, 2017, possession of the Premises has not been tendered to Tenant in accordance with the terms of this Lease for any reason other than Tenant Delay or Force Majeure, then Tenant will be entitled to one (1) full month of free Base Rent, plus one (1) day of free Base Rent for each day after August 31, 2017, that possession of the Premises does not occur in accordance with the terms hereof (such amount will be credited against the next due installments of Rent). If for any reason other than Tenant Delay or Force Majeure the Commencement Date does not occur on or before September 30, 2017, then Tenant will have the right, at its election, to (i) continue to accrue the one (1) day of free Base Rent specified in clause (b) above until possession of the Premises is delivered to Tenant in accordance with the terms of this Lease, or (ii) terminate this Lease upon written notice to Landlord, given at any time after September 30, 2017, and prior to delivery of the Premises, in which event Landlord will promptly return any Security Deposit and prepaid Rent paid by Tenant, such termination to be effective on Landlord's receipt of notice thereof.

#### **1.2.4 Condition of the Premises.**

Construction of the Premises will be in accordance with the Work Letter. When Landlord receives written certification from its Architect that Landlord's Work is Substantially Complete, Landlord will promptly provide to Tenant written notice thereof. Landlord and Tenant will within ten (10) days thereafter set a mutually convenient time for Tenant and Landlord to inspect the Premises, at which time the parties will mutually prepare a punch-list of Landlord's Work items to be completed (the "Punch List Items"). Neither Landlord nor Tenant will unreasonably withhold its agreement on the Punch List Items. Landlord will complete the Punch List Items within thirty (30) days thereafter, subject to Tenant Delay. Landlord and Tenant will conduct a final inspection of the Premises to determine that all Punch List Items have been completed. If the Punch List Items are not completed within such 30-day period for any reason other than Tenant Delay or Force Majeure, Tenant will be entitled to provide written notice to Landlord and thereafter proceed to complete the Punch List Items and Landlord will reimburse Tenant within thirty (30) days after receipt of invoice therefor an amount equal to 125% of the documented costs and expenses incurred by Tenant in connection therewith. Notwithstanding the foregoing, Tenant shall have no right to take any action that will (i) affect any structural component of the Building or Building systems, or (ii) have a material adverse effect of any other Project tenant or occupant. Subject to the explicit requirements of Landlord pursuant to this Lease and subject to completion of Landlord's Work in accordance with the Work Letter and the Punch List Items, the Premises are otherwise accepted by Tenant in "as is – where is" condition and configuration, except for defects in the Premises (other than any defects in any Tenant's Work or other alterations performed by Tenant or its employees, agents, or contractors) of which notice is given to Landlord within one (1) year after the Commencement Date, and latent

defects in the Premises or the Project which defects and latent defects will be promptly repaired and corrected by Landlord, at its sole cost and expense.

### **1.2.5 Tenant's Performance of Tenant's Work.**

Tenant will accept possession of the Premises on the Commencement Date for the purpose of performing Tenant's Work in accordance with the Work Letter.

### **1.3 Early Access.**

Landlord agrees that Tenant will have access to the Premises a minimum of two (2) weeks prior to the Commencement Date (and more if possible) for the purpose of installing wiring and cabling and furniture, so long as such early access does not unreasonably interfere with the completion of the Turnkey Work. Landlord will permit the staging of Tenant's furniture in the premises adjacent to the Premises to facilitate Tenant's move into the Premises. Landlord and Tenant will coordinate cable/AV wiring behind walls to allow such installation by Tenant's contractor during construction of Landlord's Work. Tenant's early access will be subject to the terms and conditions of this Lease (other than any payment of Rent), including Tenant's insurance and indemnity obligations as contained in this Lease, and will not affect the Commencement Date. Prior to such early access, Tenant will provide Landlord with certificates of insurance or other evidence acceptable to Landlord evidencing Tenant's compliance with its insurance obligations. Tenant will coordinate performance of any of Tenant's Work with the contractor performing Landlord's Work and will not unreasonably interfere with the performance of Landlord's Work during such early access.

### **1.4 Net Zero Energy Goal.**

The Landlord has designed the Project (excluding any space in the Project used for restaurant uses (the "Restaurant Space")) to achieve Net Zero Energy ("NZE"). Net Zero Energy means the Project will produce as much electricity (kWh or kBtu) from the onsite photovoltaic system or other onsite renewable energy generation sources as the Project uses over the course of the calendar year, using RECs to make up any shortfalls between generation and use (i.e., if onsite generation is not sufficient to meet all onsite energy use, RECs will be purchased such that 100% of energy use in the Project is either provided through onsite renewable energy or RECs). Landlord will contract with Xcel Energy for electricity required by the Project in excess of what the Project produces (which cost shall be Landlord's sole cost and not an Operating Expense). Although provided for, there is no natural gas use contemplated for the Project. For purposes of this Section 1.4 and its subsections, "Project" will include, without limitation, the Common Area and the Premises. Landlord's intent to deliver a NZE Project is a material inducement for Tenant to enter into this Lease. In addition:

#### **1.4.1 Annual Confirmation of Performance.**

Landlord will document annually the Project performance toward NZE and will provide reports annually (issued no later than March 30 of each calendar year). If the Project is not meeting NZE, the Landlord will promptly put into place a plan to continue to reduce energy consumption over time.

#### **1.4.2 Net Zero Energy for Common Area.**

Landlord will construct and at all times thereafter maintain the Common Area with the intent of achieving NZE according to the energy budget defined through energy modeling (the “Energy Budget”). The energy modeling results are summarized in Exhibit K.

#### **1.4.3 Energy Usage Reporting.**

Landlord will provide Tenant with monthly energy usage summaries for plug loads in the Premises. Landlord will provide corresponding statistics from either the energy model or from other tenants in the Project for comparison.

#### **1.4.4 Annual Recommissioning and Review.**

(a) In order to maintain and enhance performance toward NZE, the Landlord will recommission the base building systems of the Project once every calendar year from and after January 1, 2018. The cost of recommissioning will be billed to all tenants of the Project as an Operating Expense. Each recommissioning will comply with ASHRAE Guideline 0.2 (for initial commissioning and retro-commissioning of base building systems) or ASHRAE Guideline 202 (for new commissioning of tenant fit out equipment). Specific commissioning standards will be evaluated annually and updated as appropriate. Recommissioning will address at a minimum: heating, ventilating, air conditioning and refrigeration (HVAC&R) systems and associated controls, lighting and lighting controls, and domestic hot water systems.

(b) An annual report will be issued by Landlord to the Tenant. The cost of any changes or alterations to the Project and its systems due to the plan for corrective action or recommissioning will be promptly done by Landlord as an Operating Expense.

(c) If NZE is not achieved Landlord will meet with all tenants of the Project and review energy use data, recommissioning outputs and recommendations and the effectiveness of efficiency programs and mutually establish an energy optimization plan, including energy management and cost effective savings opportunities for the Project and each premises therein. The cost of any changes or alterations to the base building HVAC&R or lighting systems and their controls due to the recommissioning will be promptly done by Landlord and billed as an Operating Expense.

(d) If, and only if, Tenant’s Plug Load Maximum is exceeded, Landlord will arrange for the Premises to be recommissioned and Tenant will provide access to the Premises and will cooperate with the recommission of the plug load equipment in the Premises. The cost of any changes or alterations to the Tenant plug load equipment and its controls due to the recommissioning will be promptly done by Tenant at its sole cost.

(f) Recommissioning will occur annually, even if NZE is achieved, and a recommissioning report will be released to all tenants.

(g) Prior to recommissioning each year, Landlord will have the opportunity to work with a Tenant point of contact (to be determined annually) to issue a survey to all occupants of the Premises to evaluate thermal comfort, functionality, transportation methods, health and productivity

(among other factors). Survey results will be used to inform recommissioning to improve the functionality and comfort of the Premise. Surveys shall be coordinated through the designated Tenant point of contact and shall not occur more than once per calendar year. Interviews may be used to supplement the surveys, pending approval from the Tenant point of contact. Surveys will be reasonable in length and the process will not to be a burden to Premises occupants.

#### **1.4.5 Restaurant Space.**

While Landlord intends to create a highly efficient restaurant as a model, the Restaurant Space in the Project will most likely not achieve NZE, and will be excluded from the NZE provisions of this Lease.

### **ARTICLE 2. RENTAL AND OTHER PAYMENTS**

#### **2.1 Base Rent.**

Tenant will pay Base Rent in monthly installments to Landlord, in advance, without offset, deduction or abatement except as may be otherwise expressly provided herein, commencing on the Commencement Date and continuing on the first day of each and every calendar month after the Commencement Date during the Term, except for the first month's Base Rent, which will be paid upon mutual execution and delivery of this Lease and applied to the first month or months in which Base Rent is due. Tenant will make all Base Rent payments to Property Manager at the address specified in the Basic Terms or at such other place or in such other manner as Landlord may from time to time designate in writing. Tenant will make all Base Rent payments without Landlord's previous demand, invoice or notice for payment. Landlord and Tenant will prorate, on a per diem basis, Base Rent for any partial month within the Term.

#### **2.2 Additional Rent.**

Article 3 of this Lease requires Tenant to pay certain Additional Rent pursuant to estimates that Landlord delivers to Tenant. Tenant will make all payments of estimated Additional Rent in accordance with Sections 3.3 and 3.4 without deduction, offset or abatement except as otherwise expressly provided herein, and without Landlord's previous demand, invoice or notice for payment. Payments of Additional Rent will commence on the Commencement Date. Tenant will pay all other Additional Rent described in this Lease that is not estimated under Sections 3.3 and 3.4 within ten (10) days after receiving Landlord's invoice for such Additional Rent. Tenant will make all Additional Rent payments to the same location and, except as described in the previous sentence, in the same manner as Tenant's Base Rent payments.

#### **2.3 Delinquent Rental Payments.**

The late payment of any Rent will cause Landlord to incur additional costs, including administration and collection costs, processing and accounting expenses and/or increased debt service or costs (collectively, "Administrative Costs"). If Landlord has not received any installment of Base Rent or Additional Rent within ten (10) days after such amount is due, Tenant will pay to Landlord a one-time late charge of five percent (5%) of the delinquent amount, which amount is agreed to represent a reasonable estimate of the Administrative Costs incurred by Landlord. In

addition, to compensate Landlord for the time value of amounts not paid when due, all such delinquent amounts will bear interest at the Maximum Rate from the date such amount was due until paid in full. Landlord and Tenant recognize that: (i) the damage that Landlord will suffer as a result of Tenant's failure to pay such amounts is difficult to ascertain, (ii) said late charge and interest are the best estimate of the damage that Landlord will suffer in the event of late payment, and (iii) said late charge and interest are to compensate Landlord for separate matters and are not duplicative. If a late charge becomes payable for any three (3) installments of Rent within any twelve (12) month period, then upon receipt of Landlord's written request, Tenant will arrange for payment of regular installments of Rent through an automatic clearing house or electronic funds transfer system.

#### **2.4 Independent Obligations.**

Except as otherwise expressly set forth in this Lease, Tenant's covenant and obligation to pay Rent will be independent from any of Landlord's covenants, obligations, warranties or representations in this Lease.

#### **2.5 Security Deposit.**

Tenant will deliver to Landlord half of the security deposit in the amount stated in the Basic Terms (\$██████████) within thirty (30) days after the Effective Date, and the other half (\$██████████) on or before the Commencement Date, to be retained by Landlord for performance of all the terms and conditions of this Lease to be performed by Tenant, including payment of all Rent due under the terms hereof. Deductions may be made by Landlord from the amount so retained for the reasonable cost of repairs to the Premises (ordinary wear and tear excepted) for which Tenant is responsible under the terms of this Lease, for any Rent delinquent under the terms hereof and/or any sum used in any manner to cure any default in the performance of Tenant under the terms of this Lease. In the event deductions are so made during the Term, Tenant will within ten (10) days after receipt of Landlord's written request redeposit such amounts so expended so as to maintain the deposit in the amount as herein provided for and failure to so redeposit will be deemed a failure to pay Rent under the terms hereof. Nothing herein contained will limit the liability of Tenant as to any damage to the Premises for which Tenant is responsible under the terms of this Lease, and Tenant will be responsible for the total amount of any damage and loss occasioned by actions of Tenant. Landlord's parent, ██████████ will be personally liable for the return of the security deposit to Tenant, provided, however, if Landlord's interest in the Premises is sold, Landlord will deliver the security deposit to the purchaser of Landlord's interest in the Premises, and thereupon and the purchaser's assumption of the personal liability to return the security deposit to Tenant as required by this Lease, Landlord and ██████████ will be discharged from any further liability with respect to such deposit. The security deposit will be returned to Tenant within thirty (30) days following the expiration or earlier termination of this Lease, less any deductions made by Landlord pursuant to this Section 2.5 and less the amount, if any, Landlord reasonably estimates Tenant may owe for the Expenses reconciliation for the final calendar year of the Term, pending confirmation of such amount pursuant to Section 3.5 hereof. Any deductions made by Landlord for the Expenses reconciliation will be credited to Tenant's account at the time of such reconciliation, and any amount then remaining will be paid to Tenant within thirty (30) days after the reconciliation. The provisions of this Section 2.5 will survive the expiration or earlier termination of this Lease.

## ARTICLE 3. PROPERTY TAXES AND OPERATING EXPENSES

### 3.1 Payment of Expenses.

In addition to Base Rent, Tenant will pay, as Additional Rent, Tenant's Pro Rata Share of Expenses due and payable during any calendar year of the Term. Landlord will prorate Tenant's Pro Rata Share of Expenses due and payable during the calendar year in which the Lease commences or terminates, as of the Commencement Date or termination date, as applicable, on a per diem basis based on the number of days of the Term within such calendar year. Notwithstanding anything to the contrary in this Lease, Landlord will not charge and Tenant will not pay any amount for energy usage as part of Operating Expenses.



### 3.2 Estimation of Tenant's Pro Rata Share of Expenses.

Landlord will deliver to Tenant a written estimate of the following for each calendar year of the Term if applicable: (a) Expenses (including the amount of Property Taxes and Operating Expenses), (b) Tenant's Pro Rata Share of Expenses (itemized separately for Project Expenses and Office Space Expenses), and (c) the annual and monthly Additional Rent attributable to Tenant's Pro Rata Share of Expenses. Such estimate will set forth in reasonable detail, (i) the line item amounts for each category of Expense, (ii) an identification of which items are subject to the [REDACTED] and (iii) such other information as may be reasonably necessary to support the Estimate.



### **3.3 Payment of Estimated Tenant's Pro Rata Share of Expenses.**

Tenant will pay the amount Landlord estimates as Tenant's Pro Rata Share of Expenses under Section 3.2 for each calendar year of the Term in equal monthly installments, in advance, on the first day of each month during such calendar year. If Landlord has not delivered the estimates to Tenant by the first day of January of the applicable calendar year, Tenant will continue paying Tenant's Pro Rata Share of Expenses based on Landlord's estimates for the previous calendar year. When Tenant receives Landlord's estimates for the current calendar year, Tenant will pay the estimated amount (less amounts Tenant paid to Landlord in accordance with the immediately preceding sentence) in equal monthly installments over the balance of such calendar year, with the number of installments being equal to the number of full calendar months remaining in such calendar year.

### **3.4 Re-Estimation of Expenses.**

Landlord may re-estimate Expenses from time to time during the Term, but not more than once in any calendar year. In such event, Landlord will re-estimate the monthly Additional Rent attributable to Tenant's Pro Rata Share of Expenses to an amount sufficient for Tenant to pay the re-estimated monthly amount over the balance of the calendar year. Landlord will give Tenant at least thirty (30) days prior notice of the re-estimate, and Tenant will pay the re-estimated amount in the manner provided in the last sentence of Section 3.3.

### **3.5 Confirmation of Tenant's Pro Rata Share of Expenses.**

As soon as reasonably practicable, but not more than ninety (90) days after the end of each calendar year within the Term, Landlord will determine the actual amount of Expenses and Tenant's Pro Rata Share of the same for the expired calendar year and deliver to Tenant a written statement of such amounts (the "Reconciliation Statement"). The Reconciliation Statement will contain information in reasonable detail sufficient to enable Tenant to reconcile the Reconciliation Statement with the Estimate delivered to Tenant pursuant to Section 3.2. If Tenant paid less than the actual amount of Tenant's Pro Rata Share of Expenses specified in the Reconciliation Statement, Tenant will pay the difference to Landlord as Additional Rent within thirty (30) days after receipt of the Reconciliation Statement. If Tenant paid more than the actual amount of Tenant's Pro Rata Share of Expenses specified in the Reconciliation Statement, the excess amount will, at Landlord's option, except as may be otherwise provided by Law, either be paid to Tenant within thirty (30) days after receipt of the Reconciliation Statement or to the extent any Rent remains payable by Tenant under this Lease, credited against the next payment of Rent due under the Lease. If Landlord is delayed in delivering the Reconciliation Statement to Tenant, such delay will not constitute Landlord's waiver of Landlord's rights under this section. The obligations of Landlord and Tenant under this section will survive the expiration or earlier termination of the Term.

### **3.6 Tenant's Inspection and Audit Rights.**

If Tenant (a) in good faith disputes Landlord's determination of the actual amount of Expenses or Tenant's Pro Rata Share of Expenses for any calendar year, and (b) delivers to Landlord written notice of the dispute within sixty (60) days after Landlord's delivery of the Reconciliation Statement under Section 3.5, then Tenant (but not any subtenant of Tenant), at its sole cost and

expense, upon prior written notice and during regular Business Hours at a time and place reasonably acceptable to Landlord (which may be the location on the Front Range of Colorado where Landlord or Property Manager maintains the applicable records), may cause an independent, certified public accountant reasonably acceptable to Landlord (the “CPA”) to audit Landlord’s records relating to the disputed amounts. The CPA’s compensation must not be contingent upon or in any way related to the outcome of the audit. Tenant’s objection to Landlord’s determination of Expenses or Tenant’s Pro Rata Share of Expenses will be deemed withdrawn unless Tenant completes and delivers the audit to Landlord within thirty (30) days after the date the CPA is given full access to Landlord’s records. If the audit shows that the amount Landlord charged Tenant for Tenant’s Pro Rata Share of Expenses was greater than the amount this Article 3 obligates Tenant to pay, Landlord will refund the excess amount to Tenant within ten (10) days after Landlord receives a copy of the audit report; and, if the audit shows that the amount Landlord charged Tenant for Tenant’s Pro Rata Share of Expenses was more than five percent (5%) greater than the amount this Article 3 obligates Tenant to pay, then Landlord will reimburse Tenant for the reasonable cost of such audit along with payment of the refund. If the audit shows that the amount Landlord charged Tenant for Tenant’s Pro Rata Share of Expenses was less than the amount this Article 3 obligates Tenant to pay, Tenant will pay to Landlord, as Additional Rent, within ten (10) days after invoicing by Landlord the difference between the amount Tenant paid and the amount determined in the audit. Pending resolution of any audit under this section, Tenant will continue to pay to Landlord the estimated amounts of Tenant’s Pro Rata Share of Expenses in accordance with Sections 3.3 and 3.4. Tenant must keep all information it obtains in any audit strictly confidential and may only use such information for the limited purpose described in this section for Tenant’s own account, or for Tenant’s representatives, accountants, attorneys or as may be required by Law.

### **3.7 Gross-Up Adjustment.**

If the occupancy of the Building during any part of any calendar year during the Term is less than ninety-five percent (95%) (excluding all retail, restaurant and commercial space), Landlord will make an appropriate adjustment of the variable components of the Operating Expenses for that calendar year, as reasonably determined by Landlord using sound accounting and management principles, to determine the amount of Operating Expenses that would have been incurred had the Building been ninety-five percent (95%) occupied with all tenants paying full rent, as contrasted with free rent, half rent or the like. This amount will be considered to have been the amount of Operating Expenses for that calendar year. For purposes of this Section 3.7 “variable components” include only those Operating Expenses that are directly affected by variations in occupancy levels, such as water usage and janitorial services, and in any event will not include insurance premiums or Real Property Taxes.

### **3.8 Personal Property Taxes.**

Tenant, prior to delinquency, will pay all taxes charged against any Tenant Property. Tenant will use all reasonable efforts to have such Tenant Property taxed separately from the Property. If any Tenant Property is taxed with the Property, Tenant will pay the taxes attributable to such Tenant Property to Landlord as Additional Rent.

### **3.9 Landlord's Right to Contest Property Taxes.**

If authorities having jurisdiction assess Property Taxes that Landlord deems excessive, Landlord may defer compliance therewith to the extent permitted by the laws of the State, so long as the validity or amount thereof is contested by Landlord in good faith and so long as Tenant's occupancy of the Premises is not disturbed or threatened. Tenant may not contest Property Taxes.

## **ARTICLE 4. USE**

### **4.1 Permitted Use.**

Subject to the terms of this Lease and instances of Force Majeure, Tenant will have access to the Premises twenty-four (24) hours per day, every day of each year during the Term. Tenant will not use the Premises for any purpose other than the Permitted Uses set forth in the Basic Terms. Tenant will obtain and maintain, at Tenant's sole cost and expense, all permits and approvals required of Tenant under the Laws for Tenant's use of the Premises. Tenant acknowledges that, unless expressly provided in this Lease, neither Landlord nor any agent, contractor or employee of Landlord has made any representation or warranty of any kind with respect to the Premises, the Project or the Property, including any representation or warranty of suitability or fitness of the Premises, Project or the Property for any particular purpose.

