

ORDER NO. PSC-2018-0327-PAA-WS
DOCKET NO. 20180006-WS
PAGE 7

C. Modification of the Leverage Formula is Necessary

Section 367.081(4)(f), F.S., authorizes us to establish a leverage formula to calculate a reasonable range of returns on common equity for WAW utilities. We must establish this leverage formula not less than once a year. For administrative efficiency, the leverage formula is used to determine the appropriate return for an average Florida WAW utility. However, use of the leverage formula by utilities is discretionary, and a utility can file cost of equity testimony in lieu of using the leverage formula. As is the case with other regulated companies under our jurisdiction, we have discretion in the determination of the appropriate ROE based on the evidentiary record in any proceeding. If one or more parties in a rate case or limited proceeding file testimony in lieu of the use of the leverage formula, we will determine the appropriate ROE based on the evidentiary record in that proceeding.

The leverage formula depends on four basic assumptions:

- 1) Business risk is similar for all WAW utilities;
- 2) The cost of equity is an exponential function of the equity ratio but a linear function of the debt to equity ratio over the relevant range;
- 3) The marginal weighted average cost of investor capital is constant over the equity ratio range of 40 percent to 100 percent; and
- 4) The debt cost rate at an assumed Moody's Baa3 bond rating, plus a 50 basis point private placement premium and a 50 basis point small-utility risk premium, represents the average marginal cost of debt to an average Florida WAW utility over an equity ratio range of 40 percent to 100 percent.

Since 2001, we have used the leverage formula methodology established in Order No. PSC-2001-2514-FOF-WS and reaffirmed in Order No. PSC-2008-0846-FOF-WS. This methodology used ROEs derived from financial models applied to an index of natural gas utilities. We determined in 2001 and 2008 that there were an insufficient number of publicly traded WAW utilities that met the requisite criteria to assemble an appropriate proxy group, and, therefore, natural gas utilities were used instead. However, due to mergers and acquisitions of natural gas utilities over the past two years, the number of acceptable natural gas utilities has been reduced from eight to five. Concurrently, the number of publicly-traded water companies followed by Value Line has risen from four to nine.

Based on comments made at the workshop and the analysis conducted by our staff, which is presented in more detail in Attachment 1, we believe modification of the leverage formula methodology is warranted. We find that it is necessary to refine the leverage formula methodology to reflect newly available information and to reflect best practices. The leverage formula methodology shall be modified to include a combined proxy group of natural gas and WAW utilities with updated financial data based on market-capitalization based weighted averages. Also, the cost of debt used in determining the leverage formula shall be based on the projected cost of debt.

ORDER NO. PSC-2018-0327-PAA-WS
DOCKET NO. 20180006-WS
PAGE 8

D. The Modifications to the Leverage Formula

Proxy Group: The leverage formula methodology shall be modified to include a combined proxy group of natural gas and WAW utilities as proxy companies in calculating the leverage formula. We find that the selected natural gas utilities and WAW utilities that derive at least 50 percent of their revenue from regulated rates. These utilities have market power and are influenced significantly by economic regulation. In Attachment 1, the returns calculated using the proxy group are adjusted to reflect the risks faced by Florida WAW utilities. The updated index consists of five natural gas companies and seven WAW companies that derive at least 50 percent of their total revenue from regulated operations. These companies have a median Standard and Poor's bond rating of "A".

Weighted Average: In addition, the leverage formula shall be modified to use a weighted average, where appropriate, as opposed to using a simple average as was done in the previous leverage formula calculations. The weighted average was calculated using the market capitalization of the proxy companies. We find that it is reasonable to use the market-capitalization based weighted average because of the size disparity among the companies comprising the new proxy group. There is a much greater size difference between companies in both assets and revenues when using both WAW and natural gas companies as opposed to using only natural gas companies. As pointed out in UIF's comments, "a market value weighted average is consistent with the manner in which returns for the Standard & Poor's 500 composite Index (S&P) are estimated."⁷ We used a market capitalization weighted average of: (1) Discounted Cash Flow (DCF) model results, (2) the Beta values in the Capital Asset Pricing Model (CAPM), and (3) the equity ratio of the proxy group.

Projected Yield: The leverage formula shall be modified to use a projected yield on Baa3 rated public utility bonds to estimate the bond yield of an average Florida WAW utility in the calculation of the weighted average cost of capital of the proxy group is reasonable and appropriate. We find that using a projected yield is appropriate because required returns are forward looking and based on projections. The previously approved methodology used the most current monthly average bond yield for a Baa2 rated utility and added the 120-month average spread between a Baa3 rated utility bond yield and the Baa2 rated bond yield as published by Value Line Investment Survey (Value Line). We believe the methodology should be updated to use the projected Baa2 rated utility bond yield for the upcoming four quarters as published by the most recent Blue Chip Financial Forecasts (Blue Chip). We find that modifying the formula to add the 120-month average spread to the projected Baa2 rated utility bond yield to estimate a projected Baa3 rated utility bond yield is also necessary.

ROE Models: The result of the ROE models shall be adjusted so that the leverage formula reflects the differences in risk and debt cost between the proxy group and the average

⁷Comments on Florida leverage formula to establish the annual authorized range of returns for water & wastewater utilities of Pauline M. Ahern, CRRA, on behalf of Utilities, Inc. of Florida, P. 20.

ORDER NO. PSC-2018-0327-PAA-WS
DOCKET NO. 20180006-WS
PAGE 9

Florida WAW utility. The ROE models shall also include a four percent adjustment for flotation costs. The ROE models are as follows:

- A multistage Discounted Cash Flow (DCF) model applied to an index of natural gas and WAW utilities that have publicly traded stock and are followed by the Value Line. This DCF model is an annually compounded model and uses prospective dividend growth rates.
- A Capital Asset Pricing Model (CAPM) that relies on a market return for companies followed by Value Line, the average projected yield on the U.S. Treasury's 30-year bonds published by Blue Chip Financial Forecasts, and the weighted average beta for the index of natural gas and WAW utilities. The market return for the 2018 leverage formula was calculated using a quarterly DCF model with stock prices as of April 16, 2018.

The updated leverage formula will average the results of the DCF and CAPM models and the result will be as follows:

- A bond yield differential of 64 basis points was added to reflect the difference in yields between an A/A2 rated bond, which is the median bond rating for the combined utility index, and a BBB-/Baa3 rated bond. Florida WAW utilities are assumed to be comparable to companies with the lowest investment grade bond rating, which is Baa3. This adjustment compensates for the difference between the credit quality of 'A' rated debt and the credit quality of the minimum investment grade rating.
- A private placement premium of 50 basis points is added to reflect the difference in yields on publicly traded debt and privately placed debt, which is illiquid. Investors require a premium for the lack of liquidity of privately placed debt.
- A small-utility risk premium of 50 basis points is added because the average Florida WAW utility is too small to qualify for privately placed debt and smaller companies are considered by investors to be more risky than larger companies.