### **4.2 Prohibited Uses.**

Tenant will not use the Property or knowingly permit the Premises to be used in violation of any Laws in any material respect or in any manner outside ordinary office use of the Premises that would in any material respect: (a) violate any certificate of occupancy affecting the Property; (b) cause injury or damage to the Property or to the person or property of any other occupant on the Property; or (c) constitute a public or private nuisance or waste. In addition, Tenant will not keep any animal on or about the Premises (other than service animals that may not be legally excluded from the Premises or Property pursuant to the Americans with Disabilities Act or any similar law, rule or regulation applicable to the Property) and will not use the Property or knowingly permit the Premises to be used for: (i) any adult book store or a store or any other establishment or business primarily selling, distributing or exhibiting pornographic materials; (ii) the conduct of any auction, fire, bankruptcy, liquidation or going-out-of-business sale; or (iii) a Controlled Substances Use or in any manner that violates or could violate any Controlled Substances Laws, including any business, communications, financial transactions or other activities related to Controlled Substances or a Controlled Substance Use that violate or could violate any Controlled Substances Laws. For purposes of this Section 4.2, (A) "Controlled Substances Laws" means the Federal Controlled Substances Act (21 U.S.C. §801 et seq.) or any other similar or related Law; (B) "Controlled Substances" means marijuana, cannabis or other controlled substances as defined in the Federal Controlled Substances Act or that otherwise are illegal or regulated under any Controlled Substances Laws; and (C) "Controlled Substances Use" means any cultivation, growth, creation, production, manufacture, sale, distribution, storage, handling, possession or other use of a Controlled Substance in violation of any Controlled Substances Laws. The provisions of this Section 4.2 will apply notwithstanding any state or local Law permitting the Controlled Substances Use or Drug-Related Activities. Landlord will include provisions similar to this Section 4.2 in every other Project tenant lease and will use reasonable efforts to enforce such provisions.

### **4.3 Increased Insurance.**

Tenant will not do or permit to be done on the Property or the Premises anything outside ordinary office use of the Premises that will (a) increase the premium of any insurance policy Landlord carries covering the Premises or the Property; (b) cause a cancellation of or be in conflict with any such insurance policy; (c) result in any insurance company's refusal to issue or continue any such insurance in amounts reasonably satisfactory to Landlord; or (d) subject Landlord to any liability or responsibility for injury to any person or property by reason of Tenant's operations in the Premises or use of the Property. Tenant will reimburse Landlord, as Additional Rent, for any additional premium charges for such policy or policies resulting from Tenant's failure to comply with the provisions of this Section.

### **4.4 Laws/Project Rules.**

This Lease is subject and subordinate to all Laws. Tenant will comply and will cause its employees, agents, contractors and any others permitted by Tenant to occupy or enter the Premises to comply with the Project Rules. Landlord may amend the Project Rules from time to time in Landlord's sole and absolute discretion, provided that any such amendments will be commercially reasonable, will apply uniformly to all tenants of the Project and will not unreasonably interfere with Tenant's operation of its business in the Premises, materially increase Tenant's monetary obligations payable to Landlord hereunder, adversely affect the NZE goal for the Project or be contrary to any express provision of this Lease. Landlord will not be responsible for any violation of the Project Rules by any other parties, but will use reasonable efforts to enforce the Project Rules. In the event of any conflict between the Project Rules and the express terms of this Lease, the terms of this Lease will control.

### **4.5 Common Area.**

Landlord grants to Tenant the non-exclusive right, together with all other occupants of the Project and their agents, employees and invitees, to use the Common Area during the Term, subject to the terms of this Lease, all Laws and the Project Rules. Landlord's rights regarding the Common Area include, but are not limited to, the right to (a) restrain unauthorized persons from using the Common Area; (b) place permanent or temporary kiosks, displays, carts or stands in the Common Area and lease the same to tenants; (c) temporarily close any portion of the Common Area (i) for repairs, improvements or Alterations, (ii) to discourage unauthorized use, (iii) to prevent dedication or prescriptive rights, or (iv) for any other reason Landlord reasonably deems necessary; (d) change the shape and size of the Common Area; (e) add, eliminate or change the location of any improvements located in the Common Area and construct buildings or other structures in the Common Area; and (f) limit the use of certain portions of the Common Area to a specific tenant or tenants. Any change in the Common Area that would result in a change in the determination of the Rentable Area of the Premises (measured in accordance with the Measurement Methodology) will change the Rentable Area of the Premises for all purposes under this Lease, and the Lease will be amended by Landlord and Tenant accordingly. In addition, Landlord reserves the right to set hours for the use of the any common deck area and the lounge area off the lobby on the first floor of each of the South Building and the North Building, and to host private and public events and permit other occupants of the Project to host public and private events in such areas. Landlord has contracted with an outside art consultant to provide art for the Common Area and lobbies of the Project and

reserves the right to hold gallery openings and other events in the Common Area and change how the Common Area is decorated.

Notwithstanding any of the foregoing, Tenant will have the right to reserve the Common Area via an online calendaring system that is maintained by Landlord and made available to Tenant as set forth in Section 18.2 hereof.

#### **4.6 Signs.**

Landlord will provide to Tenant, at Landlord's sole cost and expense: (a) one building standard tenant identification sign adjacent to the entry door of the Premises, and (b) one standard building directory listing. Landlord will maintain the signs in good condition and repair during the Term at Tenant's sole cost and expense. Tenant, at its sole cost and expense, will be allowed to install (a) one sign containing Tenant's name and logo on the exterior of the Building on the same side as the main entrance to the Premises, and (b) signage containing its name and logo on the Premises entrance doors, the size, specifications and attachment method of which subject, in each case, to Landlord's prior approval, which approval will not be unreasonably withheld. All signs will conform to Landlord's sign criteria and applicable sign ordinances. Tenant will not install or permit to be installed in the Premises any other sign, decoration or advertising material of any kind that is visible from the exterior of the Premises without the prior written consent of Landlord, which consent may be withheld in Landlord's sole and absolute discretion. Landlord may immediately remove, at Tenant's sole cost and expense, any sign, decoration or advertising material that violates this section. Landlord will provide modest signage in the lobby indicating building sustainability achievements (such sign to be at Landlord's sole cost).

#### **4.7 Transportation Management.**

Tenant will cooperate with all present or future programs adopted by Landlord, and will comply with all legally required present or future programs, intended to manage parking, transportation or traffic in and around the Project, and in connection therewith, Tenant will take responsible action for the transportation planning and management of all employees located at the Premises by working directly with Landlord, any governmental transportation management organization or any other transportation-related committees or entities. Such programs may include: (i) restrictions on the number of peak-hour vehicle trips generated by Tenant; (ii) increased vehicle occupancy; (iii) implementation of an in-house ridesharing program and an employee transportation coordinator; (iv) working with employees and any Project or area-wide ridesharing program manager; (v) instituting employer-sponsored incentives (financial or in-kind) to encourage employees to rideshare; and (vi) utilizing flexible work shifts for employees. If there is any conflict between the provisions of this Section 4.7 and Article 17, as interpreted or applied, the provisions of Article 17 will control.

#### **4.8 Use Exclusives.**

Landlord reserves the right to grant use exclusives to other tenants of the Project after the date of this Lease. Any exclusive uses granted after the date hereof are referred to herein as "Exclusive Uses." Landlord will notify Tenant in writing of any Exclusive Uses granted to other tenants of the Project, and upon receipt of such notice, this Lease and the use and occupancy of the

Premises hereunder will be subject and subordinate to such Exclusive Uses, except and to the extent an Exclusive Use is expressly, clearly and unambiguously a “Permitted Use” under this Lease. Tenant will save, defend (with counsel reasonably acceptable to Landlord), indemnify and hold harmless Landlord from and against any claim by any other tenant of the Project alleging that Tenant is violating such other tenant’s Exclusive Use.

## **ARTICLE 5. HAZARDOUS MATERIALS**

### **5.1 Compliance with Hazardous Materials Laws.**

Tenant will not cause any Hazardous Materials to be brought upon, kept or used on the Property in a manner or for a purpose prohibited by or that could result in liability under any Hazardous Materials Laws. Tenant, at its sole cost and expense, will comply with all Hazardous Materials Laws and prudent industry practice relating to the presence, treatment, storage, transportation, disposal, release or management of Hazardous Materials in, on, under or about the Property required for Tenant’s use of the Premises and will notify Landlord of any and all Hazardous Materials (excluding reasonable quantities of office cleaning or other office supplies as are customarily used by a tenant in the ordinary course in a general office facility) Tenant brings upon, keeps or uses on the Property. On or before the expiration or earlier termination of this Lease, Tenant, at its sole cost and expense, will completely remove from the Property (regardless whether any Hazardous Materials Law requires removal), in compliance with all Hazardous Materials Laws, all Hazardous Materials Tenant causes to be present in, on, under or about the Property. Tenant will not take any remedial action in response to the presence of any Hazardous Materials Tenant causes to be in, on, under or about the Property, nor enter into any settlement agreement, consent decree or other compromise with respect to any Claims relating to or in any way connected with Hazardous Materials Tenant causes to be in, on, under or about the Property without first (a) notifying Landlord of Tenant’s intention to do so, and (b) affording Landlord reasonable opportunity to investigate, appear, intervene and otherwise assert and protect Landlord’s interest in the Property. Tenant acknowledges that medical waste and materials, including sharps, blood and bodily fluids, waste pharmaceuticals, controlled substances and other chemicals, cannot be disposed of along with normal office trash. Tenant will be solely responsible for the proper storage, use and disposal of all medical waste and materials brought upon, kept, used or generated on the Premises, and will strictly comply with all Colorado Department of Public Health and Environment requirements with respect thereto and all other applicable Laws. Tenant will indemnify, defend and hold harmless Landlord from and against any and all Claims arising from or relating to any Hazardous Materials that Tenant causes to be present in, on, under or about the Property. Tenant’s obligations under this Section 5.1 will survive the expiration or earlier termination of the Term.

## **ARTICLE 6. SERVICES**

### **6.1 Landlord’s Obligations.**

In addition to maintenance services required of Landlord elsewhere in this Lease, Landlord will provide, throughout the Term, the following services, the costs of which are deemed to be Operating Expenses, except as otherwise provided in this Lease:

### **6.1.1 Janitorial Service.**

Janitorial service in the Premises not less than three (3) days per week (excluding weekends and legal holidays in the State) for Project-standard installations, including cleaning, trash, recycling and compost removal, necessary dusting and vacuuming and such other work as is customarily performed in connection with nightly janitorial services in multi-use complexes similar in construction, location, use and occupancy to the Project. Landlord will also provide periodic interior and exterior window washing and cleaning not less than once per year and periodic waxing of Project-standard uncarpeted floors not less than once per year. Landlord will use only cleaning products (including general purpose cleaners, floor cleaners, hand soap, etc.) that comply with either the Green Seal standard, the UL/EcoLogo standard, the U.S. Environmental Protection Agency's Design for the Environment (DfE) designation, or a substitute determined by Landlord in its reasonable discretion. Landlord will provide such additional janitorial services as are required by Tenant and Tenant will reimburse Landlord, as Additional Rent, for the costs and expenses incurred in connection therewith.

### **6.1.2 Electrical Energy.**

Electrical energy to the Premises for equipment that does not require more than 240 volts and whose electrical energy consumption does not exceed normal office usage. In addition:

(a) Landlord will replace all lighting bulbs, tubes, ballasts and starters within the Premises at Tenant's sole cost and expense, unless the costs of such replacement are included in Operating Expenses. If such costs are not included in Operating Expenses, Tenant will pay such costs as Additional Rent.

(b) Landlord, at Landlord's sole cost, will submeter Tenant's energy use. Energy use will be submetered for the Premises separately and will include one submeter for each primary electrical panel (which will enable Tenant to approximate energy use); the primary electrical panel(s) serving the Premises will exclusively serve the Premises. Tenant's heating and cooling energy use will be tracked separately and reported to Tenant, via the Mitsubishi central control system. The plug load consumption for all Project tenants will be separately metered for billing purposes. Landlord will make the submeter data available to Tenant at any time via online accessibility that provides history and trending.

(c) Landlord will provide to Tenant, no later than March 30 of each calendar year, an annual report for the amount of electricity generated and consumed at the Project.

(d) Landlord will also provide IP access to Tenant with ability to access system setpoints and trend all operational points. The central Mitsubishi controls system and the submeter tracking system will have the capability to store at least one (1) year of data. These points will include space temperature setpoints, schedules, system modes and operation.

(e) Landlord will enforce the rules to prevent violations by other tenants of the Project regarding energy savings in order to assist in achieving the goal of reaching NZE each year.

(f) When finishing out the Project, including the Premises and Common Area, the Landlord will install the lighting systems with daylight zones in atriums or within 15 feet of windows and skylights where daylight can contribute to energy savings. Daylight zones will be required per IECC 2012, and will be either manual off via switches or automated via daylight sensors. Lighting controls (including occupancy sensors and scheduling controls) will be provided for all lighting equipment according to IECC 2012. The occupancy sensors will function as either manual ON (vacancy mode) or automatically turn ON not more than 50% of the lighting power. The occupancy sensors will then automatically turn lights OFF when no human presence is detected for a specified amount of time.

### **6.1.3 Heating, Ventilation and Air Conditioning.**

During Business Hours, heating, ventilation and air conditioning (“HVAC”) to the Premises and the Common Area sufficient to maintain such temperatures as are standard for first-class, multi-use complexes similar in construction, location, use and occupancy to the Property for general office use only. During other times, Landlord will provide heat and air conditioning upon Tenant’s reasonable advance notice (not less than twenty-four (24) hours). Landlord and Tenant will mutually agree to temperature setbacks during periods the Premises are unoccupied. Landlord and Tenant will mutually agree on ‘typical’ operating schedules. There will be a maximum charge of \$ [REDACTED] per hour (subject to noncumulative annual increases of 3%) for after-hours HVAC usage by Tenant for the Premises, as monitored by key fob access data.

### **6.1.4 Water and Wastewater.**

Hot and cold water from standard building outlets for lavatory, restroom and drinking purposes and customary sewage and wastewater disposal for restroom purposes. There will be one water meter for each of the North Building and the South Building. Landlord will at its sole cost and expense install one submeter or flow meter for landscape water use for each of the North Building and the South Building. Landlord will submeter water usage for the Restaurant Space, the salon retail space and possibly other retail or office spaces in the Project, and will share water usage data from such submeters with Tenant. Water use for building-wide interior and landscaping uses for each of the North Building and the South Building will be compared to previous years and to other similar use type buildings, either nationally or locally. Landlord will make best efforts to fix leaks and reduce water usage.

### **6.1.5 Elevator Service.**

Elevator service for ingress and egress to the floor on which the Premises are located, in common with other tenants, provided that Landlord may reasonably limit the number of operating elevators during non-Business Hours and holidays, provided that one elevator is available for use at all times. Landlord may restrict Tenant’s use of elevators for freight purposes to hours Landlord determines appropriate in Landlord’s reasonable discretion.

### **6.1.6 Transportation Demand Management.**

Landlord will develop a Transportation Management Plan for the Project to describe the various alternative mobility opportunities available to all occupants of the Project, including public



transportation options and alternative mobility services (such as Uber or Lyft). Tenant will establish a preferred parking program for plug-in electric vehicles (“PEVs”) for its employees. Landlord will install Level 2 charging to meet the needs of Tenant’s agents, employees and invitees who drive PEVs for four parking spaces at Landlord’s cost, and for any parking spaces in excess of four, at Tenant’s cost. Additional details are provided in Section 17.2 (Parking) and Section 17.4 (Electrical Charging Stations).

## **6.2 Excess Utilities Use.**

### **6.2.1 Electricity and HVAC.**

Landlord will not be required to furnish electrical current for equipment that requires more than 240 volts or other equipment whose electrical energy consumption exceeds normal office usage. If Tenant’s requirements for or consumption of electricity exceed the electricity to be provided by Landlord as described herein, Landlord will, at Tenant’s expense, make reasonable efforts to supply such service through then-existing feeders and risers serving the Project and the Premises, provided the additional use of such feeders and risers caused by Tenant’s excess electrical requirements do not adversely affect Landlord’s ability to provide reasonable electrical service to the balance of the Project (as determined by Landlord in the exercise of its reasonable discretion), and Tenant will pay to Landlord the cost of such service as Additional Rent within thirty (30) days after Landlord has delivered to Tenant an invoice therefor. Landlord may determine the amount of such additional consumption by use of the submeters installed as provided in this Lease. Tenant will not install or use any electrical equipment requiring special wiring, voltage in excess of 240 volts, or voltage in excess of Project capacity unless approved in advance by Landlord. Any risers or wiring required to meet Tenant’s excess electrical requirements will, upon Tenant’s written request, be installed by Landlord at Tenant’s cost if, in Landlord’s judgment, the same are necessary and will not cause permanent damage to the Project, Building or Premises, cause or create a dangerous or hazardous condition, entail excessive or unreasonable alterations, repairs or expenses, adversely affect Landlord’s ability to provide reasonable service to the balance of the Project, or unreasonably interfere with or disturb other tenants of the Project. If Tenant uses machines or equipment in the Premises that abnormally affect the temperature otherwise maintained by the air conditioning system or otherwise overload any utility, Landlord may, or may require Tenant to, install supplemental air conditioning units or other supplemental equipment in the Premises or, if necessary, elsewhere in the Project, and the cost thereof, including the cost of design, installation, operation, use and maintenance, in each case plus an administrative fee of fifteen percent (15%) of such cost, will be paid by Tenant at the time of installation.

### **6.2.2 Energy Use Intensity.**

Electricity supplied to the Premises will be submetered by meters installed by Landlord as part of the Landlord’s Work. As used in this Lease, the term “Plug Load Maximum” means 7 kBtu per Useable Square Foot of the Premises per calendar year for the initial plug loads of the Premises. Plug loads are defined as the loads on all circuits serving wall outlets in the Premises. If Tenant’s use of energy and plug loads is in excess of the Plug Load Maximum, Landlord will purchase RECs to offset any energy use in excess of the Plug Load Maximum in order to maintain the NZE goal of the Premises, and the purchase price paid therefor will be billed directly to the Tenant and not as an Operating Expense. The actual cost of the RECs, without additional fees or markups, will be billed

to Tenant and paid by Tenant either quarterly or annually (as determined by Landlord) as Additional Rent. The foregoing calculations will be provided in each Reconciliation Statement as a separate item, but included in the final amount of Tenant's Pro Rata Share of Expenses for purposes of calculating the amount owed by or to Tenant under Section 3.5 (Confirmation of Tenant's Pro Rata Share of Expenses). In order to assist in the goal of NZE, Landlord will have the right to adjust the Plug Load Maximum after the first year of occupancy of the Building, but no later than December 31, 2018.

### **6.3 Interruptions and Changes to Services.**

No interruption in, or temporary stoppage of, any of the services in this Article 6 outside of Landlord's reasonable control will be deemed an eviction or disturbance of Tenant's use and possession of the Premises, nor will any such interruption or stoppage relieve Tenant from any obligation hereunder or render Landlord liable for damages or entitle Tenant to any Rent abatement. Landlord will not be required to provide any heat, air conditioning, electricity or other service in excess of those permitted by compulsory governmental guidelines or other Laws. Except as otherwise expressly provided in this Lease (a) Landlord has the exclusive right and discretion to select the provider or providers of any utility or service to the Property and to determine whether the Premises or any other portion of the Property may or will be separately metered or separately supplied, and (b) Landlord reserves the right, from time to time, to make reasonable and nondiscriminatory modifications to the above standards for utilities and services. Notwithstanding the foregoing, if any interruption or temporary stoppage of services that continues for a period of three (3) consecutive Business Days or more is caused by Landlord or is within Landlord's control causes the Premises (or any portion thereof) to be untenable, Tenant's Rent will abate in proportion to the portion of the Premises rendered untenable commencing on the fourth day of such interruption or stoppage and continuing until such services are restored.

### **6.4 Tenant Devices.**

Tenant will not, without Landlord's prior written consent, use any apparatus or device in or about the Premises that causes substantial noise, odor or vibration. Tenant will not connect any apparatus or device to electrical current or water except through the electrical and water outlets Landlord installs in the Premises. Tenant will not at any time during the Term or during its possession of the Premises use any mechanical systems or structural components (e.g., plumbing, heating, demising partitions) in such a manner as to cause damage thereto. Tenant will be responsible for, and will reimburse Landlord for any reasonable cost or expenses associated with Tenant's breach of this provision. All imaging equipment (i.e. copiers and printers) replaced by the Tenant during the Lease Term will be ENERGY STAR Certified and energy savings modes must be activated. Space heaters are not permitted in the Premises (though Landlord will ensure that the HVAC provides sufficient warmth for the occupants of the Premises). Tenant will provide sensors or schedule controls (i.e., night time sleep modes) for all of its major office equipment, including copiers/printers. Landlord will include similar provisions as provided in this Section in all tenant leases for the Project, and use reasonable efforts to enforce such provisions.

## **ARTICLE 7. MAINTENANCE AND REPAIR**

### **7.1 Landlord's Obligations.**

Except as otherwise provided in this Lease, Landlord will, at Landlord's sole cost and expense, maintain, repair and replace the following in good order, condition and repair: the structural portions of the Project, including the foundations, footings, bearing and exterior walls and surfaces, sub-flooring and all other structural elements of the Project. Landlord will maintain, repair and replace the Common Area (subject to all other terms and conditions of this Lease relating to Common Area), including the systems designed to help achieve NZE (in the Premises and Common Area), the roof, parking areas, exterior skin of the Building and other buildings in the Project, elevators, lobbies, windows, Common Area doors and plate glass and exterior windows and Premises entrance doors and glass, all electrical, mechanical, plumbing, heating and air conditioning, fire/life-safety and other building systems, facilities and components that are installed or furnished by Landlord and used in common by tenants of the Project, in a first-class and fully operational manner. All costs for maintenance, repair and replacement under this Section 7.1 other than those listed in the first sentence hereof will be included in Operating Expenses unless specifically excluded or limited elsewhere in this Lease.

### **7.2 Tenant's Obligations.**

Except as otherwise specifically provided in this Lease, Landlord will not be required to furnish any services or facilities, or to make any repairs or Alterations, in, about or to the Premises or the Property. Except as otherwise provided in this Lease, Tenant assumes the full and sole responsibility for the condition, operation, repair, replacement, maintenance and management of the Premises. Except as specifically described in Section 7.1 or this Lease, Tenant, at Tenant's sole cost and expense, will keep and maintain the Premises (including all non-structural interior portions; electrical, mechanical, plumbing, heating and air conditioning systems and other systems and equipment located within and exclusively serving the Premises; interior surfaces of exterior walls; interior moldings, partitions and ceilings; interior doors, plate glass and windows; and interior electrical, lighting and plumbing fixtures) in good order, condition and repair, reasonable wear and tear, condemnation and damage from casualty losses excepted. Tenant will use contractors reasonably designated or approved by Landlord to perform any and all maintenance and other work on or in connection with the electrical, mechanical, plumbing, heating and air conditioning systems and other building systems and equipment located within and exclusively serving the Premises, or if Landlord contracts for same (which Landlord reserves the right to do by providing written notice thereof to Tenant), Landlord will bill Tenant, as a direct expense to Tenant and not as a component of Operating Expenses, either monthly or quarterly for the amounts paid by Landlord therefor. Tenant will keep the Premises in a neat and sanitary condition and will not commit any nuisance or waste in, on or about the Premises or the Property. If Tenant damages or injures the Common Area or any part of the Property other than the Premises, Landlord will repair the damage and Tenant will pay Landlord for all uninsured costs and expenses of Landlord in connection with the repair as Additional Rent. Tenant is solely responsible for and will, to the fullest extent allowable under the Laws, indemnify, protect and defend (with counsel reasonably acceptable to Landlord) and hold harmless Landlord against and from, the cost of repairing, and any Claims resulting from, any penetrations or perforations of the roof or exterior walls of the Project caused by Tenant. Tenant will

maintain the Premises in a first-class and fully operative condition. Tenant's repairs will be at least equal in quality and workmanship to the original work and Tenant will make the repairs in accordance with all Laws.

### **7.3 Alterations Required by Laws.**

If any governmental authority requires any non-Structural Alteration to the Premises as a result of (i) Tenant's particular use of the Premises other than general office use, (ii) any Alteration to the Premises made by or on behalf of Tenant, or (iii) any change after the Commencement Date of any Laws of general application, then Tenant will make such Alteration at Tenant's sole cost and expense in accordance with Article 8. If Tenant's particular use of the Premises (other than general office use) or any Alteration to the Premises made by or on behalf of Tenant subjects Landlord or the Property to any obligation under any Laws, then Tenant will pay the cost of any required Alterations or the cost of compliance, as the case may be. If any such required Alterations are Structural Alterations or must be made to portions of the Property outside of the Premises, Landlord will make such Alterations; provided, however, that Landlord may require Tenant to deposit with Landlord an amount sufficient to pay the cost of such Alterations (including reasonable overhead and administrative costs).

If any governmental authority requires any changes to the Project after the Commencement Date, including the Premises and Common Area, other than those which are the obligation of Tenant pursuant to the immediately preceding paragraph, such other changes will be promptly undertaken by Landlord and will included in Operating Expenses as and to the extent permitted in this Lease.

## **ARTICLE 8. CHANGES AND ALTERATIONS**

### **8.1 Landlord Approval.**

Tenant will not make any Structural Alterations to the Premises or any Alterations outside of the Premises. Tenant may from time to time during the Term make, at its own cost and expense, any reasonable nonstructural Alterations in the interior of the Premises, provided that such Alterations do not affect any building systems (including HVAC, electrical, and plumbing) and the aggregate cost therefor in any one instance does not exceed [REDACTED] Dollars (\$ [REDACTED]) and provided further the Alterations are not visible from the exterior of the Premises. Any nonstructural Alteration that: (a) is visible from the exterior of the Premises (regardless of the cost thereof); or (b) exceeds [REDACTED] Dollars (\$ [REDACTED]) in costs, may be made only with Landlord's prior written consent, which consent will not be unreasonably withheld, delayed or conditioned. Along with any request for Landlord's consent, Tenant will deliver to Landlord plans and specifications for the Alterations and names and addresses of all prospective contractors for the Alterations. Tenant will use contractors reasonably designated or approved by Landlord to perform any and all work on or in connection with the roof, roof membrane, sprinkler/fire alarm system, and electrical, mechanical, plumbing, heating and air conditioning systems and other building systems and equipment of or for the Premises. If Landlord approves the proposed Alterations, Tenant, before commencing the Alterations or delivering (or accepting delivery of) any materials to be used in connection with the Alterations, will deliver to Landlord, for Landlord's reasonable approval, copies of all contracts, proof of insurance required under Section 8.3, copies of any contractor safety programs, copies of all necessary permits and licenses and such other information relating to the Alterations as Landlord

reasonably requests. Tenant will not commence any Alterations before Landlord, in Landlord's reasonable discretion, approves the foregoing deliveries. All Alterations Tenant makes hereunder will be constructed (a) promptly by a contractor approved in writing by Landlord, (b) in a good and workmanlike manner, (c) in compliance with all Laws, (d) free of any liens for labor and materials, and (e) in full compliance with any reasonable requirements Landlord may impose, including maintenance by Tenant of adequate liability and workmen's compensation insurance. Any Alterations not requiring Landlord's consent under this Section 8.1 is herein referred to as a "Minor Change." Tenant will provide written notice to Landlord of any Minor Change and a reasonably detailed description of the same not less than fifteen (15) days prior to making such Minor Change, which notice may be given by email to the Property Manager, provided that such email is sent read receipt requested.

## **8.2 Cabling.**

Tenant will comply with all Laws with respect to all wires, cables and similar installations (collectively, "Cabling") serving the Premises, whether in place on the Commencement Date or thereafter, installed or modified by Tenant, and whether located within the Premises or anywhere in the Project outside the Premises, including the risers of the Project. Tenant may use any existing Cabling in the Premises in its current "as-is" condition; however, any additional Cabling or modifications made to existing Cabling will be made only with Landlord's prior written consent and will be at Tenant's sole cost and expense. All Cabling installed by Tenant will be labeled at its point of entry into the Building and the Project, as applicable, at its terminal end and in the riser closet indicating its type, the Tenant's name and the service provided. If Tenant discontinues the use of all or any part of the Cabling, Tenant will within thirty (30) days thereafter notify Landlord thereof, including a description of the current type, number, points of commencement and termination and routes of the Cabling sufficiently detailed to allow Landlord to determine if Landlord desires to retain the Cabling. Within thirty (30) days after either (a) Landlord receives such discontinuation notice, or (b) the expiration or earlier termination of this Lease, Landlord may elect by written notice to Tenant to either (i) retain any or all of the Cabling, or (ii) require Tenant, at Tenant's sole cost and expense, to remove any or all of the Cabling and restore the Premises or the Project, as the case may be, insofar as they are or it is affected by the Cabling, to their or its condition existing prior to the installation or modification of the Cabling. Upon the expiration or earlier termination of this Lease, except to the extent Landlord requires Tenant to remove the Cabling as provided above, Tenant will leave the Cabling undamaged and in a neat and organized fashion, labeled, and comparable to the condition of the Cabling as it existed on the Commencement Date.

## **8.3 Tenant's Responsibility for Cost and Insurance.**

Tenant will pay the cost and expense of all Alterations to the Premises, including costs and expenses incurred by Landlord such as a reasonable charge for Landlord's review, inspection and engineering time, and for any painting, restoring or repairing of the Building or the Project occasioned by the Alterations. Prior to commencing such Alterations, Tenant will deliver the following to Landlord in form and amount reasonably satisfactory to Landlord: (a) demolition (if applicable) and payment and performance bonds, (b) builder's risk insurance (broadest coverage available at commercially reasonable rates) in an amount at least equal to the replacement value of the Alterations, (c) evidence that Tenant and each of Tenant's contractors have current liability

insurance insuring against construction related risks, in at least the form, amounts and coverages required of Tenant under Article 10, (d) workers compensation insurance and proof thereof and (e) copies of all applicable contracts and necessary permits and licenses. The insurance policies described in clauses (b) and (c) of this section must name Landlord, Landlord's lender (if any) and Property Manager as additional insureds.

#### **8.4 Construction Obligations and Ownership.**

Landlord may inspect construction of the Alterations. Immediately after completing the Alterations, Tenant will furnish Landlord with AutoCAD as-built plans, contractor affidavits, full and final lien waivers and receipted bills covering all labor and materials expended and used in connection with the Alterations. Tenant will remove any Alterations it constructs in violation of this Article 8 within ten (10) days after Landlord's written request and, in the event Landlord has (a) expressly conditioned its approval of any Alterations on Tenant removing the same prior to expiration or earlier termination of this Lease, or (b) provided written notice to Tenant within ten (10) days after receiving notice thereof from Tenant (as required under the last sentence of Section 8.1) that Tenant will be required to remove a Minor Change, Tenant will remove the same prior to the expiration or earlier termination of this Lease. All Alterations Tenant makes or installs (excluding the Tenant Property) become the property of Landlord upon installation and, unless Landlord requires Tenant to remove the Alterations, to the extent permitted in this Section 8.4, Tenant will surrender the Alterations to Landlord upon the expiration or earlier termination of this Lease at no cost to Landlord.

#### **8.5 Liens.**

Tenant will keep the Property free from any mechanics', materialmen's, designers' or other liens arising out of any work performed, materials furnished or obligations incurred by or for Tenant or any person or entity claiming by, through or under Tenant. Tenant will notify Landlord in writing no less than thirty (30) days prior to commencing any Alterations in order to provide Landlord the opportunity to record and post notices of non-responsibility or such other protective notices available to Landlord under the Laws. If any such liens are filed and Tenant, within fifteen (15) days after such filing, does not release the same of record or provide Landlord with a bond or other surety satisfactory to Landlord protecting Landlord and the Project against such liens, Landlord may, without waiving its rights and remedies based upon such breach by Tenant and without releasing Tenant from any obligation under this Lease, cause such liens to be released by any means Landlord deems proper, including paying the claim giving rise to the lien or posting security to cause the discharge of the lien. In such event, Tenant will reimburse Landlord, as Additional Rent, for all amounts Landlord pays (including reasonable attorneys' fees and costs of settling such claims).

#### **8.6 Indemnification.**

To the fullest extent allowable under the Laws, Tenant will release, indemnify, protect, defend (with counsel reasonably acceptable to Landlord) and hold harmless the Landlord Parties and the Property from and against any Claims in any manner relating to or arising out of any Alterations made by Tenant or any other work performed, materials furnished or obligations incurred by or for Tenant or any person or entity claiming by, through or under Tenant.

## **ARTICLE 9. RIGHTS RESERVED BY LANDLORD**

### **9.1 Landlord's Entry.**

Landlord and its authorized representatives may, at all reasonable times upon prior oral notice to Tenant given not less than twenty-four (24) hours prior to any such entry, enter the Premises to: (a) inspect the Premises; (b) show the Premises to the holder of a Mortgage and prospective purchasers, mortgagees and, within nine months prior to expiration of the Term, prospective tenants; (c) post notices of non-responsibility or other protective notices available under the Laws; or (d) exercise and perform Landlord's rights and obligations under this Lease. In the event of any emergency, Landlord may enter the Premises without notice to Tenant. Landlord's entry into the Premises is not to be construed as a forcible or unlawful entry into, or detainer of, the Premises or as an eviction of Tenant from all or any part of the Premises.

### **9.2 Control of Property.**

Landlord reserves all rights respecting the Property and Premises not specifically granted to Tenant under this Lease, including the right to: (a) change the name of the Project, Building or any portion thereof; (b) designate and approve all types of signs, window coverings, internal lighting and other aspects of the Premises and its contents that may be visible from the exterior of the Premises; (c) grant any party the exclusive right to conduct any business or render any service in the Project or the Building, provided such exclusive right does not prohibit Tenant from conducting the Permitted Uses in the Premises; (d) prohibit Tenant from installing vending or dispensing machines of any kind in or about the Premises other than those Tenant installs in the Premises solely for use by Tenant's employees; (e) close the Project or the Building after Business Hours, except that Landlord will provide Tenant and its employees and invitees access to the Premises after Business Hours in accordance with such rules and regulations as Landlord may reasonably prescribe from time to time for security purposes; (f) install, operate and maintain security systems that monitor, by closed circuit television or otherwise, all persons entering or leaving the Project or Building; (g) install and maintain pipes, ducts, conduits, wires and structural elements in the Premises that serve other parts or other tenants of the Project or Building; and (h) retain and receive master keys or pass keys to the Premises and all doors in the Premises. Notwithstanding the foregoing, or the provision of any security-related services by Landlord, Landlord will not be responsible for the security of persons or property on the Property and Landlord is not and will not be liable in any way whatsoever for any breach of security or criminal acts committed by third parties. No window shades, blinds, screens, draperies or other window coverings within the Premises will be installed or removed by Tenant without Landlord's prior written consent. Tenant will comply with Landlord's rules with respect to maintaining uniform curtains, draperies and linings and blinds at all windows and hallways.

### **9.3 Construction Completion; Additions and Changes to the Property.**

Tenant acknowledges and agrees that construction of the Project and/or Building and spaces adjacent to, under and above the Premises may not be completed until after Tenant commences its business in the Premises and there may be construction related noise, traffic, dust and the like resulting therefrom. Landlord agrees to use commercially reasonable efforts to minimize disruption to Tenant's business in the Premise resulting from the same. Landlord reserves the right, at any time after completion of construction of the Project, to make alterations, expansions, or additions to the

Property, provided that such changes will not materially alter the size of the Premises, materially affect the goal of achieving NZE of the Project including the Premises and Common area, deny reasonable ingress to and egress from the Premises or deny reasonable parking for the Premises, as described in Section 17.2. In the event Landlord exercises any of the foregoing rights, at the option of Landlord, such areas will be treated as though they were originally a part of the Property and an appropriate modification of Tenant's Pro Rata Share of Expenses as set forth herein will be made.

#### **9.4 Lock Box Agent/Rent Collection Agent.**

Landlord, from time to time, may designate a lock box collection agent or other person to collect Rent. In such event, Tenant's payment of Rent to the lock box collection agent or other person will be deemed to have been made (a) as of the date the lock box collection agent or other person receives Tenant's payment (if the payment is not dishonored for any reason); or (b) if Tenant's payment is dishonored for any reason, the date Landlord or Landlord's agent collects the payment. If the payment is dishonored, neither Tenant's payment of any amount of Rent to the lock box collection agent or other person nor Landlord's or Landlord's agent's collection of such amount will constitute Landlord's waiver of any default by Tenant in the performance of Tenant's obligations under this Lease or Landlord's waiver of any of Landlord's rights or remedies under this Lease. If Tenant pays any amount to the lock box collection agent or other person other than the actual amount due to Landlord, then Landlord's or Landlord's agent's receipt of such amount (a) will not constitute an accord and satisfaction, (b) Landlord will not be prejudiced in collecting the proper amount due Landlord and (c) Landlord may retain the proceeds of any such payment, whether restrictively endorsed or otherwise, and apply the same toward amounts due and payable by Tenant under this Lease.

### **ARTICLE 10. INSURANCE**

#### **10.1 Tenant's Insurance Obligations.**

Tenant, at all times during the Term and during any early occupancy period, at its sole cost and expense, will maintain the insurance this Section 10.1 describes.

##### **10.1.1 Liability Insurance.**

Commercial general liability insurance with respect to the Premises and Tenant's activities in the Premises and upon and about the Property (including liquor law liability coverage for bodily injury, death, and property damage arising out of the sale, provision or consumption of alcoholic beverages on the Premises), on an "occurrence" basis, with minimum limits of not less than \$ [REDACTED] per occurrence and \$ [REDACTED] aggregate, a portion of which may be provided through an umbrella policy. Such insurance must include specific coverage provisions or endorsements (a) for broad form contractual liability insurance insuring Tenant's obligations under this Lease; (b) naming Landlord and Property Manager as additional insureds by an "Additional Insured - Managers or Lessors of Premises" endorsement (or equivalent coverage or endorsement); (c) waiving the insurer's subrogation rights against all Landlord Parties with respect to property damage. If Tenant provides such liability insurance under a blanket policy, the insurance must be made specifically applicable to the Premises and this Lease on a "per location" basis. Tenant will



provide Landlord with written notice promptly upon becoming aware of the reduction, cancellation or non-renewal of any Tenant liability insurance policy.

### **10.1.2 Property Insurance.**

Special form property insurance in an amount not less than the full insurable replacement cost of all of the Tenant Property, and including business income insurance covering at least nine months' loss of income from Tenant's business in the Premises and insurance against sprinkler damage. If Tenant provides such property insurance under a blanket policy, the insurance must include "agreed amount, no coinsurance" provisions. Tenant will provide Landlord with written notice promptly upon becoming aware of the reduction, cancellation or non-renewal of any Tenant property insurance policy.

### **10.1.3 Other Insurance.**

Such other insurance or increased amounts of insurance as may be required by any Laws from time to time or as may reasonably be required by Landlord from time to time.

### **10.1.4 Miscellaneous Insurance Provisions.**

Tenant's insurance policies required under this Lease will be issued as (and separately endorsed as) a primary and noncontributory policy as such policies apply to Landlord (except for workers compensation). All of Tenant's insurance will be written by companies rated at least "Best A-V" and otherwise reasonably satisfactory to Landlord. Tenant will deliver a certificate of insurance for each policy, and, upon written request from Landlord, a copy of each policy, (a) on or before the Commencement Date (and prior to any earlier occupancy by Tenant), (b) not later than thirty (30) days prior to the expiration of any current policy or certificate, and (c) at such other times as Landlord may reasonably request. Tenant will deliver ACORD Form 24 and Form 25 certificates and will attach or cause to be attached to each certificate copies of the endorsements required under this Section 10.1 (including the "additional insured" endorsement). Tenant's insurance must permit releases of liability and provide for waiver of subrogation as provided in Section 10.1.5.

### **10.1.5 Waiver and Release of Claims and Subrogation.**

Anything in this Lease to the contrary notwithstanding, neither Landlord nor Tenant will be liable to the other for any business interruption or any loss or damage to property occurring on the Property or the adjoining properties, sidewalks, streets, or alleys or in any manner growing out of or connected with Tenant's use and occupation of the Premises, or the condition thereof, or of sidewalks, streets, or alleys adjoining, caused by the negligence or fault of Landlord or Tenant or of their respective agents employees, subtenants, licensees, or assignees, to the extent that such business interruption or loss or damage to property is coverable by a standard special form policy (including, at a minimum, fire and extended coverage insurance insuring against loss by fire, wind storm, riot, malicious mischief, vandalism, smoke, water damage, including damage caused by accidental discharge or leakage from sprinkler plumbing, heating or air conditioning systems) or a business income policy (regardless of whether or not such insurance is carried, or if so carried, payable to or protects Landlord or Tenant or both) or for which such party is otherwise reimbursed; and Landlord and Tenant each hereby respectively waives all right of recovery against the other, its

agents, employees, subtenants, licensees, and assignees, for any such loss or for damage to the property of the waiving party. Nothing contained in this section will be construed to impose any other or greater liability upon either Landlord or Tenant than would have existed in the absence of this section. Each of the parties will notify their respective insurance carriers that the foregoing waiver is contained in this Lease and will require such carrier to include an appropriate waiver of subrogation provision in its policies and will supply each other with appropriate information from their respective insurers confirming such waiver to be in effect. Notwithstanding the foregoing, Tenant will continue paying Rent without any right of abatement, to the extent Landlord does not receive rent interruption insurance proceeds, if Tenant's negligence or fault causes or contributes to any damage to the Premises or the Property.

#### **10.1.6 No Limitation.**

Landlord's establishment of minimum insurance requirements is not a representation by Landlord that such limits are sufficient and does not limit Tenant's liability under this Lease in any manner.

### **10.2 Landlord's Insurance Obligations.**

Landlord will (except for the optional coverages and endorsements described herein) at all times during the Term maintain the insurance described in this Section 10.2. All premiums and other costs and expenses Landlord incurs in connection with maintaining such insurance will be included as part of Operating Expenses.

#### **10.2.1 Property Insurance.**

Property insurance on the Project will be in an amount not less than the full insurable replacement cost of the Project, including the onsite photovoltaic system and panels and other NZE equipment, insuring against loss or damage by fire and such other risks as are covered by the current special form or equivalent policy. Landlord, at its option, may obtain such additional coverages or endorsements as Landlord deems appropriate or necessary, including insurance covering foundation, grading, excavation and debris removal costs; ordinance or law endorsements; business income and rents insurance; earthquake insurance; flood insurance; and other coverages. Landlord may maintain such insurance in whole or in part under blanket policies. Such insurance will not cover or be applicable to any Tenant Property. If the Property is designated to be in the 100-year floodplain as defined by FEMA either currently or in the future, Landlord will be responsible for obtaining and maintaining flood insurance.

#### **10.2.2 Liability Insurance.**

Commercial general liability insurance against claims for bodily injury, personal and advertising injury, and property damage occurring at the Project with minimum limits of not less than \$ [REDACTED] per occurrence and \$ [REDACTED] aggregate, a portion of which may be provided through an umbrella policy, and such additional amounts as Landlord deems necessary or appropriate. Such liability insurance will protect only Landlord and, at Landlord's option, Landlord's lender and some or all of the Landlord Parties, and does not replace or supplement the liability insurance this Lease obligates Tenant to carry.