After the above adjustments, the resulting cost of equity estimate will be included in the weighted average capital structure of the proxy group of utilities to derive the leverage formula.

Using the updated financial data in the revised leverage formula decreases the lower end of the current allowed ROE range by 63 basis points and decreases the upper end of the range by 23 basis points. Overall, the spread between the range of returns on equity based on the updated leverage formula is 282 basis points (8.11 percent to 10.93 percent). In comparison, the range of

ORDER NO. PSC-2018-0327-PAA-WS
DOCKET NO. 20180006-WS
PAGE 10

returns on equity for the existing leverage formula from 2011 is 242 basis points (8.74 percent to 11.16 percent).

The projected assumed Baa3 bond rate of 6.24 percent used in the updated leverage formula calculation includes a 50 basis point adjustment for small-company risk and a 50 basis point adjustment for a private placement premium and remains low relative to historic levels. In comparison, the assumed Baa3 bond rate used in the existing leverage formula is 7.13 percent. The lower Baa3 bond rate of 6.24 percent is the cause of the decrease at the lower end of the range and the increased spread.

Based on the aforementioned, we find that the revised leverage formula methodology applied to a proxy group of natural gas and WAW utilities with updated financial data based on market-capitalization weighted averages produces a reasonable range of ROEs for WAW utilities and reflects current financial markets. We find that the following leverage formula shall be used until a new leverage formula is determined in 2019:

$$\text{ROE} = 6.24\% + (1.88 \div \text{Equity Ratio})$$

Where the Equity Ratio = Common Equity \div (Common Equity + Preferred Equity + Long-Term and Short-Term Debt).

Range: 8.11% at 100% equity to 10.93% at 40% equity

Additionally, we will cap returns on common equity at 10.93 percent for all WAW utilities with equity ratios less than 40 percent. This is in an effort to discourage imprudent financial risk. This cap is consistent with the methodology in Order No. PSC-2008-0846-FOF-WS.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the leverage formula is set forth in the body of this Order and in Attachment 1 of this Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that this docket should remain open to allow staff to monitor changes in capital market conditions and to readdress the reasonableness of the leverage formula as conditions warrant.

ORDER NO. PSC-2018-0327-PAA-WS
DOCKET NO. 20180006-WS
PAGE 11

By ORDER of the Florida Public Service Commission this 26th day of June, 2018.



CARLOTTA S. STAUFFER
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

AEH

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 17, 2018.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

ORDER NO. PSC-2018-0327-PAA-WS
DOCKET NO. 20180006-WS
PAGE 12

Attachment 1
Page 1 of 6

SUMMARY OF RESULTS
2018 Water and Wastewater Leverage Formula

| | <u>Updated Results</u> | <u>Currently In Effect</u> |
|---|----------------------------|--------------------------------|
| (A) DCF ROE | 7.63% | 8.25% |
| (B) CAPM ROE | <u>9.46%</u> | <u>9.40%</u> |
| AVERAGE | 8.55% | 8.83% |
| Bond Yield Differential | 0.64% | 0.57% |
| Private Placement Premium | 0.50% | 0.50% |
| Small-Utility Risk Premium | 0.50% | 0.50% |
| Adjustment to Reflect Required Equity Return at a 40% Equity Ratio | <u>0.74%</u> | <u>0.76%</u> |
| Cost of Equity for Average Florida WAW Utility at 40% Equity Ratio | <u>10.93%</u> | <u>11.16%</u> |

2017 Leverage Formula (Currently in Effect)
Return on Common Equity = 7.13% + (1.61 ÷ Equity Ratio)
Range of Returns on Equity = 8.74% to 11.16%

2018 Leverage Formula
Return on Common Equity = 6.24% + (1.88 ÷ Equity Ratio)
Range of Returns on Equity = 8.11% to 10.93%

ORDER NO. PSC-2018-0327-PAA-WS
DOCKET NO. 20180006-WS
PAGE 13

Attachment 1
Page 2 of 6

Marginal Cost of Investor Capital
Average Water and Wastewater Utility

| Capital Component | <u>Ratio</u> | <u>Marginal Cost Rate</u> | <u>Weighted Marginal Cost Rate</u> |
|-------------------|----------------|-------------------------------|--|
| Common Equity | 47.48% | 10.19% | 4.84% |
| Total Debt | <u>52.52%</u> | 6.24%* | <u>3.27%</u> |
| | <u>100.00%</u> | | <u>8.11%</u> |

A 40% equity ratio is the floor for calculating the required return on common equity.
The return on equity at a 40% equity ratio: $6.24\% + (1.88 \div 0.40) = 10.93\%$

Marginal Cost of Investor Capital
Average Water and Wastewater Utility at 40% Equity Ratio

| Capital Component | <u>Ratio</u> | <u>Marginal Cost Rate</u> | <u>Weighted Marginal Cost Rate</u> |
|-------------------|----------------|-------------------------------|--|
| Common Equity | 40.00% | 10.93% | 4.37% |
| Total Debt | <u>60.00%</u> | 6.24%* | <u>3.74%</u> |
| | <u>100.00%</u> | | <u>8.11%</u> |

Where: Equity Ratio = $CE / (CE + Pref. Equity + LTD + STD)$

*Assumed Baa3 rate for April 2018 plus a 50 basis point private placement premium and
A 50 basis point small utility risk premium.

Sources:
Value Line Selection and Opinion
Companies' 10-K Filings

Discounted Cash Flows Results

| Company | <u>Weight^[1]</u> | <u>Div₀</u> | <u>Div₁</u> | <u>Div₂</u> | <u>Div₃</u> | <u>Div₄</u> | <u>EPS₄</u> | <u>ROE₄</u> | <u>GR₁₋₄</u> | <u>GR₄₊</u> | <u>AVG-PR^[2]</u> | Weighted DCF Results ^[3] |
|-------------------------------------|-----------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|-------------------------|------------------------|-----------------------------|---|
| Atmos Energy | 19.40% | 1.94 | 2.08 | 2.21 | 2.35 | 2.50 | 5.15 | 0.11 | 1.06 | 1.06 | 81.78 | 1.58% |
| Northwest Natural Gas Company | 3.41% | 1.89 | 2.00 | 2.06 | 2.13 | 2.20 | 3.50 | 0.11 | 1.03 | 1.04 | 57.17 | 0.25% |
| ONE Gas, Inc. | 7.46% | 1.84 | 2.00 | 2.15 | 2.32 | 2.50 | 4.00 | 0.09 | 1.08 | 1.03 | 65.22 | 0.50% |
| Southwest Gas Holdings | 6.82% | 2.08 | 2.18 | 2.31 | 2.45 | 2.60 | 5.10 | 0.09 | 1.06 | 1.04 | 68.10 | 0.51% |
| Spire Inc. | 6.82% | 2.25 | 2.40 | 2.43 | 2.47 | 2.50 | 5.50 | 0.10 | 1.01 | 1.05 | 69.14 | 0.56% |
| American States Water | 4.05% | 1.07 | 1.15 | 1.24 | 1.34 | 1.45 | 2.45 | 0.14 | 1.08 | 1.06 | 52.42 | 0.32% |
| American Water Works | 30.92% | 1.78 | 1.95 | 2.15 | 2.36 | 2.60 | 4.50 | 0.11 | 1.10 | 1.04 | 80.35 | 2.22% |
| Aqua America | 12.79% | 0.85 | 0.91 | 1.01 | 1.12 | 1.25 | 1.95 | 0.13 | 1.11 | 1.04 | 32.91 | 0.98% |
| California Water Service Group | 3.84% | 0.75 | 0.78 | 0.85 | 0.93 | 1.02 | 1.90 | 0.12 | 1.09 | 1.05 | 36.43 | 0.29% |
| Middlesex Water | 1.28% | 0.91 | 0.96 | 1.01 | 1.06 | 1.11 | 2.10 | 0.13 | 1.05 | 1.06 | 38.37 | 0.11% |
| SJW Group | 2.35% | 1.12 | 1.20 | 1.28 | 1.36 | 1.45 | 3.45 | 0.14 | 1.07 | 1.08 | 56.04 | 0.24% |
| York Water | 0.85% | 0.70 | 0.75 | 0.83 | 0.91 | 1.00 | 1.60 | 0.14 | 1.10 | 1.05 | 30.24 | 0.07% |
| Annual Weighted DCF Results: | | | | | | | | | | | | <u>7.63%</u> |