### **10.2.3 Loss of Rent Insurance.**

Landlord may carry rent loss insurance with respect to the Project in an aggregate amount equal to not more than twelve (12) times the sum of (i) the monthly requirement of Project Base Rent, plus (ii) the sum of the amount estimated by Landlord to be Project Expenses for the month immediately prior to the month in which the policy is purchased or renewed.

### **10.3 General Indemnification.**

In addition to Tenant's other indemnification obligations under this Lease, Tenant, to the fullest extent allowable under the Laws, will release, indemnify, protect, defend (with counsel reasonably acceptable to Landlord and Tenant's insurance company) and hold harmless the Landlord Parties from and against all Claims arising from (a) any act of gross negligence or willful misconduct of Tenant, (b) any accident, injury, occurrence or damage in or to the Premises, except to the extent caused by the gross negligence or willful misconduct of Landlord or its agents, employees or contractors, and (c) to the extent caused in whole or in part by Tenant or any of Tenant's agents, employees, contractors or invitees, any accident, injury, occurrence or damage in, about or to the Property. In addition to Landlord's other indemnification obligations under this Lease, Landlord, to the fullest extent allowable under the Laws, will release, indemnify, protect, defend (with counsel reasonably acceptable to Tenant and Landlord's insurance company) and hold harmless the Tenant Parties from and against all Claims arising from (a) any act of gross negligence or willful misconduct of Landlord or its agents, employees or contractors, and (b) any accident, injury, occurrence or damage occurring in the Common Area, except to the extent caused by Tenant or any of Tenant's agents, employees, contractors or invitees.

### **10.4 Tenant's Failure to Insure.**

Notwithstanding any contrary language in this Lease and any notice and cure rights this Lease provides, if Tenant fails to provide Landlord with evidence of insurance as required under Section 10.1.4 within three (3) business days after Landlord's written notice to Tenant of its failure to do so, Landlord may assume that Tenant is not maintaining the insurance required under Section 10.1 and Landlord may, but is not obligated to, without further demand upon Tenant or notice to Tenant and without giving Tenant any cure right or waiving or releasing Tenant from any obligation contained in this Lease, obtain such insurance for Landlord's benefit. In such event, Tenant will pay to Landlord, as Additional Rent, all costs and expenses Landlord incurs in obtaining such insurance. Landlord's exercise of its rights under this section does not relieve Tenant from any default under this Lease.

## **ARTICLE 11. DAMAGE OR DESTRUCTION**

### **11.1 Notice.**

Tenant will give prompt written notice to Landlord of any damage caused to the Premises by fire or other casualty.

## **11.2 Partial Damage.**

Subject to Section 11.4 below, if during the Term the Premises will be partially damaged (as distinguished from “substantially damaged” as that term is hereinafter defined) by fire or other casualty, the risk of which is covered by Landlord’s insurance, Landlord will promptly proceed to commence repair of such damage and restore the Premises to substantially its condition at the time of such damage to the extent Landlord is obligated to repair the Premises pursuant to this Lease and including only that portion of Landlord’s Work to the extent insurance proceeds recovered by Landlord are directly attributable thereto. Subject to zoning laws and building codes then in existence and any delay that may result from any cause beyond Landlord’s reasonable control, Landlord will complete such repairs. Tenant agrees that, promptly after completion of such work by Landlord, Tenant will proceed with reasonable diligence at its sole cost and expense to repair and restore those portions of the Premises that are Tenant’s obligations to repair pursuant to this Lease and restore the Tenant Property in the Premises for reopening for business as soon as possible. This Lease will continue in full force and effect during any such period of repair and restoration.

## **11.3 Substantial Damage.**

If during the Term the Premises or Property will be substantially damaged or destroyed by fire or other casualty, Landlord will have the right, to be exercised by written notice to such effect delivered to Tenant within ninety (90) days after the occurrence of such event, to terminate this Lease. If Landlord fails to timely give such notice, this Lease will remain in full force and effect, and Landlord will promptly proceed to commence repair and restoration of the Premises to the extent Landlord is obligated to repair the Premises and the Property pursuant to this Lease (or if the damage relates to other portions of the Property, such portions thereof as Landlord reasonably determines are necessary to be repaired) to substantially their condition at the time of such damage or destruction (including as to the Premises, only that portion of Landlord’s Work to the extent of insurance proceeds recovered by Landlord directly attributable thereto), subject to zoning laws and building codes then in existence and any delay that may result from any cause beyond Landlord’s reasonable control. If the Lease is terminated pursuant to this Article 11, all Rent will be prorated to the date of such termination and as of said date both Landlord and Tenant will be relieved of all further rights and obligations hereunder, except for matters that expressly survive the expiration or earlier termination hereof.

## **11.4 Damage during Last Two Years of Term.**

Notwithstanding anything to the contrary set forth herein, if the Premises or Property will be damaged to the extent of twenty percent (20%) or more of the then cost of replacement during the last two (2) years of the Term (provided that Tenant will have the right to exercise any Extension Option), Landlord may elect, within ninety (90) days after the occurrence of such event, either to repair the damage to the extent Landlord is obligated to repair the Premises pursuant to this Lease or the Property, as the case may be, or to terminate this Lease, which termination will be effective upon giving notice of termination to Tenant in writing within ninety (90) days after the happening of the event causing the damage. If Landlord fails to timely give such notice of termination, this Lease will remain in full force and effect, and Landlord will proceed to commence repair or rebuilding in accordance with Sections 11.2 or 11.3 above.

## **11.5 Abatement.**

During the period from the occurrence of the casualty until Landlord's repairs are completed the Base Rent and Tenant's Pro Rata Share of Expenses set forth herein will abate during any period of repair and restoration, in the same proportion that the portion of the Premises rendered untenantable (as reasonably determined by Landlord) bears to the whole; however, there will be no abatement of other charges provided for herein. Tenant may elect whether or not to conduct its business in the Premises during the period of repair and restoration, but any abatement hereunder will not be based upon Tenant's election but rather upon whether the Premises or any portion thereof is determined to be untenantable as provided herein. In addition, if the damage or destruction is the fault of Tenant, the abatement of Base Rent and Tenant's Pro Rata Share of Expenses will be limited to the amount, if any, of same that is actually paid by applicable insurance.

## **11.6 Insurance.**

Notwithstanding anything to the contrary contained in this Section 11, Landlord will have no obligation to repair, reconstruct, or restore the Premises, Building, or Project and will have the right to terminate this Lease by providing written notice thereof to Tenant: (a) if Landlord maintained the insurance required under this Lease, when damage resulting from an (i) insured casualty is not ninety percent (90%) covered by Landlord's insurance proceeds (excluding deductible amounts), or (ii) uninsured casualty will cost in excess of \$ [REDACTED] to repair, or (b) the holder of any Mortgage requires the application of insurance proceeds to the Mortgage, making the insurance proceeds unavailable to restore the Project, Building, or Premises, as applicable.

## **ARTICLE 12. EMINENT DOMAIN**

### **12.1 Partial or Total Condemnation.**

If the whole or any part of the Premises is taken by any public authority under the power of eminent domain, Tenant will have no claim to nor will it be entitled to any portion of any award for damages or otherwise. In the event only a portion of the Premises are taken, the Lease will cease as to the part taken and the Rent herein reserved will be equitably adjusted so that Tenant will be required to pay for the balance of the Term that portion of the Rent attributable to the value of the part of the Premises remaining after condemnation compared to the value of the Premises immediately prior to the date of condemnation. The Rent will be apportioned as aforesaid by agreement between the parties or by legal proceedings, but pending such determination, Tenant will pay at the time and in the manner above provided the Rent herein reserved without deduction. Upon such determination, Tenant will be entitled to credit for any excess Rent paid. If, however, by reason of the condemnation there is not sufficient space left in the Premises for Tenant to conduct business in substantially the manner in which it was being conducted immediately prior to such taking, or the taking of parking and Common Area is so substantial as to render the Premises unsuitable and unfit for the purposes for which they were rented, in each case as reasonably determined by Landlord, then and in such event the Lease will terminate. Although all damages in the event of condemnation belong to Landlord whether awarded as compensation for diminution in value of the leasehold or to the fee of the Premises, nothing herein will be construed to prevent Tenant from claiming from the condemning authority such compensation as may be separately awarded or recoverable by Tenant in

Tenant's own right for Tenant Property or Tenant's moving expenses so long as any such award, if any, in no way reduces Landlord's award.

## **ARTICLE 13. TRANSFERS**

### **13.1 Restriction on Transfers.**

#### **13.1.1 General Prohibition.**

Except as set forth in Section 13.1.2, Tenant will not cause or permit a Transfer without obtaining Landlord's prior written consent, which consent will not be unreasonably withheld, delayed or conditioned. Tenant's request for consent to a Transfer must describe in detail the parties, terms and portion of the Premises affected. Landlord will notify Tenant of Landlord's election to consent or withhold consent within thirty (30) days after receiving Tenant's written request for consent to the Transfer. If Landlord consents to the Transfer, Landlord may impose on Tenant or the transferee such conditions as Landlord deems reasonably appropriate. Tenant will, in connection with requesting Landlord's consent, provide Landlord with a copy of any and all documents and information regarding the proposed Transfer and the proposed transferee as Landlord reasonably requests. No Transfer, including a Transfer under Section 13.1.2, will release Tenant from any liability or obligation under this Lease and Tenant will remain liable to Landlord after such a Transfer as a principal and not as a surety. If Landlord consents to any Transfer, Tenant will pay to Landlord, as Additional Rent, 100% of any amount Tenant receives on account of the Transfer in excess of the amounts this Lease otherwise requires Tenant to pay, net of the annual amortized cost of tenant improvement allowances, brokerage fees, reasonable legal fees and other costs actually incurred by Tenant in connection with such Transfer. In no event may Tenant cause or suffer a Transfer to another tenant of the Project. Any attempted Transfer in violation of this Lease is null and void and constitutes an incurable breach of this Lease.

#### **13.1.2 Transfers to Affiliates.**

Tenant may, without Landlord's consent (provided that Tenant is not in default in the performance of its obligations under this Lease beyond applicable cure periods), cause a Transfer to an Affiliate if Tenant (a) notifies Landlord at least thirty (30) days prior to such Transfer; (b) delivers to Landlord, at the time of Tenant's notice, current financial statements of Tenant and the proposed transferee that are reasonably acceptable to Landlord; and (c) the transferee assumes and agrees in a writing reasonably acceptable to Landlord to perform Tenant's obligations under this Lease and to observe all terms and conditions of this Lease. Landlord's right described in Section 13.1.1 to share in any profit Tenant receives from a Transfer does not apply to any Transfer under this Section 13.1.2.

### **13.2 Costs.**

Tenant will pay to Landlord, as Additional Rent, an administrative and processing fee of \$ [REDACTED], and all reasonable, out-of-pocket costs and expenses Landlord incurs in connection with any Transfer, including reasonable attorneys' fees and costs, once Landlord consents to the Transfer.

### **13.3 Rights Personal to Tenant.**

Any Option Term or other right or option to extend this Lease, and any and all rights of first offer, rights of refusal or expansion rights as may be set forth herein are personal to Tenant and may not be transferred by Tenant under any circumstances, except in the event of a transfer of Tenant's entire interest in this Lease to an Affiliate of Tenant as permitted pursuant to Section 13.1.2 above, in which case all such rights will be deemed transferred to the transferee.

## **ARTICLE 14. DEFAULTS, REMEDIES**

### **14.1 Events of Default.**

The occurrence of any of the following will constitute an "Event of Default" by Tenant under this Lease:

#### **14.1.1 Failure to Pay Rent.**

Tenant fails to pay Base Rent, any monthly installment of Tenant's Pro Rata Share of Expenses or any other Additional Rent amount as and when due and such failure continues for five (5) days after Landlord notifies Tenant thereof in writing.

#### **14.1.2 Failure to Perform.**

Except as otherwise provided herein, Tenant breaches or fails to perform any of Tenant's non-monetary obligations under this Lease and the breach or failure continues for a period of fifteen (15) days after Landlord notifies Tenant of such breach or failure; provided that if Tenant cannot reasonably cure its breach or failure within a fifteen (15)-day period, Tenant's breach or failure will not constitute an Event of Default if Tenant commences to cure its breach or failure within the fifteen (15)-day period and thereafter diligently pursues the cure and effects the cure as soon as reasonably feasible after the expiration of the fifteen (15)-day period; provided, however, that if the Event of Default is one created by or within the control of Tenant, the cure must be completed no later than sixty (60) days after the expiration of the fifteen (15)-day period.

#### **14.1.3 Failure to Deliver Documents.**

Tenant fails to deliver to Landlord the documents described in Sections 15.1 and 15.5 of this Lease within the time period described in said Sections and such failure continues for a period of five (5) days after Landlord notifies Tenant of such failure in writing.

#### **14.1.4 Other Defaults.**

(a) Tenant makes a general assignment or general arrangement for the benefit of creditors.

(b) A petition for adjudication of bankruptcy or for reorganization or rearrangement is filed by Tenant.

(c) A petition for adjudication of bankruptcy or for reorganization or rearrangement is filed against Tenant and is not dismissed within ninety (90) days.

(d) A trustee or receiver is appointed to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease and possession is not restored to Tenant within ninety (90) days.

(e) Substantially all of Tenant's assets, whether or not located at the Premises or Tenant's interest in this Lease are subjected to attachment, execution or other judicial seizure not discharged within ninety (90) days. If a court of competent jurisdiction determines that any act described in this section does not constitute an Event of Default, and the court appoints a trustee to take possession of the Premises (or if Tenant remains a debtor in possession of the Premises) and such trustee or Tenant Transfers Tenant's interest hereunder, then Landlord will be entitled to receive, as Additional Rent, the amount by which the Rent (or any other consideration) paid in connection with the Transfer exceeds the Rent otherwise payable by Tenant under this Lease.

#### **14.1.5 Notice Requirements.**

The notices required by this Section 14.1 are intended to satisfy any and all notice requirements imposed by the Laws and are not in addition to any such requirements.

### **14.2 Remedies.**

Upon the occurrence of any Event of Default, Landlord, may at any time and from time to time, and without preventing Landlord from exercising any other right or remedy, exercise any one or more of the following remedies, provided that Landlord will use commercially reasonable efforts to mitigate its damages as required by Law:

#### **14.2.1 Termination of Tenant's Possession; Re-entry and Reletting Right.**

Terminate Tenant's right to possess the Premises by any lawful means with or without terminating this Lease, in which event Tenant will immediately surrender possession of the Premises to Landlord. Unless Landlord specifically states that it is terminating this Lease, Landlord's termination of Tenant's right to possess the Premises is not to be construed as an election by Landlord to terminate this Lease or Tenant's obligations and liabilities under this Lease. In such event, this Lease continues in full force and effect (except for Tenant's right to possess the Premises) and Tenant continues to be obligated for and must pay all Rent as and when due under this Lease. If Landlord terminates Tenant's right to possess the Premises, Landlord will not be obligated but may re-enter the Premises and remove all persons and property from the Premises. Landlord may store any property Landlord removes from the Premises in a public warehouse or elsewhere at the cost and for the account of Tenant. Upon such re-entry, Tenant will be immediately liable to Landlord for all Re-entry Costs and must pay Landlord the same within five (5) days after Landlord's notice to Tenant. Landlord may relet the Premises for a period shorter or longer than the remaining Term. If Landlord relets all or any part of the Premises, Tenant will continue to pay Rent when due under this Lease and Landlord will refund to Tenant the Net Rent Landlord actually receives from the reletting up to a maximum amount equal to the Rent paid by Tenant that came due after Landlord's reletting. If the Net Rent Landlord actually receives from reletting exceeds such Rent, Landlord will apply the



excess sum to future Rent due under this Lease. Landlord may retain any surplus Net Rent remaining at the expiration of the Term.

#### **14.2.2 Termination of Lease.**

Terminate this Lease effective on the date Landlord specifies in its termination notice to Tenant. Upon termination, Tenant will immediately surrender possession of the Premises to Landlord. If Landlord terminates this Lease, Landlord may recover from Tenant and Tenant will pay to Landlord on demand all damages Landlord incurs by reason of Tenant's default, including (a) all Rent due and payable under this Lease as of the effective date of the termination; (b) any amount necessary to compensate Landlord for any detriment proximately caused to Landlord by Tenant's failure to perform its obligations under this Lease or which, in the ordinary course, would likely result from Tenant's failure to perform, including any Re-entry Costs, and (c) an amount equal to the difference between the present worth, as of the effective date of the termination, of the Rent for the balance of the Term remaining after the effective date of the termination (assuming no termination) and the present worth, as of the effective date of the termination, of a fair market Rent for the Premises for the same period (as Landlord reasonably determines). For purposes of this section, Landlord will compute present worth by utilizing a discount rate per annum that is commercially reasonable as of the date of such determination. Nothing in this section limits or prejudices Landlord's right to prove and obtain damages in an amount equal to the maximum amount allowed by the Laws, regardless whether such damages are greater than the amounts set forth in this section.

#### **14.2.3 Self Help.**

Perform the obligation on Tenant's behalf without waiving Landlord's rights under this Lease, at law or in equity and without releasing Tenant from any obligation under this Lease. Tenant will pay to Landlord, as Additional Rent, all sums and obligations Landlord incurs on Tenant's behalf under this section.

#### **14.2.4 Other Remedies.**

Any other right or remedy available to Landlord under this Lease, at law or in equity.

### **14.3 Costs.**

Tenant will reimburse and compensate Landlord on demand and as Additional Rent for any actual loss Landlord incurs in connection with, resulting from or related to any Event of Default, and regardless whether suit is commenced or judgment is entered. Such loss may include, without limitation, all reasonable legal fees, costs and expenses (including paralegal fees and other professional fees and expenses) Landlord incurs investigating, negotiating, settling or enforcing any of Landlord's rights or remedies or otherwise protecting Landlord's interests under this Lease. In addition to the foregoing, Landlord will be entitled to reimbursement of all of Landlord's fees, expenses and damages, including reasonable attorneys' fees and paralegal and other professional fees and expenses, Landlord incurs in connection with protecting its interests in any bankruptcy or insolvency proceeding involving Tenant, including any proceeding under any chapter of the Bankruptcy Code; by exercising and advocating rights under Section 365 of the Bankruptcy Code; by proposing a plan of reorganization and objecting to competing plans; and by filing motions for

relief from stay. Such fees and expenses will be payable on demand, or, in any event, upon assumption or rejection of this Lease in bankruptcy.

#### **14.4 Waiver and Release by Tenant.**

Tenant waives and releases all Claims Tenant may have resulting from Landlord's re-entry and taking possession of the Premises by any lawful means and removing and storing Tenant's property as permitted under this Lease, regardless whether this Lease is terminated. No such reentry is to be considered or construed as a forcible entry by Landlord.

#### **14.5 Landlord's Default.**

If Landlord defaults in the performance of any of its obligations under this Lease, Tenant will notify Landlord in writing of the default and Landlord will have thirty (30) days after receiving such notice to cure the default. If Landlord is not reasonably able to cure the default within a thirty (30) day period, Landlord will have an additional reasonable period of time to cure the default as long as Landlord commences the cure within the thirty (30) day period and thereafter diligently pursues the cure. In no event is Landlord liable to Tenant or any other person for consequential, special or punitive damages, including lost profits.

#### **14.6 No Waiver.**

Except as specifically set forth in this Lease, no failure by Landlord or Tenant to insist upon the other party's performance of any of the terms of this Lease or to exercise any right or remedy upon a breach thereof, will constitute a waiver of any such breach or of any breach or default by the other party in its performance of its obligations under this Lease. No acceptance by Landlord of full or partial Rent from Tenant or any third party during the continuance of any breach or default by Tenant of Tenant's performance of its obligations under this Lease constitutes Landlord's waiver of any such breach or default. Except as specifically set forth in this Lease, none of the terms of this Lease to be kept, observed or performed by a party to this Lease, and no breach thereof, will be waived, altered or modified except by a written instrument executed by the other party. One or more waivers by a party to this Lease is not to be construed as a waiver of a subsequent breach of the same covenant, term or condition. No statement on a payment check from a party to this Lease or in a letter accompanying a payment check is binding on the other party. The party receiving the check, with or without notice to the other party, may negotiate such check without being bound to the conditions of any such statement.

### **ARTICLE 15. CREDITORS, ESTOPPEL CERTIFICATES**

#### **15.1 Subordination.**

This Lease, all rights of Tenant in this Lease, and all interest or estate of Tenant in the Property, is subject and subordinate to the lien of any Mortgage existing as of the Effective Date and any future Mortgage, subject, in each case, to the execution and delivery by the Mortgagee of a Subordination, Non-disturbance and Attornment Agreement ("SNDA") as hereinafter set forth. As a condition of such subordination, the holder of the existing Mortgage and any such future Mortgage shall execute and deliver to Tenant for its reasonable approval a commercially reasonable SNDA

whereby such Mortgagee agrees not to disturb the tenancy of Tenant under this Lease in the event of foreclosure so long as an Event of Default is not continuing. The lien of any existing or future Mortgage will not cover Tenant Property. Tenant agrees to execute and deliver to Landlord or to any other person Landlord designates a commercially reasonable SNDA within ten (10) days after receipt of Landlord's written request therefor.

### **15.2 Attornment.**

In the event of a foreclosure of any Mortgage or other transfer of the Property, Tenant will attorn to the party acquiring title to the Property as the result of such foreclosure or transfer.

### **15.3 Mortgagee Protection Clause.**

Tenant will give the holder of any Mortgage, by registered mail, a copy of any notice of default which it serves on Landlord, provided that Landlord or the holder of the Mortgage previously notified Tenant (by way of notice of assignment of rents and leases or otherwise) of the address of such holder. Tenant further agrees that if Landlord fails to cure such default within the time provided for in this Lease, then Tenant will provide written notice of such failure to such holder and such holder will have an additional thirty (30) days within which to cure the default. If the default cannot be cured within the additional thirty (30)-day period, then the holder will have such additional time as may be necessary to effect the cure if, within the thirty (30)-day period, the holder has commenced and is diligently pursuing the cure (which may include, without limitation, commencing foreclosure proceedings if necessary to effect the cure).

### **15.4 Assignment to Mortgagee.**

Tenant acknowledges that this Lease has been or will be assigned by Landlord to the holder or holders of a Mortgage pursuant to an Assignment of Rents and Leases (or similar document) and agrees not to look to such holders as mortgagee, mortgagee in possession or successor in title to the Premises for accountability for the Security Deposit required under this Lease unless such sum has actually been received in cash by such holder or holders as security for Tenant's performance under this Lease. In addition, any letter of credit or other instrument that Tenant provides to Landlord in lieu of a cash security deposit (if any) will, if permitted by applicable Laws, name the holder of the first priority Mortgage as payee or mortgagee thereunder (or, at such holder's option, be fully assigned to and held by such holder).

### **15.5 Estoppel Certificates.**

Tenant will within ten (10) days after Landlord's written request therefor execute, acknowledge and deliver to Landlord a written statement in form reasonably satisfactory to Landlord certifying: (a) that this Lease (and all guaranties, if any) is unmodified and in full force and effect (or, if there have been any modifications, that the Lease is in full force and effect, as modified, and stating the modifications); (b) that this Lease has not been canceled or terminated; (c) the last date of payment of Rent and the time period covered by such payment; (d) whether there are then existing any breaches or defaults by Landlord under this Lease known to Tenant, and, if so, specifying the same; (e) specifying any existing claims or defenses in favor of Tenant against the enforcement of this Lease (or of any guaranties); and (f) such other factual statements as Landlord, any lender,

prospective lender, investor or purchaser may reasonably request. Landlord may give any such statement by Tenant to any lender, prospective lender, investor or purchaser of all or any part of the Property and any such party may conclusively rely upon such statement as true and correct.

## **ARTICLE 16.           TERMINATION OF LEASE**

### **16.1   Surrender of Premises.**

Tenant will surrender the Premises to Landlord at the expiration or earlier termination of this Lease in good order, condition and repair (reasonable wear and tear, permitted Alterations and damage by casualty or condemnation excepted), and will surrender all keys to the Premises to Property Manager or to Landlord at the place then fixed for Tenant's payment of Base Rent or as Landlord or Property Manager otherwise direct. Tenant will also inform Landlord of all combinations on locks, safes and vaults, if any, in the Premises or on the Property. Tenant will at such time remove all of the Tenant Property from the Premises and, if Landlord so requests, all specified Alterations and other improvements Tenant placed on, within the walls or ceilings of or outside the Premises, including the Cabling. Tenant will promptly repair any damage to the Premises or Property caused by such removal. If Tenant does not surrender the Premises in accordance with this section, Tenant will indemnify, defend (with counsel reasonably acceptable to Landlord) protect and hold harmless Landlord from and against any Claim resulting from Tenant's delay in so surrendering the Premises, including any Claim made by any succeeding occupant founded on such delay. All Tenant Property not removed on or before the last day of the Term will be deemed abandoned, and Tenant appoints Landlord as Tenant's agent to remove, at Tenant's sole cost and expense, all of such abandoned property and to cause its transportation and storage for Tenant's benefit, all at the sole cost and risk of Tenant, and Landlord will not be liable for damage, theft, misappropriation or loss thereof or in any manner in respect thereto.

### **16.2   Holding Over.**

If Tenant remains in possession of the Premises after the expiration or earlier termination of this Lease or Tenant's possession thereof without a written agreement with Landlord as to such possession, then Tenant will be deemed a tenant at sufferance and will pay a charge to Landlord during such holdover tenancy equivalent to one hundred fifty percent (150%) of the monthly Rent paid for the last month of tenancy under this Lease (on a per diem basis), and Tenant will be bound by all of the other terms, covenants and agreements of this Lease. Nothing contained herein may be construed to give Tenant the right to holdover at any time, and Landlord may exercise any and all remedies at law or in equity to recover possession of the Premises, as well as any damages incurred by Landlord due to Tenant's failure to vacate the Premises and deliver possession to Landlord as herein provided.

## **ARTICLE 17.           SECURITY AND SAFETY; PARKING**

### **17.1   Keys and Locks; Security System.**

Landlord will provide one hundred (100) key fobs to Tenant at no cost to Tenant, which key fobs will provide entry to the Premises, the elevator and other Common Area. Additional key fobs will be provided by Landlord (at Landlord's actual costs without markup) to Tenant at Tenant's sole

cost and expense. Any additional or customized programming for all key fobs provided to Tenant, as may be required by Tenant, will be Tenant's responsibility at Tenant's sole cost. Tenant will not make or have made additional keys or key fobs, and Tenant will not alter any lock or install any new additional lock or bolt on any door of the Premises. Tenant, upon the termination of its tenancy, will deliver to Landlord all keys and key fobs which have been furnished to Tenant.

Landlord will provide a key fob security system. Key fobs will be required to enter the ground floor lobbies, elevators and stairwells outside of Business Hours. Tenants occupying multi-tenant floors will be solely responsible for securing their individual premises doors.

## **17.2 Parking.**

Tenant will, subject to the provisions of this Lease, have the right to use the number and type(s) of parking spaces indicated in the Basic Terms during the Term. Although the rates charged for the parking spaces allocated to Tenant under this Lease (as described in Exhibit H) are currently included in the total Base Rent payable by Tenant and not paid as Additional Rent, the charges paid for by Tenant for such parking are unbundled and separate from the Base Rent in the sense that as and when Tenant relinquishes its rights to use any such spaces, Tenant will receive a credit against Base Rent as described in Section 17.3 below. The current plan for the general layout of the Project parking garage is attached hereto as Exhibit H; however, said Exhibit will not be deemed to be a warranty, representation or agreement on the part of Landlord that the garage or spaces therein will be developed as depicted. Landlord may make such improvements, departures, deletions, or additions to said plan and the parking available at or for the Project as Landlord, in its sole discretion, may from time to time find proper; provided that Landlord will provide to Tenant the number of vehicle parking spaces as designated in the Basic Terms and in accordance with the Project Rules and applicable Laws.

## **17.3 Reduction in Parking.**

If Tenant notifies Landlord in writing that Tenant elects to use less than the number of vehicle parking spaces as designated in the Basic Terms at any time during the Term of this Lease, Tenant will receive a credit against Base Rent each month for each space released in the amount then charged by the City of Boulder for parking spaces in the City parking garage closest to the Project in the [REDACTED] area, commencing thirty (30) days after the release of each space. Any future additional parking privileges desired by Tenant will be granted to Tenant only if available (for which there is no guaranty) and on terms and conditions as are then applicable. Landlord may assign any unreserved and unassigned parking privileges and/or make all or a portion of such privileges reserved, if it determines in its sole discretion that it is necessary or desirable for orderly and efficient parking. Tenant will not use more parking spaces than it is allocated. If Landlord has not assigned specific spaces to Tenant, Tenant will not use any spaces that have been specifically assigned by Landlord to other tenants or for such other uses as visitor parking or which have been designated by governmental entities with competent jurisdiction as being restricted to certain uses.

## **17.4 Electrical Charging Stations.**

Landlord will provide wiring, electrical panels and transformers for Level 2 EV Chargers for all Project Parking Spaces allocated to Tenant as defined in Basic Terms. Landlord will install Level

2 electrical vehicle charging stations for four (4) of Tenant's Project Parking Spaces at Landlord's sole cost and expense. At Tenant's option, Landlord will install Level 2 electrical vehicle charging stations for up to an additional six (6) of Tenant's Project Parking Spaces, and Tenant will reimburse Landlord, as Additional Rent, for the actual costs and expenses incurred by Landlord in connection therewith. All electrical vehicle charging stations will be metered by one meter. Landlord will purchase RECs to offset the energy use of the charging stations, and the purchase price paid therefor will be billed directly (and not as an Operating Expense) to the tenants with assigned parking spaces that have charging stations installed, pro rata based upon the number of charging stations assigned to each such tenant. The annual cost of the RECs, without additional fees or markups, will be billed to and paid by each such tenant either quarterly or annually (as determined by Landlord) as Additional Rent.

#### **17.5 Parking Signage.**

Tenant's parking spaces will have numbering, placards, or other demarcation to allow Landlord to assign spaces to Tenant.

#### **17.6 Location of Surface Parking.**

Off-Site Parking Spaces provided to Tenant in accordance with Basic Terms will be located a maximum of two hundred (200) yards from the Building entrance.

#### **17.7 Parking Prohibitions.**

Tenant will not permit or allow any vehicles that belong to or are controlled by Tenant or Tenant's employees, suppliers, shippers, customers, or invitees to be loaded, unloaded, or parked in areas other than those designated by Landlord for such activities. If Tenant permits or allows any activity prohibited by this Section 17.3, then Landlord will have the right, without notice and in addition to any other rights and remedies as it may have, to remove or tow away the vehicle involved and charge the cost to Tenant, which cost will be immediately payable by Tenant upon ten (10) days' notice.

#### **17.8 Substitute Parking.**

To the extent necessary for purposes of maintenance of, repairs to, reconfiguring or restriping the Project parking garage or other areas providing parking for the Project, Landlord reserves at all times the right to temporarily (during the period work is being performed) substitute any parking privileges being used by Tenant with an equivalent number of parking privileges located in a parking structure, subterranean parking facility, or surface parking area within a reasonable distance (not more than three-hundred (300) yards) of the Project.

#### **17.9 Landlord Not Liable.**

Landlord will not be liable for any Claims with respect to any vehicles of Tenant, its employees, agents, customers or visitors that are parked at the Property or removed therefrom, except to the extent such loss or damage is caused by Landlord's gross negligence or willful misconduct.

ARTICLE 18. SPECIAL PROVISIONS

18.1 Option to Expand.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]


**18.2 Exclusive Use of Certain Common Area.**

Provided that the Lease is then in full force and effect and there exists no uncured Event of Default under this Lease, Tenant will, at no additional charge, have the right to (a) exclusive use of the flex space in the South Building eight (8) hours per month between the hours of 9:00 a.m. and 4:00 p.m., and six (6) hours per month outside of the foregoing hours, (b) host up to six (6) private events per calendar year in the lobby in the North Building (subject to ingress and egress rights of other tenants in the North Building and their employees and customers, and (c) host up to three (3) private events per calendar year on the North Building third floor deck. Such use and events will be on dates selected by Tenant and coordinated with Landlord as far in advance as is reasonably practicable. The scheduling of such use and events will be subject to other events previously scheduled by Landlord and/or other occupants of the Project. Any tenant, including Tenant, requiring exclusive use of the flex space in the South Building between the hours of 1:00 p.m. and 4:00 p.m. must make a reservation for the same not less than one (1) month in advance. The Common Area will be reservable via an online calendaring system that is maintained by the Landlord and made available to Tenant. The time required to set up and take down for each event (up to thirty (30) minutes each) will not be counted as a part of the allocated time. In the South Building flex space, Information Systems (including chairs and tables for a minimum of one hundred (100) people, two large screen televisions, sound system and AV) will be provided to Tenant for use and maintained by the Landlord. Tenant will provide portable video conferencing equipment, as needed, and will work with Landlord to determine the required wiring and cabling. Landlord will be responsible for the cost of the wiring and cabling. If additional time is desired (and available based upon the desired level of public use) in the flex space in the South Building, it may be reserved and rented at \$ [REDACTED] per hour.



## **ARTICLE 19. MISCELLANEOUS PROVISIONS**

### **19.1 Notices.**

All Notices must be in writing and must be sent by personal delivery, United States registered or certified mail (postage prepaid) or by an independent overnight courier service, addressed as specified in the Basic Terms or at such other place as either party may designate to the other party by written notice given in accordance with this section. Notices given by mail will be deemed delivered within three (3) Business Days after the party sending the Notice deposits the Notice with the United States Post Office. Notices delivered by courier are deemed delivered on the next Business Day after the day the party delivering the Notice timely deposits the Notice with the courier for overnight (next day) delivery.

### **19.2 Transfer of Landlord's Interest.**

If Landlord transfers any interest in the Premises for any reason other than collateral security purposes, the transferor will be automatically relieved of all obligations on the part of Landlord accruing under this Lease from and after the date of the transfer; provided that the transferor will deliver to the transferee any funds the transferor holds in which Tenant has an interest (such as a security deposit). Landlord's covenants and obligations in this Lease bind each successive Landlord only during and with respect to its respective period of ownership. However, notwithstanding any such transfer, the transferor will remain entitled to the benefits of Tenant's indemnity and insurance obligations (and similar obligations) under this Lease with respect to matters arising or accruing during the transferor's period of ownership.

### **19.3 Successors.**

The covenants and agreements contained in this Lease bind and inure to the benefit of Landlord, its successors and assigns, bind Tenant and its successors and assigns and inure to the benefit of Tenant and its permitted successors and assigns.

### **19.4 Captions and Interpretation.**

The captions of the articles and sections of this Lease are to assist the parties in reading this Lease and are not a part of the terms or provisions of this Lease. Whenever required by the context of this Lease, the singular includes the plural and the plural includes the singular.

### **19.5 Relationship of Parties.**

This Lease does not create the relationship of principal and agent, or of partnership, joint venture, or of any association or relationship between Landlord and Tenant other than that of landlord and tenant.

### **19.6 Entire Agreement, Amendment.**

The Basic Terms and all exhibits, addenda and schedules attached to this Lease are incorporated into this Lease as though fully set forth in this Lease and, together with this Lease, contain the entire agreement between the parties with respect to the improvement and leasing of the

Premises. All preliminary and contemporaneous negotiations, including any letters of intent or other proposals and any drafts and related correspondence, are merged into and superseded by this Lease. No subsequent alteration, amendment, change or addition to this Lease (other than to the Project Rules) will be binding on Landlord or Tenant unless it is in writing and signed by the party to be charged with performance.

#### **19.7 Severability.**

If any covenant, condition, provision, term or agreement of this Lease is, to any extent, held invalid or unenforceable, the remaining portion thereof and all other covenants, conditions, provisions, terms and agreements of this Lease, will not be affected by such holding, and will remain valid and in force to the fullest extent permitted by Law.

#### **19.8 Landlord's Limited Liability.**

Tenant will look solely to Landlord's interest in the Property for recovering any judgment or collecting any obligation from Landlord or any other Landlord Party. Tenant agrees that neither Landlord nor any other Landlord Party will be personally liable for any judgment or deficiency decree.

#### **19.9 Survival.**

All of Tenant's obligations under this Lease (together with interest on payment obligations at the Maximum Rate) accruing prior to expiration or other termination of this Lease survive the expiration or other termination of this Lease. Further, all of Tenant's indemnification, defense and hold harmless obligations under this Lease survive the expiration or other termination of this Lease, without limitation.

#### **19.10 Attorneys' Fees.**

If either Landlord or Tenant commences any litigation or judicial action to determine or enforce any of the provisions of this Lease, the prevailing party in any such litigation or judicial action will be awarded all of its costs and expenses (including reasonable attorneys' fees, costs and expenditures) from the non-prevailing party.

#### **19.11 Brokers.**

Landlord and Tenant each represents and warrants to the other that it has not had any dealings with any realtors, brokers, finders or agents in connection with this Lease (other than the Broker(s) named in the Basic Terms) and agrees to indemnify, defend and hold harmless the other from and against any Claim based on the failure or alleged failure to pay any realtors, brokers, finders or agents (other than the Broker(s) named in the Basic Terms) and from any cost, expense or liability for any compensation, commission or charges claimed by any realtors, brokers, finders or agents (other than the Broker(s) named in the Basic Terms) claiming by, through or on behalf of it with respect to this Lease or the negotiation of this Lease. Landlord will pay the Broker(s) named in the Basic Terms in accordance with the applicable listing agreement for the Building.

#### **19.12 Governing Law and Venue; Waiver of Jury Trial.**

This Lease is governed by, and must be interpreted under, the internal laws of the State. Any suit arising from or relating to this Lease must be brought in the County; Landlord and Tenant waive the right to bring suit elsewhere. THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS LEASE. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES TO ENTER INTO THIS LEASE.

#### **19.13 Time is of the Essence.**

Time is of the essence with respect to the performance of every provision of this Lease in which time of performance is a factor.

#### **19.14 Joint and Several Liability.**

All parties signing this Lease as Tenant and any Guarantor(s) of this Lease are jointly and severally liable for performing all of Tenant's obligations under this Lease.

#### **19.15 Tenant's Organization Documents; Authority.**

If Tenant is an entity, Tenant, within ten (10) days after Landlord's written request, will deliver to Landlord (a) Certificate(s) of Good Standing from the state of formation of Tenant and, if different, the State, confirming that Tenant is in good standing under the laws governing formation and qualification to transact business in such state(s); and (b) a copy of Tenant's organizational documents and any amendments or modifications thereof, certified as true and correct by an appropriate official of Tenant. Tenant and each individual signing this Lease on behalf of Tenant represents and warrants that they are duly authorized to sign on behalf of and to bind Tenant and that this Lease is a duly authorized obligation of Tenant.

#### **19.16 Force Majeure.**

If either party is delayed or prevented from performing any act required in this Lease (excluding, however, the payment of money) by reason of Force Majeure, such party's performance of such act is excused for the longer of the period of the delay or the period of delay caused by such Force Majeure and the period of the performance of any such act will be extended for a period equivalent to such longer period.

#### **19.17 Management.**

Property Manager is authorized to manage the Property. Landlord will have appointed Property Manager to act as Landlord's agent for leasing, managing and operating the Property. The Property Manager then serving will be authorized to accept service of process and to receive and give notices and demands on Landlord's behalf.

### **19.18 Financial Statements.**

Tenant will within ten (10) days after Landlord's request at any time during the Term, deliver to Landlord copies of Tenant's, and any Guarantor's, most recent year-end financial statements and year-to-date financial statements through the end of the preceding calendar month, certified by an independent certified public accountant or by Tenant's (or Guarantor's, as the case may be) chief financial officer that the same are a true, complete and correct statement of Tenant's (or Guarantor's) financial condition as of the date of such financial statements. Landlord will not require Tenant to provide financial statements more than once per calendar year, unless (i) Landlord is requested to produce such information in connection with a proposed financing or sale of the Building, or (ii) an Event of Default has occurred and is continuing under this Lease. Other than as required by a potential lender, mortgagee, investor or purchaser, Landlord covenants and agrees that it will not deliver or otherwise share such financial statements with any third party.

### **19.19 Quiet Enjoyment.**

Landlord covenants that Tenant will be entitled to the quiet use, occupancy and enjoyment of the Premises during the Term, subject to the terms and conditions of this Lease, free from molestation or hindrance by Landlord or any party claiming by, through or under Landlord, if Tenant pays all Rent as and when due and keeps, observes and fully satisfies all other covenants, obligations and agreements of Tenant under this Lease.

### **19.20 Liquor License.**

Tenant covenants and agrees not to protest any application by Landlord or any other tenant for a liquor license for use within the Project or any adjacent or nearby development of Landlord or any of Landlord's affiliates.

### **19.21 No Recording.**

Tenant will not record this Lease or a memorandum of this Lease without Landlord's prior written consent, which consent Landlord may grant or withhold in its sole and absolute discretion.

### **19.22 Nondisclosure of Lease Terms.**

Tenant acknowledges that the terms and conditions of this Lease are to remain confidential for Landlord's benefit, and may not be disclosed by Tenant to anyone, by any manner or means, directly or indirectly, without Landlord's prior written consent. Tenant may, however, disclose the terms and conditions of this Lease to its attorneys, accountants, employees and existing or prospective lenders, or if required by court order or otherwise by Law, provided Tenant advises all persons to whom Tenant is permitted to disclose such terms and conditions of the confidential nature of such terms and conditions and such persons agree to maintain the confidentiality of such terms and conditions, in each case, prior to such disclosure. If review of this Lease is requested by any donor or other person in accordance with Tenant's policies of financial transparency as a nonprofit corporation, the parties shall agree on a redacted version of this Lease to delete information relating to Base Rent and other financial information and such redacted version may be delivered by Tenant to such donors or other persons. Tenant will be liable for any disclosures made in violation of this

Section by Tenant or by any person to whom the terms of and conditions of this Lease are disclosed by Tenant. The consent by Landlord to any disclosures of the terms and conditions of this Lease to any person or on any occasion will not be deemed to be a waiver on the part of Landlord to prohibit disclosure to any other person or on any other occasion.

**19.23 [Intentionally Omitted].**

**19.24 Construction of Lease and Terms.**

The terms and provisions of this Lease represent the results of negotiations between Landlord and Tenant, each of which is a sophisticated party and each of which has been represented or been given the opportunity to be represented by counsel of its own choosing, and neither of which has acted under any duress or compulsion, whether legal, economic or otherwise. Consequently, the terms and provisions of this Lease must be interpreted and construed in accordance with their usual and customary meanings, and Landlord and Tenant each waives the application of any rule of law that ambiguous or conflicting terms or provisions contained in this Lease are to be interpreted or construed against the party who prepared the executed Lease or any earlier draft of the same. The words “herein,” “hereof,” and “hereunder,” when used in this Agreement, refer to this Agreement in its entirety. The word “include” and its derivatives mean by way of example and not by way of exclusion or limitation. Words in the singular include the plural and words in the plural include the singular, according to the requirements of the context. Words importing a gender include all genders.

**19.25 Submission of Lease.**

Landlord’s submission of this instrument to Tenant for examination or signature by Tenant does not constitute a reservation of or an option to lease and is not effective as a lease or otherwise until Landlord and Tenant both execute and deliver this Lease. The parties agree that, regardless of which party provided the initial form of this Lease, drafted or modified one or more provisions of this Lease, or compiled, printed or copied this Lease, this Lease is to be construed solely as an offer from Tenant to lease the Premises, executed by Tenant and provided to Landlord for acceptance on the terms set forth in this Lease, which acceptance and the existence of a binding agreement between Tenant and Landlord may then be evidenced only by Landlord’s execution of this Lease.