The ROE of 7.63 percent represents the expected cost of equity required to match the average stock price with present value of expected cash flows.

Sources:

Stock prices obtained from Yahoo Finance for the 30-day period April 1, 2018 through April 30, 2018

Natural Gas company dividends, earnings, and ROE obtained from Value Line Reports issued March 2, 2018

Water and Wastewater company dividends, earnings and ROE obtained from Value Line Reports issued April 13, 2018

Notes:

^[1] Company's weight is based off of the Company's Market-Capitalization

^[2] Average Stock Prices include four percent flotation cost

^[3] Company's DCF results are weighed against their Market Capitalization Weight

ORDER NO. PSC-2018-0327-PAA-WS
DOCKET NO. 20180006-WS
PAGE 15

Attachment 1
Page 4 of 6

Capital Asset Pricing Model Cost of Equity for
Water and Wastewater Industry

CAPM analysis formula

- K = $RF + \text{Beta} (MR - RF) + \text{Flotation Cost}$
- K = Investor's required rate of return
- Beta = Measure of industry-specific risk (average for natural gas and water utilities followed by Value Line)
- MR = Market Return (Value Line Investment Analyzer Web Browser)
- RF = Risk-free rate (Blue Chip forecast for Long-Term Treasury Bond)

$$9.46\% = 3.58\% + 0.69 (11.83\% - 3.58\%) + 0.20\%$$

Note:

We calculated the market return using a quarterly DCF model for a large number of dividend paying stocks followed by Value Line. As of April 16, 2018, the result was 11.83 percent. We added 20 basis points to the CAPM result to account for a flotation cost of four percent.

ORDER NO. PSC-2018-0327-PAA-WS
DOCKET NO. 20180006-WS
PAGE 16

Attachment 1
Page 5 of 6

Public Utility Long-Term Bond Yield Averages

| Month, Year | A2 | Spread | A3 | Spread | Baa1 | Spread | Baa2 | Spread | Baa3 |
|-----------------------------------|------|--------|------|--------|------|--------|--------------|--------------|---------------|
| April, 2018 | 4.15 | 0.11 | 4.26 | 0.11 | 4.37 | 0.11 | 4.48 | 0.11 | 4.59 |
| 120 – Month Average Spread | | | | | | | 4.480 | 0.161 | 0.0464 |

Consensus Forecasts – Corporate Baa Bond Rate

| 2Q 2018 | 3Q 2018 | 4Q 2018 | 1Q 2019 |
|--|---------|---------|--------------|
| 4.8 | 5.0 | 5.2 | 5.3 |
| Average Forecasted Corporate Baa Bond Rate: | | | 5.075 |

Assumed Bond Yield for Baa3 Utilities: 0.161 + 5.075 = 5.236

| | Updated Results | Currently In Effect |
|--|---------------------|---------------------|
| Private Placement Premium | 0.50% | 0.50% |
| Small-Utility Risk Premium | 0.50% | 0.50% |
| Assumed Bond Yield for Baa3 Utilities | 5.24% | 6.13% |
| Assumed Bond Yield for Florida WAW Utilities: | <u>6.24%</u> | <u>7.13%</u> |

Sources:
Value Line Selection and Opinion
Blue Chip Financial Forecast – May 2018

ORDER NO. PSC-2018-0327-PAA-WS
DOCKET NO. 20180006-WS
PAGE 17

Attachment 1
Page 6 of 6

2018 Leverage Formula Proxy Group

| Company | S&P Bond Rating | Percent Regulated Revenue | V/L Market Capital (Millions) | Equity Ratio | Weighted Equity Ratio | Value Line Beta | Weighted Value Line Beta |
|-----------------------|-----------------------|---------------------------------|-------------------------------------|-----------------|-----------------------------|-----------------------|--------------------------------|
| Atmos Energy | A | 95.99% | \$9,100 | 52.59% | 10.20% | 0.70 | 0.14 |
| NW Natural Gas | A+ | 96.16% | \$1,600 | 47.10% | 1.61% | 0.65 | 0.02 |
| One Gas, Inc. | A | 100.00% | \$3,500 | 55.71% | 4.16% | 0.70 | 0.05 |
| SW Gas | BBB+ | 51.09% | \$3,200 | 47.07% | 3.21% | 0.75 | 0.05 |
| Spire, Inc. | A- | 95.36% | \$3,200 | 43.63% | 2.98% | 0.65 | 0.04 |
| American States Water | A+ | 77.24% | \$1,900 | 58.22% | 2.36% | 0.75 | 0.03 |
| American Water Works | A | 88.11% | \$14,500 | 41.08% | 12.70% | 0.65 | 0.20 |
| Aqua America | A+ | 99.43% | \$6,000 | 47.70% | 6.10% | 0.70 | 0.09 |
| Cal. Water Service | A+ | 93.93% | \$1,800 | 46.22% | 1.77% | 0.75 | 0.03 |
| Middlesex Water | A | 88.28% | \$600 | 56.86% | 0.73% | 0.80 | 0.01 |
| SJW Group | A | 96.63% | \$1,100 | 50.39% | 1.18% | 0.70 | 0.02 |
| York Water | A- | 100.00% | \$400 | 56.71% | 0.48% | 0.80 | 0.01 |
| AVERAGE | A | 90.19% | \$3,908 | 50.27% | 47.48% | 0.72 | 0.69 |

Sources:
Value Line Ratings and Reports
S.E.C. Form 10K for Companies
Standard and Poor's

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2018-82-S

IN RE: Application of Palmetto Wastewater)
Reclamation, LLC for Adjustment of Rates) **SETTLEMENT**
and Charges for, and the Modification of) **AGREEMENT**
Certain Terms and Conditions Related to,)
the Provision of Sewer Service)

This Settlement Agreement is made by and among the South Carolina Office of Regulatory Staff (“ORS”) and Palmetto Wastewater Reclamation, LLC (“PWR” or the “Company”) (collectively referred to as the “Parties” or sometimes individually as “Party”).

WHEREAS, On November 6, 2018, the Company filed an Application for Adjustment in Rates and Charges (the “Application”) with the Public Service Commission of South Carolina (“Commission”);

WHEREAS, the above-captioned proceeding has been established by the Commission pursuant to the procedure established in S.C. Code Ann. § 58-5-240 (2015) and 10 S.C. Code Regs. 103-512.4.A and 103-503 (2012), and the Parties to this Settlement Agreement are the only parties of record in the above-captioned docket;

WHEREAS, ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10(B) (Supp. 2018);

WHEREAS, as calculated by ORS, the Company provides wastewater collection and treatment services to 1,433 residential, mobile home, commercial and multi-family customers totaling approximately 7,934 total equivalent residential connections in Lexington and Richland Counties, South Carolina;

WHEREAS, ORS examined the books and records of the Company relative to the issues raised in the Application and conducted financial, business, and site inspections of PWR;

WHEREAS, ORS also examined all accounting and pro forma adjustments proposed by the Company, the Company's cost of service study and rate design, the Company's capital structure and cost of capital, and information related to the Company's operations;

WHEREAS, the Parties have varying positions regarding the issues in this case;

WHEREAS, the Parties engaged in discussions to determine if a settlement of some or all of the issues would be in their best interests and, in the case of ORS, in the public interest; and,

WHEREAS, following those discussions, the Parties determined that their interests, and ORS determined that the public interest, would be best served by entering into the following agreement resolving all issues pending in the above-captioned case under the terms and conditions set forth herein;

NOW, THEREFORE, the Parties hereby stipulate and agree to the following terms, which, if adopted by the Commission in its Order addressing the merits of this proceeding, will result in rates and charges for wastewater service which are adequate, just, reasonable, nondiscriminatory, and which will allow the Company the opportunity to earn a reasonable return.

**A. STIPULATION OF AGREEMENT, TESTIMONY AND WAIVER OF CROSS-
EXAMINATION**

1. The Parties agree to stipulate into the record before the Commission the pre-filed testimony and exhibits (collectively, the "Stipulated Testimony") of the following witnesses without objection, change, amendment or cross-examination with the exception of changes comparable to those that would be presented via an errata sheet or through a witness noting a correction consistent with this Settlement Agreement. The Parties also reserve the right to engage

in redirect examination of witnesses as necessary to respond to issues raised by the examination of their witnesses by the Commission or by testimony by non-Parties.

PWR witnesses:

1. Andrena Power-Baker
2. Bryan D. Stone
3. Donald J. Clayton
4. Harold Walker, III
5. Mark S. Daday

ORS witnesses:

1. Christina L. Seale
2. David C. Parcell
3. Anthony Sandonato
4. Matthew P. Schellinger, II

The Parties further agree to present their witnesses to the Commission in support of this Settlement Agreement in panels if acceptable to the Commission.

2. The Parties agree to offer no other evidence in the proceeding other than the stipulated testimony and exhibits and this Settlement Agreement unless the additional evidence is to support the Settlement Agreement, consists of changes comparable to that which would be presented via an errata sheet or through a witness noting a correction or clarification, consists of a witness adopting the testimony of another if permitted by the Commission, or is responsive to issues raised by examination of the Parties' witnesses by Commissioners, or by testimony by non-parties. The Parties agree that, provided the Commission approves, Company witness Stone may adopt the testimony of Company witness Daday. The Parties agree that, unless required by the Commission, Company witnesses Clayton and Walker and ORS witness Parcell shall not be required to be present for the hearing in this matter. The Parties agree that nothing herein will preclude each party from advancing its respective positions in the event that the Commission does not approve the Settlement Agreement.

B. SETTLEMENT AGREEMENT TERMS

3. As a compromise to positions advanced by the Parties, the Parties agree to the proposal set out immediately below, and this proposal is hereby adopted, accepted, and acknowledged as the Settlement Agreement by the Parties.

4. Without prejudice to the position of any Party in future proceedings (except as provided in paragraph 14 below), the Parties agree to accept all recommendations and adjustments in the testimony and exhibits of ORS witnesses unless changed by this Settlement Agreement.

Return on Common Equity, Revenue, Cost of Debt and Capital Structure

5. For purposes of this Settlement Agreement and in recognition of the mutual compromises contained herein, the Parties further agree that the Application, Stipulated Testimony, and this Settlement Agreement conclusively demonstrate the following: (i) the proposed accounting and pro forma adjustments appended to the Settlement Agreement as Attachment A are fair and reasonable and should be adopted by the Commission for ratemaking and reporting purposes; (ii) base rates generating a revenue increase of \$327,548 on an adjusted test-year basis are lawful, just, and reasonable when considered as a part of this Settlement Agreement in its entirety; (iii) rates in this proceeding shall be established based on a 9.93% return on common equity ("ROE") and a capital structure that includes 45% debt and 55% equity;¹ (iv) the Company's cost of debt is 5.23% (v) the Company's services are adequate and are being provided in accordance with the requirements set out in the Commission's rules and regulations pertaining to the provision of wastewater service; and, (vi) the Company's rates resulting from the Settlement Agreement are just and reasonable, and should be adopted by the Commission for service rendered by the Company.

¹ ORS's recommended ROE range was 9.2% to 10.0% with a midpoint of 9.60%. Absent a settlement agreement, ORS would not support an ROE as high as 9.93%.

6. Through the testimony of its cost of capital witness, the Company sought approval of an ROE of 10.75% and its Application requested a revenue increase of \$615,797. This Settlement Agreement provides for an ROE of 9.93% and a revenue increase of \$327,548.

7. The Parties agree to accept, for purposes of this Settlement Agreement, all proposals and recommendations put forth in the Settlement Agreement and Attachments A and B.

8. The Parties agree that the \$327,548 revenue increase, as shown in Attachment A to this Settlement Agreement, is appropriate, just and reasonable. Attachment B sets forth the proposed rate increases by rate schedule.

C. OTHER TERMS

9. The Tax Cuts and Jobs Act was enacted in December 2017 which changed the federal income tax rate from 34% to 21%. ORS has asserted that this act created benefits to customers that began accruing as of January 1, 2018, and as a result the Company has received excess revenues totaling \$97,771. The Company has agreed, solely for purposes of this settlement, to recognize the effect of this change by an adjustment to its pro forma net income for the period from and after January 1, 2018. In calculating the amount of this adjustment, the Parties will use the ORS audited financial information based on the twelve months beginning September 1, 2017 and ending August 31, 2018 ("Test Year"), which is the Test Year proposed by the Company in its Application. This adjustment will be implemented via a temporary reduction in the Company's monthly service charges reflected in Attachment B hereto in the amount of \$0.34 for residential, mobile home and commercial customers (per single family equivalent), same to be reflected on customer bills as a separate line item reduction for a three (3) year period beginning with the first monthly bill issued after approval of this Settlement Agreement. Thereafter, no such reduction is



required and Company shall be entitled to bill all customers at the full rate approved by the Commission.