**19.26 Counterparts; Electronic Signatures.**

This Lease may be executed in multiple counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument. An executed facsimile copy or electronic PDF of this Lease will be binding for all purposes.

(SIGNATURE PAGE FOLLOWS)

Each party has duly executed and delivered this Lease on the date set forth next to its signature below.

**TENANT:**

Rocky Mountain Institute,  
a Colorado nonprofit corporation

By: \_\_\_\_\_

Date: \_\_\_\_\_, 2017

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**LANDLORD:**

\_\_\_\_\_, LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
Sole and Managing Member

By: \_\_\_\_\_,  
Operating Member

By: \_\_\_\_\_  
\_\_\_\_\_, Manager

Date: \_\_\_\_\_, 2017

The undersigned executes this Lease solely to indicate its agreement with and to be bound by the provisions of Section 2.5 applicable to \_\_\_\_\_.

\_\_\_\_\_,  
a Delaware limited liability company

By: \_\_\_\_\_  
Operating Member

By: \_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_, 2017

## EXHIBIT A - DEFINITIONS

“**Additional Rent**” means any charge, fee or expense (other than Base Rent) payable by Tenant under this Lease, however denoted.

“**Affiliate**” means any person or corporation that, directly or indirectly, controls, is controlled by or is under common control with Tenant. For purposes of this definition, “control” means possessing the power to direct or cause the direction of the management and policies of the entity by the ownership of a majority of the voting securities of the entity.

“**Alterations**” means any change, alteration, addition or improvement to the Premises or Property.

“**Architect**” means, with respect to the base building, utilities systems and other core and shell Landlord’s Work, [REDACTED], and with respect to Premises interior finish work, [REDACTED] is the Architect referenced in Section 1.1 and Section 18.1.

“**Bankruptcy Code**” means the United States Bankruptcy Code as the same now exists and as the same may be amended, including any and all rules and regulations issued pursuant to or in connection with the United States Bankruptcy Code now in force or in effect after the Effective Date.

“**Base Rent**” means the Base Rent amount specified in the Basic Terms.

“**Basic Terms**” means the terms of this Lease identified as the “Basic Terms” before Article 1 of the Lease.

“**Building**” means the building within the Project that contains the Premises.

“**Business Day**” or “**business day**” means any day other than Saturday, Sunday or a legal holiday in the State. All other references in this Lease to “day” or “days” will mean calendar days.

“**Business Hours**” means Monday through Friday from 7:00 a.m. to 6:00 p.m. and on Saturdays from 8:00 a.m. to 12:00 p.m., excluding holidays.

“**City**” means Boulder, Colorado.

“**Claims**” means all claims, actions, demands, liabilities, damages, costs, penalties, forfeitures, losses or expenses, including reasonable attorneys’ fees and the costs and expenses of enforcing any indemnification, defense or hold harmless obligation under the Lease.

“**Commencement Date**” means August 15, 2017.

“**Commencement Date Memorandum**” means the form of memorandum attached to the Lease as Exhibit E.

“**Common Area**” means the parking areas and garages, driveways, lobby areas, lounges, rooftop decks and other areas of the Property Landlord may designate from time to time as common area available to all tenants.

“**County**” means Boulder County, Colorado.

“**Effective Date**” means the date the last party executes this Lease, as indicated on the signature page.

“**Energy Budget**” will have the meaning given in Section 1.4.2.

“**Event of Default**” means the occurrence of any of the events specified in Section 14.1 of the Lease.

“**Expenses**” means the total amount of Property Taxes and Operating Expenses due and payable with respect to the Property during any calendar year of the Term. Included within Expenses are Project Expenses, Office Space Expenses and Retail Space Expenses.

“**Final Plans**” means the final working drawings and specifications for the Tenant Improvements as approved by Tenant and Landlord.

“**Floor Plan**” means the floor plan attached to the Lease as Exhibit C.

“**Force Majeure**” means acts of God; strikes; lockouts; labor troubles; inability to procure materials; governmental laws or regulations; orders or directives of any legislative, administrative, or judicial body or any governmental department; inability to obtain any governmental licenses, permissions or authorities (despite commercially reasonable pursuit of such licenses, permissions or authorities); and other similar or dissimilar causes beyond a party’s reasonable control.

“**Guarantor**” means any person or entity, if any, at any time providing a guaranty of all or any part of Tenant’s obligations under this Lease.

“**Hazardous Materials**” means any of the following, in any amount: (a) any petroleum or petroleum product, asbestos in any form, urea formaldehyde and polychlorinated biphenyls; (b) any radioactive substance; (c) any toxic, infectious, reactive, corrosive, ignitable or flammable chemical or chemical compound; (d) mold, and (e) any chemicals, materials or substances, whether solid, liquid or gas, defined as or included in the definitions of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic pollutants,” “solid waste,” or words of similar import in any federal, state or local statute, law, ordinance or regulation now existing or existing on or after the Effective Date as the same may be interpreted by government offices and agencies.

“**Hazardous Materials Laws**” means any federal, state or local statutes, laws, ordinances or regulations now existing or existing after the Effective Date that control, classify, regulate, list or define Hazardous Materials.

“**Improvement Allowance**” means the amount per Usable Square Foot of the Premises specified in the Basic Terms for the cost of designing and installing the Tenant Improvements.



“**kBtu**” means one thousand British Thermal Units.

“**Land**” means that certain parcel of land legally described on the attached Exhibit B.

“**Landlord**” means only the owner or owners of the Property at the time in question.

“**Landlord Parties**” means Landlord and Property Manager and their respective officers, directors, managers, partners, shareholders, members and employees.

“**Landlord’s Work**” will have the meaning given the term in the Work Letter and shall include all of the following: (i) the Core and Shell and Common Area Work, (ii) the Turnkey Work, and (iii) Landlord’s Additional Work.

“**Laws**” means any law, regulation, rule, order, statute or ordinance of any governmental or private entity in effect on or after the Effective Date and applicable to the Property or the use or occupancy of the Property, including Hazardous Materials Laws.

“**Lease**” means this Multi-Tenant, Mixed-Use Project Office Lease Agreement, as the same may be amended or modified after the Effective Date.

“**Lease Year**” means each consecutive twelve (12) month period during the Term, commencing on the Commencement Date, except that if the Commencement Date is not the first day of a calendar month, then the first Lease Year is a period beginning on the Commencement Date and ending on the last day of the calendar month in which the Commencement Date occurs plus the following twelve (12) consecutive calendar months.

“**Maximum Rate**” means interest at a rate equal to the lesser of (a) fourteen percent (14%) per annum, compounded monthly, or (b) the maximum interest rate permitted by law.

“**Mortgage**” means any mortgage, deed of trust, security interest or other security document of like nature that at any time may encumber all or any part of the Property and any replacements, renewals, amendments, modifications, extensions or refinancings thereof, and each advance (including future advances) made under any such instrument.

“**North Building**” means the Building constructed at [REDACTED].

“**Net Rent**” means all rent Landlord actually receives from any reletting of all or any part of the Premises, less any indebtedness from Tenant to Landlord other than Rent (which indebtedness is paid first to Landlord) and less the Re-entry Costs (which costs are paid second to Landlord).

“**Notices**” means all notices, demands or requests that may be or are required to be given, demanded or requested by either party to the other as provided in the Lease.

“**NZE**” has the meaning given in Section 1.4.

“**Office Space**” means those portions of the Project that are used for office uses (i.e., excluding the portions of the Project used for restaurant, retail and entertainment uses).

**“Office Space Expenses”** means, without duplication, those Expenses that pertain only to and are allocated only to the Office Space.

**“Operating Expenses”** means, without duplication, all costs and expenses of any kind or nature that are necessary or appropriate and are incurred in Landlord’s operation, maintenance and repair of the Project, Common Area and Property, arising out of Landlord’s obligation to maintain, repair and provide services under this Lease, including commercially reasonable reserves for replacements; insurance premiums; payments under any Permitted Encumbrance (except Mortgages or ground leases); all services, supplies, repairs, replacements or other expenses for maintaining and operating the Property; costs incurred to contest the validity of Property Taxes (but only to the extent of any savings achieved); costs of complying with Laws; reasonable management fees and the costs (including rental) of maintaining a building or management office in the Project; and such other expenses as may ordinarily be incurred in connection with maintaining, repairing and operating a multi-use complex similar to the Property. The term “Operating Expenses” also includes expenses Landlord incurs in connection with maintaining and repairing public sidewalks or walkways on or adjacent to the Property. The term “Operating Expenses” does not include (a) Property Taxes; (b) the cost of any capital improvement or alteration to the Property other than (i) replacements required for normal maintenance and repair, (ii) equipment installed or capital improvements or alterations to the Property to reduce Operating Expenses, and (iii) capital improvements or alterations to the Property to the extent required for the Project to comply with Laws that come into effect or become applicable to the Property after the Commencement Date; (c) the cost of repairs, restoration or other work occasioned by fire, flood, earthquake, windstorm, terrorism or other casualty (whether or not insured) other than the amount of any deductible under any insurance policy for any insured casualty; (d) expenses (including brokerage commissions) Landlord incurs in connection with marketing, leasing or procuring tenants for the Project, for renovating space for new or existing tenants or tenant-finish, move-in or other allowances given to any tenant of the Project; (e) legal or other expenses incident to Landlord’s enforcement of any lease; (f) costs of ownership such as interest or principal payments on any Mortgage or other indebtedness of Landlord; (g) ground lease rent; (h) non-cash expenses, such as depreciation and amortization; (i) Landlord’s overhead and administrative expenses, including costs of any management personnel above building manager and costs of maintaining Landlord’s existence as a legal entity; (j) costs incurred to complete the initial construction of the Project or to repair defects in design or construction; (k) costs of tools or equipment purchased during the first year of operation of the Project; (l) costs related to clean-up of an environmental problem; (m) costs arising as a result of a condemnation; (n) costs of services rendered to other tenants but not to Tenant; (o) costs for Landlord’s failure to obey or comply with Laws or any penalties, fees, or late charges; (p) costs arising out of the negligence or willful misconduct of Landlord or any person for whom Landlord is responsible; (q) costs of goods or services provided by Landlord or any affiliate of Landlord in excess of amounts that are “market rate,” “customary,” “typical,” “commonly charged,” or “going rates;” (r) management fees or charges in excess of six percent (6%) of the gross rent from the Project; (s) reserves, except as, and to the extent that, they are spent on items that are Operating Expenses; (t) costs incurred in the enforcement of leases or in litigation related to the Landlord, the Property, the Project or any part thereof or interest therein; (u) auditing or review expenses; (v) costs of artwork, excluding commercially reasonable Common Area plants, furnishings and decorations; (w) political and charitable contributions, excluding donations to non-profit entities providing bicycle services to the Project, which are completely offset by storage charges paid by such entities; (x) the cost of off-site

parking spaces; and (y) any costs that Landlord recovers directly from Tenant, any other tenant of the Project or any other source. Capital expenses will be amortized over the useful life of the improvement and only the amounts amortized during the Term will be charged to Tenant as Operating Expenses. In any event, Landlord will not recover more than 100% of the Operating Expenses from Tenant and other tenants of the Project.

“**Permitted Encumbrances**” means all Mortgages, liens, easements, declarations, encumbrances, covenants, conditions, reservations, restrictions and other matters now or after the Effective Date affecting title to the Property.

“**Premises**” means that certain space situated in the Building shown and designated on the Floor Plan and described in the Basic Terms.

“**Project**” means that certain mixed-use development to be constructed at [REDACTED], as depicted on Exhibit D, which includes the North Building and the South Building and is estimated to contain approximately 96,500 Rentable Square Feet above grade upon completion.

“**Project Expenses**” means, without duplication, those Expenses that pertain to and are allocated to the entire Project, excluding Office Space Expenses and Retail Space Expenses.

“**Project Rules**” means those certain rules attached to this Lease as Exhibit F, as Landlord may amend the same from time to time in accordance with the provisions of this Lease.

“**Property**” means, collectively, the Land and all improvements on the Land, including the North Building and the South Building and the rest of the Project.

“**Property Manager**” means the property manager specified in the Basic Terms or any other agent Landlord may appoint from time to time to manage the Property.

“**Property Taxes**” means any general real property tax, improvement tax, assessment, special assessment, reassessment, commercial rental tax, tax, in lieu tax, levy, charge, penalty or similar imposition imposed by any authority having the direct or indirect power to tax, including (a) any city, county, state or federal entity, (b) the [REDACTED] Access General Improvement District-Travel Demand Management, and any other parking, transportation, school, agricultural, lighting, drainage or other improvement or special assessment district, or (c) any governmental agency. The term “Property Taxes” includes all charges or burdens of every kind and nature Landlord incurs in connection with using, occupying, owning, operating, leasing or possessing the Property, without particularizing by any known name and whether any of the foregoing are general, special, ordinary, extraordinary, foreseen or unforeseen; any tax or charge for fire protection, street lighting, streets, sidewalks, road maintenance, refuse, sewer, water or other services provided to the Property. The term “Property Taxes” does not include Landlord’s state or federal income, franchise, estate or inheritance taxes, transfer taxes, gains taxes, or any charges, penalties, or interest arising from the late payment of Property Taxes. If Landlord is entitled to pay, and elects to pay, any of the above listed assessments or charges in installments over a period of two (2) or more calendar years, then only such installments of the assessments or charges (including interest thereon) as are actually paid in a calendar year will be included within the term “Property Taxes” for such calendar year.

“**RECs**” means Renewable Energy Certificates, which represent the environmental attributes of the power produced from renewable energy projects and are sold separate from commodity electricity. To the extent available, customers can buy green certificates whether or not they have access to green power through their local utility or a competitive electricity marketer and they can purchase RECs without having to switch electricity suppliers. All RECs purchased will be Green-e Energy certified, or equivalent if such program is not available.

“**Re-entry Costs**” means all costs and expenses Landlord incurs in re-entering or reletting all or any part of the Premises, including all costs and expenses Landlord incurs in (a) maintaining or preserving the Premises after an Event of Default; (b) recovering possession of the Premises, removing persons and property from the Premises (including court costs and reasonable attorneys’ fees) and storing such property; (c) reletting, renovating or altering the Premises; and (d) real estate commissions, advertising expenses and similar expenses paid or payable in connection with reletting all or any part of the Premises. “Re-entry Costs” also includes the value of free rent and other concessions Landlord gives in connection with re-entering or reletting all or any part of the Premises.

“**Rent**” means, collectively, Base Rent and Additional Rent.

“**Rentable Square Foot**” or “**Rentable Square Feet**” or “**Rentable Square Footage**” or “**Rentable Area**” means, as to both the Premises and the other Project space, the respective measurements of floor area as may from time to time be subject to lease by Tenant and all other tenants of the Project, respectively, together with an equitable portion of the Common Area serving the Premises and other Project premises, respectively, as determined by Landlord from time to time in accordance with the Architect’s statement of measurement in accordance with the Measurement Methodology. Any adjustments to the Rentable Square Footage of the Premises or the other Project premises will be made by Landlord following the Architect’s statement of measurement of the actual Rentable Square Footage. The Rentable Square Footage of the Restaurant Space will include measured space from the outside of each exterior wall which is also a wall of such premises to the drip line of the building in which such premises are located and an equitable portion of the Common Area serving such spaces, as determined by Landlord from time to time in accordance with the Measurement Methodology.

“**Retail Space**” means those portions of the Project that are used for restaurant, retail and entertainment uses (i.e., excluding the portions of the Project used for office uses).

“**Retail Space Expenses**” means, without duplication, those Expenses that pertain only to and are allocated only to the Retail Space.

“**RSF**” means rentable square foot.

“**South Building**” means the Building constructed at [REDACTED].

“**State**” means the State of Colorado.

“**Structural Alterations**” means any Alterations involving the structural, mechanical, electrical, plumbing, fire/life safety or heating, ventilating and air conditioning systems of the Building.

“**Substantial Completion**” or “**Substantially Complete**” means that Landlord’s Work has been completed in accordance with the Work Letter (excluding Punch List Items) and Landlord has received a temporary certificate of occupancy (or equivalent) from the applicable governmental authority with respect to the Building and the Premises sufficient to allow Tenant to occupy the Premises for the Permitted Uses.

“**Substantially Damaged**” and “**Substantial Damage**” will mean and refer to damage to the Premises or the Building of such a character as cannot reasonably be expected to be repaired or restored within six (6) months from the time that such repair or restoration work would be commenced.

“**Tenant**” means the tenant identified in the Lease and such tenant’s permitted successors and assigns. In any provision relating to the conduct, acts or omissions of “Tenant,” the term “Tenant” includes the tenant identified in the Lease and such tenant’s agents, employees, contractors, invitees, successors, assigns and others using the Premises or on the Property with Tenant’s expressed or implied permission.

“**Tenant Delay**” means any delay caused or contributed to by Tenant, including with respect to the Tenant Improvements, Tenant’s failure to submit the Plans and Specifications (as defined in the Work Letter) for the Tenant Improvements, any delay caused by any revisions Tenant proposes to the Approved Plans and Specifications, and any delay of any other kind or nature in completion of the Tenant Improvements caused by Tenant, its agents or employees.

“**Tenant Improvements**” means all improvements to the Premises to be approved by the Landlord and to be completed in accordance with the Work Letter.

“**Tenant Parties**” means Tenant and its officers, directors, managers, partners, shareholders, members, agents and employees.

“**Tenant Property**” means all furniture, trade fixtures, equipment and other personal property owned by Tenant and located within the Premises or elsewhere on the Property.

“**Tenant’s Pro Rata Share of Expenses**” means the product obtained by multiplying the amount of Expenses for the period in question by Tenant’s applicable Pro Rata Share of the Expenses in question. Project Expenses will be multiplied by Tenant’s Pro Rata Share for Project Expenses, and Office Space Expenses will be multiplied by Tenant’s Pro Rata Share for Office Space Expenses, each as specified in the Basic Terms. Tenant’s Pro Rata Share of Project Expenses is calculated by dividing the rentable area of the Premises by the rentable area of the Project. Tenant’s Pro Rata Share of Office Space Expenses is calculated by dividing the rentable area of the Premises by the rentable area of the Office Space, as such percentages may be adjusted in accordance with the terms and conditions of this Lease.

“**Tenant’s Work**” means all Tenant Improvements required to make the Premises suitable for Tenant’s occupancy and operation of its business therein, including installation of cabling, wiring, trade fixtures and furnishings, other than Landlord’s Work.

“**Term**” means the initial term of this Lease specified in the Basic Terms and, if applicable, any Option Term then in effect.

“**Transfer**” means an assignment, mortgage, pledge, transfer, sublease or other encumbrance or conveyance (voluntarily, by operation of law or otherwise) of this Lease or the Premises or any interest in this Lease or the Premises. The term “Transfer” also includes any assignment, mortgage, pledge, transfer or other encumbering or disposal (voluntarily, by operation of law or otherwise) of any ownership interest in Tenant or any Guarantor that results or could result in a change of control of Tenant or any Guarantor.

“**Usable Square Foot**” or “**Usable Square Feet**” of the Premises will have the meaning set forth for “Usable Area” in accordance with the Measurement Methodology.

“**Work Letter**” means the Work Letter attached hereto as Exhibit I.

**EXHIBIT B - LEGAL DESCRIPTION OF THE LAND**

[REDACTED]

[REDACTED]

**EXHIBIT C - FLOOR PLAN; MEASUREMENT METHODOLOGY**

**Floor Plan**





## Measurement Methodology

Area calculations were prepared by [REDACTED] using the Building Owners and Managers Association (BOMA) International Standard Method for Measuring Floor Area in Office Buildings (ANSI/BOMA Z65.1 – 2010) - Method A. The areas were measured electronically based on REVIT drawings provided to [REDACTED] by others. The placement of any new tenant demising walls were also based on these REVIT backgrounds.

BOMA area calculations of Rentable Area by definition include a pro-rata share of Floor- and Building Common Areas. The area data for these common areas and the resultant load factor/ratio was based on the above referenced REVIT files.

The premises of the tenant space and additional common areas throughout the building were not physically measured by [REDACTED], and [REDACTED] thus makes no claim or warranty of the accuracy or completeness of base drawing information.

Adjustments made to area calculations outside BOMA International Standard Method for Measuring Floor Area in Office Buildings (ANSI/BOMA Z65.1 – 2010) - Method A:

1. Campus Common Area added to these calculations. This accounts for areas which are shared amongst the buildings in this campus. Areas include ground floor lobbies in North and South Buildings, shower rooms in North and South Buildings, 3rd floor corridor and balcony in South Building, Lounge/ Flex space in South Building, and Gym in North Building.

2. Campus Common Area was subtracted from the floor it resides on, pro-rated between the two buildings, then added back in in the row "Campus Common."

3. One communicating stair in each building is included as Building Services. Elevator shaft foot print on Floor 1 is included as Building Services.

4. Balcony square footage is not included in these area calculations. Square footage provided for reference on "Campus Summary," under Ancillary space.

5. Usable square footage for N103 SALON and N104 RETAIL include their pro-rata share of Shared Restroom N106.

[REDACTED]

**EXHIBIT D - SITE PLAN**

[see next page]



**EXHIBIT E - COMMENCEMENT DATE MEMORANDUM**

THIS MEMORANDUM is made and entered into by and between \_\_\_\_\_, LLC, a Delaware limited liability company (“Landlord”) and \_\_\_\_\_, a \_\_\_\_\_ (“Tenant”).