10. The rate case expenses in this proceeding are agreed to be \$160,000 and shall be amortized over two years.

D. REMAINING SETTLEMENT AGREEMENT TERMS AND CONDITIONS

11. ORS is charged with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10(B) (Supp. 2018). S.C. Code § 58-4-10(B) reads in part as follows:

For purposes of this chapter, "public interest" means the concerns of the using and consuming public with respect to public utility services, regardless of the class of customer and preservation of continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

12. The Parties agree that this Settlement Agreement is reasonable, is in the public interest, and is in accordance with law and regulatory policy. This Settlement Agreement in no way constitutes a waiver or acceptance of the position of any Settling Party in any future proceeding. This Settlement Agreement does not establish any precedent with respect to the issues resolved herein and in no way precludes any Party herein from advocating an alternative position in any future or concurrent proceeding.

13. The Parties agree to cooperate in good faith with one another in recommending and advocating to the Commission that this Settlement Agreement be accepted and approved by the Commission in its entirety as a fair and reasonable resolution of certain issues currently pending in the above-captioned proceeding and detailed here-in, and to take no action inconsistent with its adoption by the Commission. The Parties agree to use their best efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein.

14. The Parties agree that signing this Settlement Agreement (a) will not constrain, inhibit, impair, or prejudice their arguments or positions held in future or collateral proceedings; (b) will not constitute a precedent or evidence of acceptable practice in future proceedings; and (c) will not limit the relief, rates, recovery, or rates of return that any Party may seek or advocate in any future proceeding. Notwithstanding the foregoing, the Parties agree that this Settlement Agreement resolves all issues pending between them in Docket No. 2017-381-A. The Parties agree that this Settlement Agreement is in public interest when considered as a whole. If the Commission declines to approve this Settlement Agreement in its entirety, then any Party may withdraw from the Settlement Agreement without penalty or obligation.

15. This Settlement Agreement shall be interpreted according to South Carolina law.

16. The Parties represent that the terms of this Settlement Agreement are based upon full and accurate information known as of the date this Settlement Agreement is executed. If, after execution, either Party is made aware of information that conflicts, nullifies, or is otherwise materially different than that information upon which this Settlement Agreement is based, either Party may withdraw from the Settlement Agreement with written notice to the other Party.

17. The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement, by affixing its signature or by authorizing its counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and e-mail signatures shall be as effective as original signatures to bind any Party. This document may be signed in counterparts, with the various signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement.



[PARTY SIGNATURES TO FOLLOW ON SEPARATE PAGES]



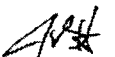
Representing the South Carolina Office of Regulatory Staff



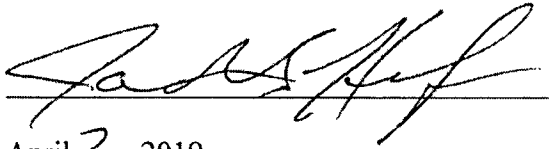
April 2, 2019

Andrew M. Bateman, Esquire
Jenny R. Pittman, Esquire
1401 Main Street, Suite 900
Columbia, SC 29201
Phone: 803-737-8440
803-737-0895
E-Mail: abateman@ors.sc.gov
jpittman@ors.sc.gov

ELECTRONICALLY FILED - 2019 April 2 12:22 PM - SCPSC - Docket # 2018-82-S - Page 9 of 22



Representing Palmetto Wastewater Reclamation, LLC



April 2, 2019

John M.S. Hoefler, Esquire
Benjamin P. Mustian, Esquire
Willoughby & Hoefler, P.A.
Post Office Box 8416
Columbia, South Carolina 29202
Phone: 803-252-3300
Fax: 803-256-8062
E-Mail: jhoefler@willoughbyhoefler.com
bmustian@willoughbyhoefler.com

Palmetto Wastewater Reclamation, LLC
Docket No. 2018-82-S
Operating Experience, Rate Base and Rate of Return Reflecting ORS's Proposed Increase
For the Test Year Ended August 31, 2018

ELECTRONICALLY FILED - 2019 April 2 12:22 PM - SCPSC - Docket # 2018-82-S - Page 11 of 22

| <u>Description</u> | (1) <u>Per Application</u> \$ | (2) <u>Accounting & Pro Forma Adjustments</u> \$ | (3) <u>After Accounting & Pro Forma Adjustments</u> \$ | (4) <u>ORS's Proposed Increase</u> \$ | (5) <u>After Proposed Increase</u> \$ |
|---|-------------------------------------|--|--|---|---|
| <u>Utility Operating Revenues:</u> | | | | | |
| Operating Revenues | 3,257,650 | 81,454 (1) | 3,339,104 | 327,548 (16) | 3,666,652 |
| Total Utility Operating Revenues | 3,257,650 | 81,454 | 3,339,104 | 327,548 | 3,666,652 |
| <u>Utility Operating Expenses:</u> | | | | | |
| Operating Expenses | 946,889 | 569,952 (2) | 1,516,841 | 3,275 (17) | 1,520,116 |
| Depreciation and Amortization | 521,507 | 54,669 (3) | 576,176 | 0 | 576,176 |
| Taxes Other Than Income Taxes | 580,530 | 64,739 (4) | 645,269 | 1,545 (18) | 646,814 |
| Income Taxes | 53,887 | 38,584 (5) | 92,471 | 80,521 (19) | 172,992 |
| Total Utility Operating Expenses | 2,102,813 | 727,944 | 2,830,757 | 85,341 | 2,916,098 |
| Net Utility Operating Income (Loss) | 1,154,837 | (646,490) | 508,347 | 242,207 | 750,554 |
| Add: Other Income - AFUDC | 16,578 | (16,578) (6) | 0 | 0 | 0 |
| Less: Amortization of Debt Expense | 35,437 | (35,437) (7) | 0 | 0 | 0 |
| Add: Amortization of EDIT | 0 | 0 | 0 | 13,662 (20) | 13,662 |
| Net Income (Loss) for Return | 1,135,978 | (627,631) | 508,347 | 255,869 | 764,216 |
| <u>Original Cost Rate Base:</u> | | | | | |
| Plant in Service | 14,464,745 | 599,616 (8) | 15,064,361 | 0 | 15,064,361 |
| Accumulated Depreciation | (3,607,582) | (209,644) (9) | (3,817,226) | 0 | (3,817,226) |
| Contributions in Aid of Construction (CIAC) | (692,107) | (4,251) (10) | (696,358) | 0 | (696,358) |
| Accumulated Amortization of CIAC | 403,288 | 4,421 (11) | 407,709 | 0 | 407,709 |
| Net Plant | 10,568,344 | 390,142 | 10,958,486 | 0 | 10,958,486 |
| Accumulated Deferred Income Taxes | (974,895) | (1,564) (12) | (976,459) | 0 | (976,459) |
| Excess Deferred Income Taxes (EDIT) | 0 | (456,531) (13) | (456,531) | 0 | (456,531) |
| Materials and Supplies | 8,138 | 0 | 8,138 | 0 | 8,138 |
| Prepayments | 57,529 | 0 | 57,529 | 0 | 57,529 |
| Cash Working Capital | 286,541 | (96,936) (14) | 189,605 | 0 | 189,605 |
| Total Rate Base | 9,945,657 | (164,889) | 9,780,768 | 0 | 9,780,768 |
| Return on Rate Base | 11.42% | | 5.20% | | 7.81% |
| Operating Margin | 6.62% | | 8.33% | | 14.56% |
| Interest Expense | 920,369 | (690,179) (15) | 230,190 | 0 | 230,190 |