**RECITALS:**

A. Landlord and Tenant are parties to a certain Multi-Tenant Mixed-Use Project Office Lease Agreement dated as of \_\_\_\_\_, 20\_\_\_\_ (“Lease”), relating to certain premises (“Premises”) located in the building situated at \_\_\_\_\_ [REDACTED] (“Building”).

B. Landlord and Tenant desire to confirm the Commencement Date and other items under the Lease as set forth below.

**ACKNOWLEDGMENTS:**

Pursuant to Section 1.2 of the Lease and in consideration of the facts set forth in the Recitals, Landlord and Tenant acknowledge and agree as follows:

1. All capitalized terms not otherwise defined in this Memorandum have the meanings ascribed to them in the Lease.
2. The Commencement Date under the Lease is \_\_\_\_\_, 20\_\_\_\_.
3. The Term of the Lease expires on \_\_\_\_\_, 20\_\_\_\_, unless the Term is extended or the Lease is sooner terminated in accordance with the terms and conditions of the Lease.
4. The Rentable Area of the Premises is \_\_\_\_\_ square feet.
5. The Rentable Area of the Project is \_\_\_\_\_ square feet.
6. The Useable Area of the Premises is \_\_\_\_\_ square feet.
7. Tenant’s Pro Rata Share of Project Expenses is \_\_\_\_\_%.
8. Tenant’s Pro Rata Share of Office Space Expenses is \_\_\_\_\_%.
9. Beginning on the Commencement Date, the Base Rent to be paid by the Tenant to the Landlord will be as follows:

Lease Year	Dates	Annual Base Rent per RSF	Annual Base Rent	Monthly Installments
1	to			
2	to			

3	to			
4	to			
5	to			

10. By execution hereof, Tenant acknowledges and agrees that all improvements or other work required of Landlord has been satisfactorily performed, and Tenant hereby accepts the Premises in full compliance with the terms and conditions of the Lease.

11. Except as may be amended herein, all terms and conditions of the Lease will continue in full force and effect, and are hereby republished and reaffirmed in their entirety.

12. This Memorandum will be binding upon and be relied upon by the parties hereto and their respective legal representatives, successors and assigns.

13. This Memorandum may be executed in counterparts, each of which is an original and all of which constitute one instrument. An executed facsimile copy or electronic PDF of this Memorandum will be binding for all purposes.

IN WITNESS WHEREOF, each of Landlord and Tenant has caused this Memorandum to be executed and delivered by its duly authorized representative as of the day and year set forth beneath its signature below.

**LANDLORD:**

**TENANT:**

\_\_\_\_\_, LLC

[\_\_\_\_\_]

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_

Date: \_\_\_\_\_, 20\_\_

**EXHIBIT F - PROJECT RULES AND REGULATIONS**

None adopted at this time.

## EXHIBIT G - GREEN LEASE ADDENDUM

1. The term “Green Standard” or words of similar import will include the U.S. EPA’s Energy Star® rating, the Green Building Initiative’s Green Globes TM for Continual Improvement of Existing Buildings (Green Globes TM-CIEB), the U.S. Green Building Council’s Leadership in Energy and Environmental Design (LEED), and/or a current and similar organization with equally rigorous environmentally and sustainable practices.
2. Tenant will not use or occupy the Premises for any unlawful purpose or in any manner that will constitute waste, nuisance or unreasonable annoyance to Landlord or other tenants of the Project. Tenant will not use or operate the Premises in any manner that will cause the Project or any part thereof not to conform with Landlord’s sustainability practices or a Green Standard certification of the Project, provided that: (a) such sustainability practices are disclosed to Tenant in writing and are customary and in keeping with other buildings similar to the Building that have the Green Standard or standards similar to the Green Standard, (b) such sustainability practices are reasonably designed to maintain the Green Standard certification, and (c) Tenant’s compliance with the provisions of this Green Addendum is reasonably practicable and does not unreasonably interfere with the operation of Tenant’s business in the Premises.
3. The Project may become in the future certified under a Green Standard or operated pursuant to Landlord’s sustainable building practices. Landlord’s sustainability practices address whole-building operations and maintenance issues including chemical use; indoor air quality; energy efficiency; water efficiency; recycling programs; exterior maintenance programs; and systems upgrades to meet green building energy, water, Indoor Air Quality, and lighting performance standards. All construction and maintenance methods and procedures, material purchases, and disposal of waste must be in compliance with minimum standards and specifications, in addition to all applicable Laws.
4. Tenant and Landlord will, to the extent reasonably practicable, use proven energy and carbon reduction measures, including energy efficient bulbs in task lighting; use of lighting controls; closing shades as needed to avoid over heating the space; turning off lights and equipment at the end of the work day; purchasing ENERGY STAR® qualified equipment, including lighting, office equipment, commercial and residential quality kitchen equipment, vending and ice machines; and purchasing products certified by the U.S. EPA’s Water Sense® program.
5. Tenant will, at its sole cost and expense and to the extent related to Tenant’s occupancy of the Premises: (a) comply with all present and future laws, orders and regulations of the Federal, State, county, municipal or other governing authorities, departments, commissions, agencies and boards regarding the collection, sorting, separation, recycling and composting of garbage, trash, rubbish and other refuse (collectively, “trash”); (b) comply with Landlord’s recycling policy as part of Landlord’s sustainability practices where it may be more stringent than applicable Law, provided that such sustainability practices and applicable laws are disclosed to Tenant in writing and compliance with the same is reasonably practicable and does not unreasonably interfere with Tenant’s operation of its business in the Premises, is reasonably designed to obtain or maintain the Green Standard certification and is enforced against all tenants of the Project in a reasonable and equitable non-discriminatory manner; (c) sort and separate its trash, composting and recycling into such categories as are provided by Law or Landlord’s sustainability practices; (d) place in separate

receptacles as directed by Landlord each separately sorted category of trash, composting and recycling; and (e) pay all costs, expenses, fines, penalties or damages that may be imposed on Landlord or Tenant by reason of Tenant's failure to comply with the provisions of this paragraph. The Landlord will provide a composting program and Tenant will sort and separate its trash and recycling from compost material.

6. Landlord will provide and install all original bulbs and tubes for Building standard lighting fixtures within the Premises and all replacement tubes for such lighting, the cost of which will be included in Operating Expenses; all other bulbs, tubes and lighting fixtures for the Premises will be provided and installed by Tenant at Tenant's cost and expense, and to the extent reasonably practicable, must comply with Landlord's sustainability practices, including any Green Standard rating system, concerning the environmental compliance of the Project or the Premises, as the same may change from time to time. All maintenance and repairs made by Tenant must, to the extent reasonably practicable, comply with Landlord's sustainability practices, including any Green Standard rating system concerning the environmental compliance of the Project or the Premises, as the same may change from time to time.

7. Any and all Tenant's Work and Alterations are strongly encouraged to be performed in accordance with Landlord's sustainability practices, including any Green Standard or third-party rating system concerning the environmental compliance of the Project or the Premises, as the same may change from time to time. Tenant is further encouraged to engage a qualified third party LEED or Green Standard professional or similarly qualified professional during the design phase through implementation of any Tenant's Work and Alterations to review all plans, material procurement, demolition, construction and waste management procedures to ensure they are in full conformance with Landlord's sustainability practices, as aforesaid. Any and all waste and debris from Tenant's Work and Alterations must meet the minimum requirements set forth by the Green Standard to the extent reasonably practicable.

8. Landlord does not permit space heaters or other energy-intensive equipment unnecessary to conduct Tenant's business without written approval by Landlord. Any space conditioning equipment that is placed in the Premises for the purpose of increasing comfort to tenants will, to the extent reasonably practicable, be operated on sensors or timers that limit operation of equipment to hours of occupancy in the areas immediately adjacent to the occupying personnel.

9. Tenant acknowledges that it is Landlord's intention that the Project be operated in a manner which is consistent with Landlord's sustainability practices. Tenant is required to comply with these practices within its Premises to the extent that Tenant's compliance with such practices is reasonably practicable and does not unreasonably interfere with the operation of Tenant's business in the Premises.

10. Tenant will, to the extent reasonably practicable, dispose of, in an environmentally sustainable manner, any equipment, furnishings, or materials no longer needed by Tenant and recycle or re-use such items in accordance with Landlord's sustainability practices. Tenant is responsible for reporting this activity not more than semi-annually to Landlord in a format reasonably determined by Landlord.



11. Landlord currently provides janitorial service only after 5:30 p.m. a minimum of three (3) days per week (excluding legal holidays). Subject to the provisions of the Lease, Landlord reserves the right to conduct routine cleaning during normal business hours in accordance with Landlord's sustainability practices and will be done in such a way as to minimize disruption.

12. All water using fixtures in both the Common Area and all tenant premises of the Project will conform to EPA Water-Sense or fixtures with equivalent flush volumes as indicated in the following Table:

<b>Fixture</b>	<b>Maximum flow rate per EPA's Water Sense program</b>
Showerhead	2.0 gallons per minute
Toilets	1.28 gallons per flush
Bathroom sink faucets	1.5 gallons per minute
Urinals	0.5 gallons per flush

<https://www3.epa.gov/watersense/>

13. Landlord will follow Landlord's sustainable building practices and will comply with all of the requirements imposed on Tenant pursuant to Section 6 of this Exhibit G and will use commercially reasonable efforts to get other tenants at the Project to follow Landlord's sustainable building practices.

## EXHIBIT H - PARKING PLAN

“Project Parking Spaces” means those parking spaces in the ramp-accessed parking structure located in the Project beneath the North Building, each of which is currently intended to be reserved on a twenty-four (24)-hour basis and assigned exclusively to one individual person or to a named company at the rates charged by the City of Boulder for parking spaces in the City parking garage located in the [REDACTED] area. Project Parking Spaces will be available twenty-four hours per day, seven days a week, subject to removing vehicles to permit periodic cleaning, maintenance and repair of the parking facilities. All space pricing is subject to change based upon then-current rates charged by City of Boulder for parking spaces in the City parking garage located in the [REDACTED] area.

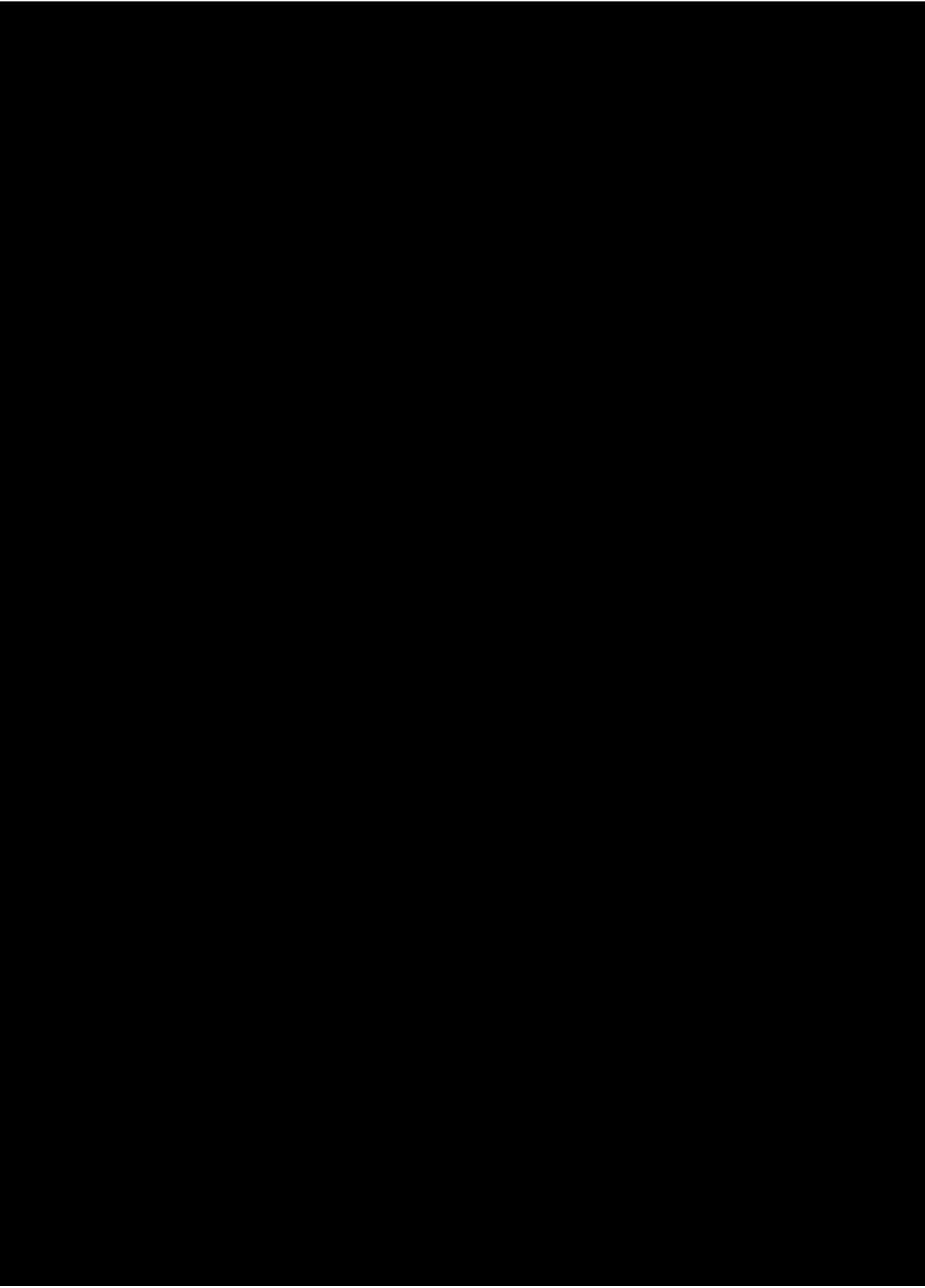
“Off-Site Parking Spaces” means those parking spaces located in garages and surface parking areas within the vicinity of the Project.

“Garage Bicycle Parking Spaces” means the long-term bicycle parking spaces located in the Project parking garage beneath the North Building next to the elevator/stair core. These spaces will be monitored by a security camera.

There will be eleven (11) short-term bicycle parking spaces located at grade level within fifty (50) feet of the main entrances of the North Building and South Building and distributed among different uses.

There will be two (2) bicycle-share stations located within the Project. One station with ten (10) bicycles will be located on the south side of the South Building, adjacent to the [REDACTED] bicycle path near the restaurant. The other station, with fifteen (15) bicycles, will be located on the north edge of the central plaza between the North Building and the South Building.

A depiction of the Project parking garage layout, and the Project Parking Spaces assigned to Tenant, follows on the next page.



## EXHIBIT I - WORK LETTER

**This Work Letter is hereby attached to and made part of the Lease as Exhibit I and terms used herein will have the same meaning as set forth in the Lease.**

1. Landlord's Work. Landlord will be responsible for the performance of the improvements listed below ("Landlord's Work"), at Landlord's cost and expense (except as otherwise expressly set forth below), and Landlord will promptly proceed to cause the Landlord's contractor to complete Landlord's Work substantially in accordance with the terms of this Work Letter:

- See "LL" column in the Responsibility Matrix attached as Addendum 1 (the "Core and Shell and Common Area Work")—such work to be performed by Landlord at Landlord's sole cost and expense and separate from the Allowance.
- The tenant finish improvements set forth in the Approved Plans and Specifications (the "Turnkey Work")—to be paid for with the Allowance and any costs in excess of the Allowance will be the sole responsibility of Tenant except as otherwise set forth herein.
- The Building and Landlord's Work will be Substantially Completed in a good workmanlike manner and in compliance with all applicable local and State laws and codes.
- Landlord, in addition to and separate from the Allowance, will be responsible, at its sole cost and expense, for any costs associated with (a) any work required to be performed by any governmental agency outside the Premises and in the Common area (including restrooms) in order to comply with any laws and codes, and (b) any latent defects in the Building systems (collectively "Landlord's Additional Work").

2. Contractors. The Turnkey Work will be performed by (a) [REDACTED] (the "TI Architect"), (b) contractors selected and engaged by Landlord for MEP (mechanical, electrical and plumbing) drawings (the "MEP Engineer"), and (c) construction contractors engaged by Landlord and selected by Landlord and Tenant as set forth below. Landlord will competitively bid at least three general contractors and jointly manage the construction process with Tenant. Tenant and Landlord will mutually select the final contractor from the three bidding general contractors based on the lowest price, qualifications and ability to complete the work in a timely matter.

[REDACTED]

4. Approval of Plans and Specifications. The TI Architect will prepare the plans and specifications for the Turnkey Work to be completed in the Premises, including the items specified in the "TI (\$/SF)" column in Addendum 1 attached hereto, but excluding the Core and Shell and Common Area Work specified as Landlord's obligation except as required if sections, items or specifications from Landlord's plans for the Core and Shell and Common Area Work need to be shown in said plans and specifications prepared by the TI Architect which for clarification purposes, will remain as Landlord's obligations (the "Plans and Specifications"). The Plans and Specifications will (a) be compatible with the design, construction and equipment of the Building, (b) comply with

all applicable local and State laws, rules and regulations, (d) be capable of logical measurement and construction, (e) contain all such reasonable information as may be required for the construction of the Turnkey Work, and (f) contain all partition locations, plumbing locations, air conditioning system and duct work, special air conditioning or venting requirements, reflected ceiling plans, office equipment locations and special security systems. It is understood and agreed by the parties that the Plans and Specifications may or will include MEP drawings prepared the MEP Engineer. Within seven (7) Business Days after receipt by Tenant of the Plans and Specifications (i) Tenant will give its written approval thereto, or (ii) if Tenant reasonably disapproves of the work reflected in the Plans and Specifications, Tenant will request other revisions or modifications therein. Within five (5) Business Days following receipt by Tenant of such revisions or modifications, Tenant will give its written approval thereto or will request other revisions or modifications therein (but relating only to the extent Landlord has failed to comply with Tenant's earlier requests). The procedure set forth in the preceding sentence will be implemented repeatedly until Tenant has given its written approval of the Plans and Specifications (as approved, the "Approved Plans and Specifications"). Delivery of all plans and drawings referred to in this Section will be by email, messenger service or personal hand delivery, unless otherwise agreed by Landlord and Tenant. Landlord will provide written notice to Tenant at the time the Plans and Specifications are approved of any items of Turnkey Work that Tenant will be required to remove at the end of the Term, and if no such notice is given, Tenant will not be required to remove any Turnkey Work at the end of the Term. Landlord will prepare a construction budget as soon as reasonably possible following the completion of the Plans and Specifications and will submit such budget to Tenant for Tenant's review and approval (the "Turnkey Work Budget").

5. Payment for Turnkey Work. Landlord will construct and pay for the costs of the design (limited as provided in Section 3), engineering, construction and installation of the Turnkey Work as provided in the Approved Plans and Specifications up to a maximum of \$ [REDACTED] per usable square foot of the Premises (the "Allowance"). To the extent that the costs of the design (limited as provided in Section 3), engineering, construction and installation of the Turnkey Work exceed the Allowance when the Approved Plans and Specifications have been priced, Tenant will, at Tenant's election (a) reduce the scope of work and make such changes to the Approved Plans and Specifications as necessary to reduce the costs of the Turnkey Work so as not to exceed the Allowance, (b) pay all costs in excess of the Allowance (the "TI Excess Amount"), within thirty (30) Business Days after receipt of billing therefor from Landlord, with partial billing made periodically as the work progresses, or (c) amortize the TI Excess Amount over the initial five (5)-year Term, by increasing Base Rent by \$ [REDACTED] per rentable square foot of the Premises for each incremental \$ [REDACTED] per usable square foot TI Excess Amount. Any amount of the Allowance not used for Turnkey Work may be used by Tenant for built-in furniture, and any Allowance amount not used for Turnkey Work and built-in furniture will be retained by Landlord. All costs attributable to engineering and construction of the Turnkey Work including services, fees and expenses of the TI Architect (except as otherwise set forth in Paragraph 3 above) and Landlord's MEP Engineers, costs of permits and licenses required for completion of the Turnkey Work, labor, material, fees, and expenses of other Landlord's contractors (reasonably approved by Tenant) in completing the Turnkey Work will be paid from the Allowance; provided, however, that there will be no charge by Landlord for utilities, use of parking or the elevators, Landlord overhead or a construction management fee with respect to the Turnkey Work. Landlord, at Landlord's sole cost, will provide at no charge to the contractors

performing the Turnkey Work HVAC, electricity, water and washroom usage during construction of the Turnkey Work.

6. Change Orders. In the event that Tenant requests any changes to the Approved Plans and Specifications (each, a “Tenant Change Order”), Landlord will not unreasonably withhold, delay or condition its consent to any such changes, provided the changes do not create a Design Problem as defined below. Upon Landlord’s approval of a Tenant Change Order, the parties will execute a written Change Order specifying the change in the Turnkey Work and the additional cost, if any. The additional cost, if any, related to any Tenant Change Order will be paid from the Allowance or by Tenant if in excess of the Allowance. If a Tenant Change Order leads to a Tenant Delay that delays Substantial Completion of the Landlord’s Work, the Commencement Date of the Lease will not be delayed for the additional time attributable to the Tenant Change Order causing said delay. Landlord may make minor changes in the Turnkey Work that will not have any material adverse impact on Tenant’s use and occupancy of the Premises, provided that any such changes are addressed in an OAC meeting. For example, Landlord may make substitution of equal or better quality materials or finishes based upon availability of materials, pricing, or contractor recommendations. Tenant will cause Tenant’s representative to attend all OAC meetings relating to the Turnkey Work. Landlord will notify Tenant and obtain Tenant’s prior written consent prior to making any material changes in the Turnkey Work. As used herein, a “Design Problem” will mean or include (a) the Approved Plans and Specifications not complying with applicable laws, (b) the improvements depicted in the Approved Plans and Specifications would adversely affect the Building’s systems, the Building exterior and/or the Building structural components, and/or (c) the improvements depicted in the Approved Plans and Specifications would adversely affect other occupants in the Building. Furthermore, and notwithstanding anything to the contrary contained herein, changes to the Approved Plans and Specifications in connection with Landlord’s Additional Work will (i) be at Landlord’s sole cost and expense, and separate from the Allowance, (ii) not be a Tenant Delay, and (iii) not constitute a Tenant Change Order.