Palmetto Wastewater Reclamation, LLC
Docket No. 2018-82-S
Explanation of Accounting and Pro Forma Adjustments
For the Test Year Ended August 31, 2018

| ORS Adj. # | PWR Adj. # | Description | ORS | PWR |
|--|-----------------|--|------------------|--------------------|
| <u>Accounting and Pro forma Adjustments</u> | | | | |
| (1) | | <u>Operating Revenues</u> | | |
| (1A) | (1) | To adjust residential revenues to reflect the most recent equivalent residential connections as calculated by the ORS Utility Rates Department. | \$ (26,407) | \$ (1,153) |
| (1B) | (2) | To adjust residential-mobile home park revenues to reflect the most recent equivalent residential connections as calculated by the ORS Utility Rates Department. | 15,759 | 15,759 |
| (1C) | (1), (2) | To adjust commercial revenues to reflect the most recent equivalent residential connections as calculated by the ORS Utility Rates Department. | (26,511) | (28,175) |
| (1D) | (1), (2), & (3) | To adjust multiple family dwelling revenues to reflect the most recent equivalent residential connections as calculated by the ORS Utility Rates Department. | 113,244 | (9,300) |
| (1E) | | To reflect adjustments to other revenues at the end of the test year. This adjustment was provided by the ORS Utility Rates Department. | 5,369 | 0 |
| (1) | | <u>Total Operating Revenues</u> | \$ <u>81,454</u> | \$ <u>(22,869)</u> |
| (2) | | <u>Operating Expenses</u> | | |
| (2A) | (4) | To include legal and accounting costs in test year expenses. | \$ 7,275 | \$ 7,275 |
| (2B) | (5) | To annualize management fees for the ESG Operations Contract. | 11,428 | 8,814 |
| (2C) | (6) | To include cost related to software and support for camera truck. | 725 | 938 |
| (2D) | (7) | To annualize insurance for the test year. | (7,455) | 762 |
| (2E) | (8) | To amortize current rate case expenses over three years. | 80,000 | 66,575 |
| (2F) | (9) | To reflect bad debt expense at 1% of total revenue at present rates. | (48,485) | (49,528) |

Palmetto Wastewater Reclamation, LLC
Docket No. 2018-82-S
Explanation of Accounting and Pro Forma Adjustments
For the Test Year Ended August 31, 2018

| ORS Adj. # | PWR Adj. # | Description | ORS | PWR |
|---------------|---------------|---|---------------------------|---------------------------|
| (2G) | (10) | To allocate allowable Ni America overhead costs to PWR. | 544,402 | 549,703 |
| (2H) | | To remove expenses incurred outside of the test year. | (15,871) | 0 |
| (2I) | | To remove nonallowable expenditures. | (2,067) | 0 |
| (2) | | <u>Total Operating Expenses</u> | <u>\$ 569,952</u> | <u>\$ 584,539</u> |
| (3) | | <u>Depreciation and Amortization</u> | | |
| (3A) | (11) | To adjust depreciation expense to reflect new capital expenditures and other adjustments to plant in service. | \$ 58,067 | \$ 55,186 |
| (3B) | (12) | To adjust amortization of contributions in aid of construction. | (3,398) | (9,097) |
| (3) | | <u>Total Depreciation and Amortization</u> | <u>\$ 54,669</u> | <u>\$ 46,089</u> |
| (4) | | <u>Taxes Other Than Income Taxes</u> | | |
| (4A) | (13) | To adjust utility regulatory assessment fees after the accounting and pro forma adjustments using a rate of 0.471772446%. | \$ (17,605) | \$ (18,190) |
| (4B) | (14) | To adjust property taxes to reflect new capital expenditures and adjusted net plant in service. | 82,344 | 83,572 |
| (4) | | <u>Total Taxes Other Than Income Taxes</u> | <u>\$ 64,739</u> | <u>\$ 65,382</u> |
| (5) | | <u>Income Taxes</u> | | |
| (5A) | - | To adjust state income taxes on pro forma income at 5%. | \$ 12,198 | \$ 677 |
| (5B) | - | To adjust federal income taxes on pro forma income at 21%. | 26,386 | 2,702 |
| (5) | | <u>Total Income Taxes</u> | <u>\$ 38,584</u> | <u>\$ 3,379</u> |
| (6) | (15) | <u>Other Income - AFUDC</u> To remove AFUDC from test year income. | <u>\$ (16,578)</u> | <u>\$ (16,578)</u> |

Palmetto Wastewater Reclamation, LLC
Docket No. 2018-82-S
Explanation of Accounting and Pro Forma Adjustments
For the Test Year Ended August 31, 2018

| ORS Adj. # | PWR Adj. # | Description | ORS | PWR |
|---------------|---------------|---|---------------------|--------------------|
| (7) | (16) | <u>Amortization of Debt Expense</u> To remove the amortization of debt expense. Debt expense is included in the calculation of the weighted average cost of debt for the calculation of interest expense. | \$ <u>(35,437)</u> | \$ <u>(35,437)</u> |
| (8) | - | <u>Plant in Service</u> To adjust gross plant in service as of 1/31/19. See Audit Exhibit CLS-3. | \$ <u>599,616</u> | \$ <u>594,730</u> |
| (9) | - | <u>Accumulated Depreciation</u> To adjust accumulated depreciation as of 1/31/19. See Audit Exhibit CLS-3. | \$ <u>(209,644)</u> | \$ <u>0</u> |
| (10) | - | <u>Contributions in Aid of Construction (CIAC)</u> To adjust contributions in aid of construction as of 1/31/19. See Audit Exhibit CLS-3. | \$ <u>(4,251)</u> | \$ <u>0</u> |
| (11) | - | <u>Accumulated Amortization of CIAC</u> To adjust the accumulated amortization of contributions in aid of construction as of 1/31/19. See Audit Exhibit CLS-3. | \$ <u>4,421</u> | \$ <u>0</u> |
| (12) | - | <u>Accumulated Deferred Income Taxes</u> To adjust accumulated deferred income taxes. | \$ <u>(1,564)</u> | \$ <u>(1,564)</u> |
| (13) | - | <u>Excess Deferred Income Taxes (EDIT)</u> To adjust rate base for the creation of an excess tax collection liability resulting from lower federal tax rates as calculated by the ORS Utility Rates Department. | \$ <u>(456,531)</u> | \$ <u>0</u> |
| (14) | - | <u>Cash Working Capital</u> To adjust cash working capital after accounting and pro forma adjustments. See Audit Exhibit CLS-5. | \$ <u>(96,936)</u> | \$ <u>57,887</u> |