7. Delivery of Premises. Upon Substantial Completion of the Turnkey Work, Landlord will deliver the Premises to Tenant clean and free of debris, in compliance with all applicable building, safety and other applicable local and State laws and codes, and with all Building systems servicing the Premises in good working order. In the event of non-compliance with the foregoing, Landlord will, except as otherwise provided in the Lease, promptly after receipt of written notice from Tenant setting forth the nature and extent of such non-compliance, rectify same as soon as reasonably practical.

8. Cooperation; Approvals Not to be Unreasonably Withheld. Landlord and Tenant will cooperate with each other reasonably and in good faith to complete the Landlord’s Work as contemplated herein. All approvals provided for herein to be given by Landlord or Tenant will not be unreasonably withheld, conditioned or delayed. When work, services, consents or approvals are to be provided by or on behalf of Landlord, the term “Landlord” will include Landlord’s agents, contractors, employees and affiliates.

9. Tenant’s and Landlord’s Representative. Tenant has designated [REDACTED] as the sole representative of Tenant with respect to all approvals, consents

and other matters set forth in this Work Letter. Tenant represents and warrants that such representative will have full authority and responsibility to act on behalf of Tenant as required in this Work Letter. Tenant will have the right, by written notice to Landlord, to change its designated representative.

Landlord has designated [REDACTED] as the sole representative of Landlord with respect to all approvals, consents and other matters set forth in this Work Letter. Landlord represents and warrants that such representative will have full authority and responsibility to act on behalf of Landlord as required in this Work Letter. Landlord will have the right, by written notice to Tenant, to change its designated representative.

10. Tenant's Work. All work, except Landlord's Work, which is necessary to permit Tenant to commence its business in the Premises, including the items in the "FF&E/Owner Out of Pocket" column in the Responsibility Matrix and installation of Tenant's telecommunications and data cabling, trade fixtures, equipment and furnishings, will be completed by Tenant at Tenant's sole cost and expense ("Tenant's Work"). Tenant, subject to the provisions of Section 1.3 of the Lease and coordinating with and approval of Landlord and/or Landlord's general contractor, will have access to the Premises during the construction of Landlord's Work to complete Tenant's Work provided that such access and/or Tenant's Work does not interfere with or delay Landlord's Work.

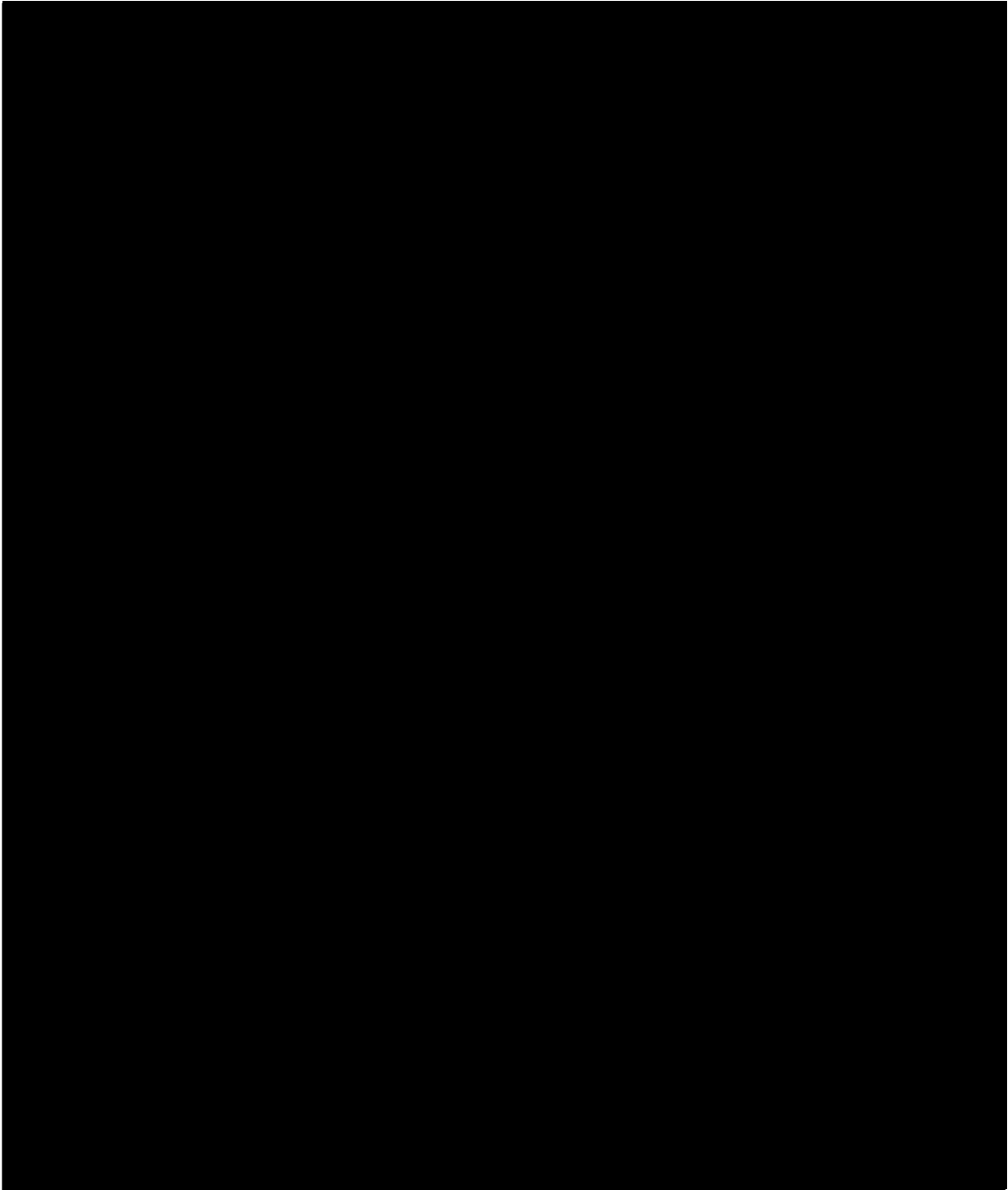
11. Completion of Tenant's Work. All Tenant's Work will: (a) be performed pursuant to written contracts with workmen and mechanics; (b) comply with all reasonable restrictions and requirements as Landlord may impose with respect to Tenant's Work; (c) conform to the standards of the Building; (d) be done in a safe and lawful manner in compliance with applicable local and State laws, governmental regulations and requirements; and (e) be done so as not to interfere with any other tenants in the Building or Landlord's completion of the Landlord's Work in the Premises. Tenant will cause its contractors and vendors to take all steps necessary to cooperate in the coordination of the performance of Tenant's Work with the work of Landlord or Landlord's contractors in the Premises or in the Building, including exchanging information about and coordination their respective schedules, attending coordination meetings, and cooperating in allowing and obtaining access to and availability of portions of the site for performance of Tenant's Work and the work of such other contractors.

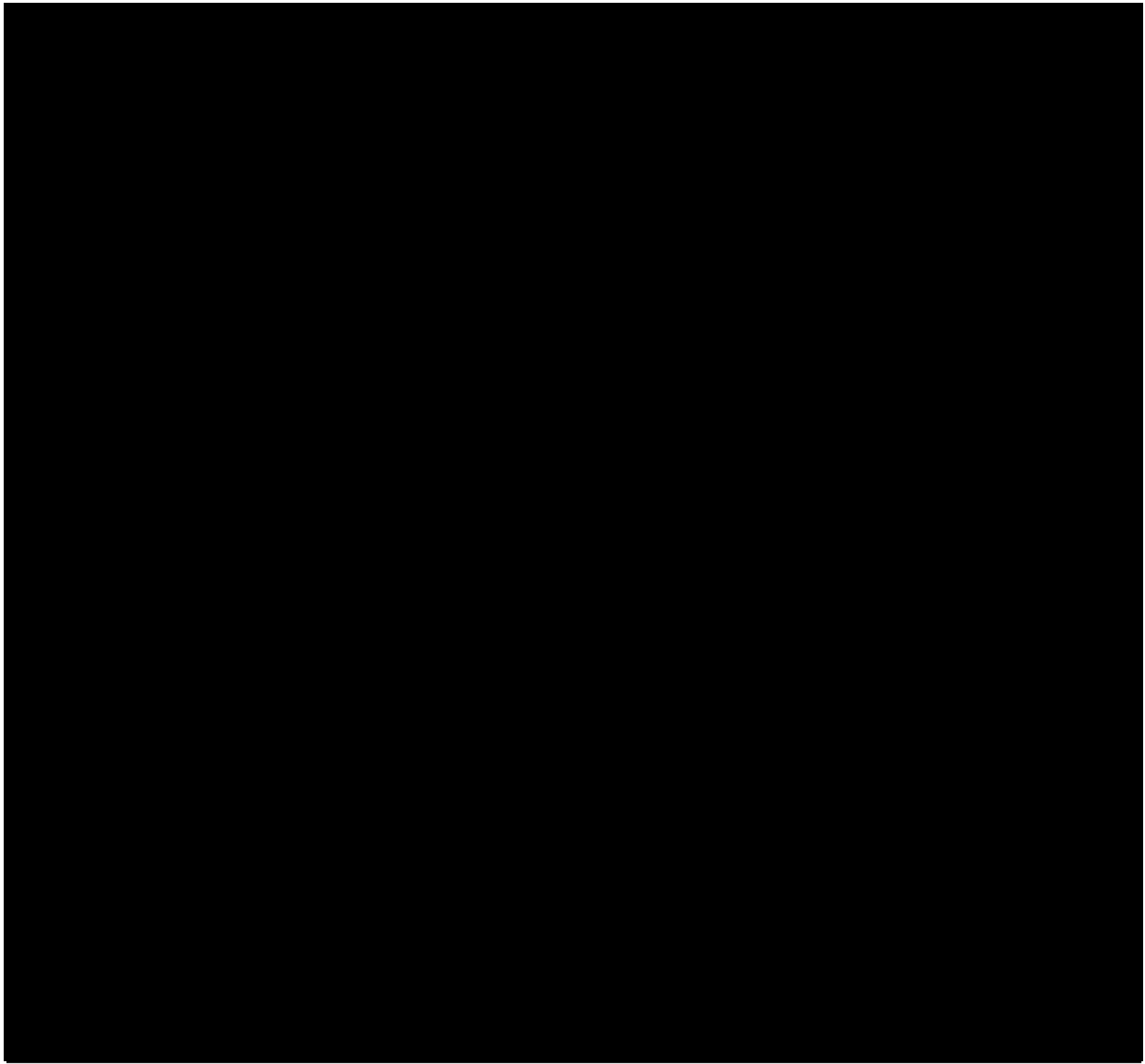
12. Mechanics' Liens. Tenant and Tenant's contractors/vendors will indemnify Landlord from any mechanic's or materialmen's lien against Landlord's interest in the Building or Premises arising from work performed by or under Tenant. If a lien is filed, Tenant will, within fifteen (15) Business Days after receipt of Landlord's written request, remove the lien by paying it in full. In the event Tenant fails within said fifteen (15)-business-day period to remove the lien, Tenant will immediately be in default under the Lease without the necessity of further notice from Landlord and Landlord will be entitled to take such action at law, in equity or under the Lease as Landlord deems appropriate and Tenant will be responsible for all monies Landlord may pay in discharging any lien including all actual costs and reasonable attorneys' fees incurred by Landlord in settling, defending against, appealing or in any manner dealing with lien.

**ADDENDUM 1 TO  
EXHIBIT I WORK LETTER  
RESPONSIBILITY MATRIX**

[SEE ATTACHED]







## EXHIBIT J - OPTION TO EXTEND

As additional consideration for the covenants of Tenant under this Lease, Landlord grants to Tenant an option (the "Option") to extend the term of the Lease for one (1) additional term of five (5) years (the "Option Term"). The Option will be on the following terms and conditions:

A. Written notice of Tenant's interest in exercising the Option will be given to Landlord, at Tenant's option, not earlier than eighteen (18) months and not later than twelve (12) months prior to the expiration of the initial Lease Term (as extended by Tenant's exercise of the Expansion Option, if applicable) ("Tenant's Notice"). Not later than thirty (30) days after receiving Tenant's Notice, Landlord will give to Tenant notice of Landlord's estimate of the then prevailing market rate for the Premises commencing on the Commencement Date of the Extended Term ("Landlord's Notice"). The phrase "then prevailing market rate" as used in this paragraph will mean the base rental rate a willing lessee would pay and a willing lessor would accept in an arm's length lease of the Premises at such date upon the terms and provisions of this Lease, taking into account all relevant factors including parking spaces, the size and quality of the Premises, the location of the Premises and the length of the Option Term, the cost, limitations and provisions of the Lease relating to utilities and NZE, and also taking into account tenant improvements, and other concessions then being offered to comparable tenants in Boulder. In no event will the rental rate be less than the Base Rent that Tenant is paying immediately prior to the commencement of the Option Term. The term "then prevailing market rate" shall also include an escalation of the Base Rate so determined for subsequent Lease Years during the Extended Term in accordance with then prevailing market conditions for similar leases.

B. Tenant will have fifteen (15) days following Tenant's receipt of Landlord's Notice within which to object to the rental rate set forth therein by delivering written notice thereof to Landlord. If Tenant fails to timely provide its notice of objection, then the parties will within thirty (30) days after such fifteen (15)-day period execute an amendment to this Lease extending the Term upon the rental rate set forth in Landlord's Notice. If Tenant timely provides a notice of objection, the parties will for thirty (30) days after Landlord's receipt of Tenant's notice of objection negotiate in good faith to mutually agree upon the rental rate applicable to the subject Option Term. If the parties fail to so agree within such 30-day time period, then Tenant will have the option, by providing written notice thereof to Landlord within ten (10) days after expiration of such thirty (30)-day period, to either (i) withdraw its exercise of the Option, or (ii) require the parties to engage in the Appraisal Process described below. If Tenant fails to timely provide said notice, then Tenant will be deemed to have withdrawn its exercise of the Option, the Option will terminate, Tenant will have no further right to extend the Term, and the Lease will expire at the end of the initial Lease Term. If the parties agree upon the rental rate as described herein, then they will, within thirty (30) days of such agreement, execute an amendment to this Lease extending the Term at the agreed rental rate.

C. Unless Landlord is timely notified by Tenant in accordance with Paragraphs A and B above, and the parties execute an amendment as provided above, the Option will terminate and the Lease will expire in accordance with its terms, at the end of the initial Lease Term.

D. In addition to the timely written notice as required by Paragraph A above, as a condition of Tenant's right to exercise the Option granted hereunder:

1. Tenant will have fully performed all of its covenants, duties and obligations hereunder during the Term and no Event of Default will have occurred or be continuing on the date of exercise or the date the Option Term is to commence; and

2. Tenant will not have engaged a tenant representative or broker for whom Landlord will in any way, directly or indirectly, be obligated to provide compensation; and

3. Tenant will not have assigned the Lease or any interest therein or sublet (or otherwise permitted occupancy by any third party of) all or any portion of the Premises (except to an Affiliate of Tenant) during the Term regardless of whether any such assignment, sublease or occupancy is then still in effect and regardless of whether Landlord will have consented to any such assignment, subletting or occupancy.

E. The Option granted hereunder will be upon all the same terms and conditions of the Lease, [REDACTED] [REDACTED] [REDACTED] except that (i) the Base Rent to be paid by Tenant to Landlord for the first year of the Option Term will be [REDACTED] of the then prevailing market rate with annual increases to such first year Base Rent thereafter as determined pursuant to this Exhibit J, [REDACTED]  
[REDACTED]



F. If Landlord and Tenant do not agree on the new Base Rent for the Option Term as set forth in paragraph B above, and Tenant has timely provided notice to Landlord requiring the parties to engage in the Appraisal Process, they will submit the determination of the then prevailing market rate for the new Base Rent to an independent commercial real estate broker with at least ten (10) years of experience in leasing office space Boulder and who is a member in good standing of the Denver Metropolitan Commercial Association of Realtors (“DMCAR”) and Commercial Brokers of Boulder (“CBB”), or if either of such organizations is not then in existence, such other trade group(s) or professional organization(s) as leading commercial real estate brokers in Boulder, Colorado, customarily participate in at such time (“Independent Broker”). The Independent Broker will not have been employed by either party within the prior three (3) years. Landlord and Tenant will mutually agree on the person to serve as the Independent Broker; provided that, if they cannot agree on such Independent Broker within thirty (30) days after Tenant has timely provided notice to Landlord requiring the parties to engage in the Appraisal Process, they will each select an

Independent Broker at their own expense within ten (10) days after expiration of such thirty (30)-day period, and then those two Independent Brokers will select a third Independent Broker who will determine the new Base Rent in accordance with this paragraph F and paragraph E above. Within ten (10) days of the selection of the Independent Broker, Landlord and Tenant will each submit a written statement to the Independent Broker setting forth its opinion of the new Base Rent and the factual basis for such opinion. Within fifteen (15) days of the submissions, the Independent Broker will determine and advise the Landlord and Tenant in writing which of their opinions of the new Base Rent is the best estimate and that opinion will be the Base Rent for the Option Term. The foregoing method for determining the Base Rent is referred to as the "Appraisal Process." Tenant and Landlord will each pay its respective expenses and one-half of the expenses of the Independent Broker selected to determine the Base Rent for the Option Term.

G. After the exercise of the Option above described, there will be no further rights on the part of Tenant to extend the term of the Lease.

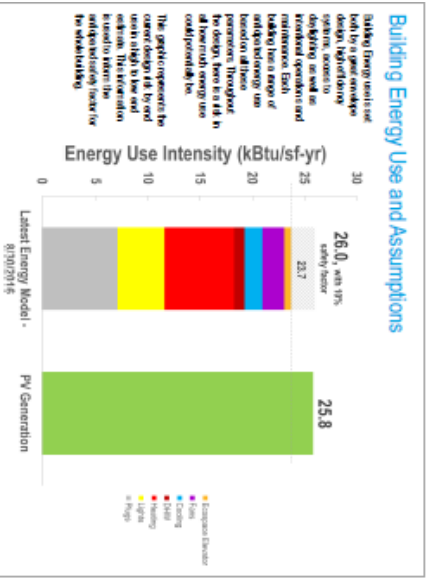
H. The Option will apply to all space under the Lease at the time the Option Term is due to commence, and Tenant may not elect to extend the Term of the Lease as to only a portion of such space.

## **EXHIBIT K - ENERGY MODELING RESULTS**

[attached]

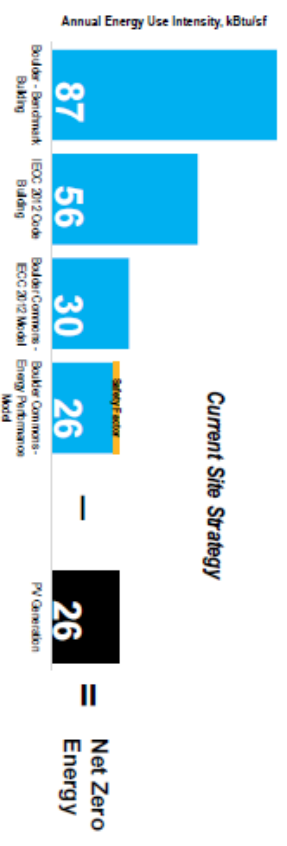
# Net Zero Energy

The report estimates the Net Zero Energy potential for the project. Shown are the top three assumptions of how the building will use and meet its energy needs. An estimate of Net Zero Energy (NZE) for the project is provided. The project's Net Zero Energy (NZE) is the difference between the project's total energy demand and the project's total energy supply. The project's Net Zero Energy (NZE) is the difference between the project's total energy demand and the project's total energy supply. The project's Net Zero Energy (NZE) is the difference between the project's total energy demand and the project's total energy supply.



Assumption	Value
Building Envelope	1.0
Building Systems	1.0
Building Controls	1.0
Building Occupancy	1.0
Building Orientation	1.0
Building Location	1.0
Building Climate	1.0
Building Energy Use	1.0
Building Energy Supply	1.0
Building Net Zero Energy	1.0

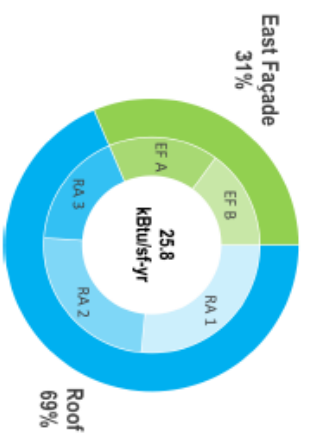
- Key Findings:
- Energy Use Intensity (EUI) is a measure of the energy used by a building per square foot per year.
- Energy Use Intensity (EUI) is a measure of the energy used by a building per square foot per year.
- The project's Net Zero Energy (NZE) is the difference between the project's total energy demand and the project's total energy supply.



Builder energy use includes a comparison of the proposed design to the IECC 2012 code. The IECC 2012 code is the minimum energy code for buildings. The project's Net Zero Energy (NZE) is the difference between the project's total energy demand and the project's total energy supply. The project's Net Zero Energy (NZE) is the difference between the project's total energy demand and the project's total energy supply.

## Building Energy Generation

Category	Value	Percentage
Roof	197	69%
East Façade	57	21%
Other	14	5%
<b>Total</b>	<b>288</b>	<b>100%</b>



**EXHIBIT L - ES SPACE PLAN**