ELECTRONICALLY FILED - 2019 April 2 12:22 PM - SCPSC - Docket # 2018-82-S - Page 14 of 22

Palmetto Wastewater Reclamation, LLC
Docket No. 2018-82-S
Explanation of Accounting and Pro Forma Adjustments
For the Test Year Ended August 31, 2018

| ORS Adj. # | PWR Adj. # | Description | ORS | PWR |
|--------------------------------|---------------|--|---------------------|---------------------|
| (15) | (16) | Interest Expense To synchronize interest expense with the portion of rate base financed by debt. | \$ <u>(690,179)</u> | \$ <u>(696,982)</u> |
| ORS's Proposed Increase | | | | |
| (16) | | Operating Revenues | | |
| (16A) | (17) | To adjust residential revenues to reflect the proposed rates as calculated by the ORS Utility Rates Department. | \$ 52,039 | \$ 106,533 |
| (16B) | (17) | To adjust residential-mobile home park revenues to reflect the proposed rates as calculated by the ORS Utility Rates Department. | 1,561 | 3,054 |
| (16C) | (17) | To adjust commercial revenues to reflect the proposed rates as calculated by the ORS Utility Rates Department. | 80,357 | 156,633 |
| (16D) | (17) | To adjust multiple family dwelling revenues to reflect the proposed rates as calculated by the ORS Utility Rates Department. | 191,123 | 349,578 |
| (16E) | - | To adjust other revenues to reflect the proposed rates as calculated by the ORS Utility Rates Department. | 2,468 | 0 |
| (16) | | Total Operating Revenues | \$ <u>327,548</u> | \$ <u>615,798</u> |
| Operating Expenses | | | | |
| (17) | (18) | To adjust bad debt expense at 1% of the total proposed increase to revenues at proposed rates. | \$ <u>3,275</u> | \$ <u>6,158</u> |
| (18) | (19) | Taxes Other Than Income Taxes To adjust utility regulatory assessment fees after the proposed increase adjustments using a rate of 0.471772446%. | \$ <u>1,545</u> | \$ <u>2,905</u> |

ELECTRONICALLY FILED - 2019 April 2 12:22 PM - SCPSC - Docket # 2018-82-S - Page 15 of 22

AWK

Palmetto Wastewater Reclamation, LLC
Docket No. 2018-82-S
Explanation of Accounting and Pro Forma Adjustments
For the Test Year Ended August 31, 2018

| ORS Adj. # | PWR Adj. # | Description | ORS | PWR |
|---------------|---------------|---|------------------|-------------------|
| (19) | | <u>Income Taxes</u> | | |
| (19A) | (21) | To adjust state income taxes on the proposed increase income at 5%. | \$ 16,137 | \$ 30,337 |
| (19B) | (20) | To adjust federal income taxes on the proposed increase income at 21%. | 64,384 | 121,043 |
| (19) | | <u>Total Income Taxes</u> | <u>\$ 80,521</u> | <u>\$ 151,380</u> |
| (20) | | <u>Amortization of EDIT</u> | | |
| | | To increase income by the annual amortization of excess deferred income taxes due to the Tax Cuts and Jobs Act. This adjustment was provided by the ORS Utility Rates Department. | \$ 13,662 | \$ 0 |

ELECTRONICALLY FILED - 2019 April 2 12:22 PM - SCPSC - Docket # 2018-82-S - Page 16 of 22

Palmetto Wastewater Reclamation, LLC
Docket No. 2018-82-S
Weighted Cost of Capital
For the Test Year Ended August 31, 2018

Settlement Attachment A
Page 7 of 7

| Description | Capital | | Application Per Books | | | | After Accounting and Pro forma Adjustments | | | | After ORS's Proposed Increase | | | |
|-----------------|----------------------|----------------|-----------------------|----------------------|---------------------|---------------------|--|----------------------|---------------------|---------------------|-------------------------------|----------------------|---------------------|---------------------|
| | Structure | Ratio | Rate Base | Embedded Cost/Return | Overall Cost/Return | Income For Return * | Rate Base | Embedded Cost/Return | Overall Cost/Return | Income For Return * | Rate Base | Embedded Cost/Return | Overall Cost/Return | Income For Return * |
| Long-Term Debt | \$ 15,982,546 | 45.00% | \$ 4,475,546 | 5.23% | 2.35% | \$ 234,071 | \$ 4,401,346 | 5.23% | 2.35% | \$ 230,190 | \$ 4,401,346 | 5.23% | 2.35% | \$ 230,190 |
| Members' Equity | 19,534,223 | 55.00% | 5,470,111 | 16.49% | 9.07% | 901,907 | 5,379,422 | 5.17% | 2.85% | 278,157 | 5,379,422 | 9.93% | 5.46% | 534,026 |
| Totals | \$ 35,516,769 | 100.00% | \$ 9,945,657 | | 11.42% | \$ 1,135,978 | \$ 9,780,768 | | 5.20% | \$ 508,347 | \$ 9,780,768 | | 7.81% | \$ 764,216 |

MS

DOCKET NO. 2018-82-S

ATTACHMENT B

PALMETTO WASTEWATER RECLAMATION LLC
1713 WOODCREEK FARMS ROAD
ELGIN, SC 29045
(803) 699-2422

PROPOSED SETTLEMENT SEWER RATE SCHEDULE
EFFECTIVE , 2019

1. **MONTHLY CHARGE**

- a. Residential - Monthly charge per single-family house, condominium, villa or apartment unit \$37.92
- b. Mobile Homes \$28.30
- c. Commercial - Monthly charge per single-family equivalent \$37.92
- d. The charges listed above are minimum charges and shall apply even if the equivalency rating is less than one (1). If the equivalency rating is greater than one (1), then the monthly charges may be calculated by multiplying the equivalency rating by the monthly charge of \$37.92.
- e. Bills issued for monthly sewer service provided during the thirty-six (36) month period beginning from and after the effective date of this rate schedule shall be reduced thirty-four (\$0.34) cents for residential customers and mobile home customers and thirty-four (\$0.34) cents per single family equivalent for commercial customers. Bills issued for service provided from and after that thirty-six (36) month period will be at the full rates shown above unless a different rate is approved by the Public Service Commission after the effective date of this rate schedule.

Commercial customers are those not included in the residential and mobile home categories above and include, but are not limited to, hotels, stores, restaurants, offices, industry, etc. Minimum commercial customer equivalency ratings may exceed one (1) in some cases.

The Utility may, for the convenience of the owner, bill a tenant in a multi-unit building consisting of four or more residential units which is served by a master sewer meter or a single sewer connection. However, in such cases all arrearages must be satisfied before

PAGE 2 - ATTACHMENT B

service will be provided to a new tenant or before interrupted service will be restored. Failure of an owner to pay for services rendered to a tenant in these circumstances may result in service interruptions.

2. **NONRECURRING CHARGES**

- a. Sewer service connection charge per single-family equivalent \$250.00

- b. The nonrecurring charges listed above are minimum charges and apply even if the equivalency rating is less than one (1). If the equivalency rating is greater than one (1), then the proper charge may be obtained by multiplying the equivalency rating by the appropriate fee. These charges apply and are due at the time new service is applied for, or at the time connection to the sewer system is requested.

3. **NOTIFICATION, ACCOUNT SET-UP AND RECONNECTION CHARGES**

- a. Notification Fee: A fee of \$25.00 shall be charged each customer to whom the Utility mails the notice as required by Commission Regulation 103-535.1 prior to service being discontinued. This fee assesses a portion of the clerical and mailing costs of such notices to the customers creating that cost.

- b. Customer Account Charge: A fee of \$20.00 shall be charged as a one-time fee to defray the costs of initiating service.

- c. Reconnection charges: In addition to any other charges that may be due, a reconnection fee of \$250.00 shall be due prior to the Utility reconnecting service which has been disconnected for any reason set forth in Commission Regulation 103-532.4. Where an elder valve has been previously installed, a reconnection charge of thirty-five dollars (\$35.00) shall be due. The amount of the reconnection fee shall be in accordance with Commission Regulation 103-532.4 and shall be changed to conform with said rule as the rule is amended from time to time.

4. **BILLING CYCLE**

Recurring charges will be billed monthly. Nonrecurring charges will be billed and collected in advance of service being provided.

PAGE 3 - ATTACHMENT B

5. **LATE PAYMENT CHARGES**

Any balance unpaid within twenty-five (25) days of the billing date shall be assessed a late payment charge of one and one-half (1½%) percent.

6. **TOXIC AND PRETREATMENT EFFLUENT GUIDELINES**

The Utility will not accept or treat any substance or material that has been defined by the United States Environmental Protection Agency ("EPA") or the South Carolina Department of Health and Environmental Control ("DHEC") as a toxic pollutant, hazardous waste, or hazardous substance, including pollutants falling within the provisions of 40 CFR §§ 129.4 and 401.15. Additionally, pollutants or pollutant properties subject to 40 CFR §§ 403.5 and 403.6 are to be processed according to the pretreatment standards applicable to such pollutants or pollutant properties, and such standards constitute the Utility's minimum pretreatment standards. Any person or entity introducing any such prohibited or untreated materials into the Company's sewer system may have service interrupted without notice until such discharges cease, and shall be liable to the Utility for all damages and costs, including reasonable attorney's fees, incurred by the Utility as a result thereof.

7. **REQUIREMENTS AND CHARGES PERTAINING TO SATELLITE SYSTEMS**

- a. Where there is connected to the Utility's system a satellite system, as defined in S.C. Code Regs. 61-9.505.8 or other pertinent law, rule or regulation, the owner or operator of such satellite system shall operate and maintain same in accordance with all applicable laws, rules or regulations.
- b. The owner or operator of a satellite system shall construct, maintain, and operate such satellite system in a manner that the prohibited or untreated materials referred to in Section 6 of this rate schedule (including but not limited to Fats, Oils, Sand or Grease), stormwater, and groundwater are not introduced into the Utility's system.
- c. The owner or operator of a satellite system shall provide Utility with access to such satellite system and the property upon which it is situated in accordance with the requirements of Commission Regulation 103-537.
- d. The owner or operator of a satellite system shall not less than annually inspect such satellite system and make such repairs, replacements, modifications, cleanings, or other undertakings necessary to meet the requirements of this Section 7 of the rate schedule. Such inspection shall be documented by written reports and video recordings of television inspections of lines and a copy of the inspection report received by the owner or operator of a satellite

PAGE 4 - ATTACHMENT B

system, including video of the inspection, shall be provided to Utility. Should the owner or operator fail to undertake such inspection, Utility shall have the right to arrange for such inspection and to recover the cost of same, without mark-up, from the owner or operator of the satellite system.

- e. Should Utility determine that the owner or operator of a satellite system has failed to comply with the requirements of this Section 7 of the rate schedule, with the exception of the requirement that a satellite system be cleaned, the Utility may initiate disconnection of the satellite system in accordance with the Commission's regulations, said disconnection to endure until such time as said requirements are met and all charges, costs and expenses to which Utility is entitled are paid. With respect to the cleaning of a satellite system, the owner or operator of a satellite system shall have the option of cleaning same within five (5) business days after receiving written notice from Utility that an inspection reveals that a cleaning is required. Should the owner or operator of such a satellite system fail to have the necessary cleaning performed within that time frame, Utility may arrange for cleaning by a qualified contractor and the cost of same, without mark-up, may be billed to the owner or operator of said system.

8. **CONSTRUCTION STANDARDS**

The Utility requires all construction to be performed in accordance with generally accepted engineering standards, at a minimum. The Utility from time to time may require that more stringent construction standards be followed in constructing parts of the system.

9. **EXTENSION OF UTILITY SERVICE LINES AND MAINS**

The Utility shall have no obligation at its expense to extend its utility service lines or mains in order to permit any customer to discharge acceptable wastewater into its sewer system. However, anyone or any entity which is willing to pay all costs associated with extending an appropriately sized and constructed main or utility service line from his/her/its premises to an appropriate connection point on the Utility's sewer system may receive service, subject to paying the appropriate fees and charges set forth in this rate schedule, complying with the guidelines and standards hereof, and, where appropriate, agreeing to pay an acceptable amount for multi-tap capacity.

10. **CONTRACTS FOR MULTI-TAP CAPACITY**

The Utility shall have no obligation to modify or expand its plant, other facilities or mains to treat the sewerage of any person or entity requesting multi-taps (a commitment for five or more taps) unless such person or entity first agrees to pay an

PAGE 5 - ATTACHMENT B

acceptable amount to the Utility to defray all or a portion of the Utility's costs to make modifications or expansions thereto.

11. **SINGLE FAMILY EQUIVALENT**

A Single Family Equivalent (SFE) shall be determined by using the wastewater design loading guidelines found in 6 S.C. Code Ann. Regs. 61-67 Appendix A (Supp. 2016). Where the Utility has reason to suspect that a person or entity is exceeding design loadings established by these guidelines, the Utility shall have the right to request and receive water usage records from that person or entity and/or the provider of water to such person or entity. Also, the Utility shall have the right to conduct an "on premises" inspection of the customer's premises. If it is determined that actual flows or loadings are greater than the design flows or loadings, then the Utility shall recalculate the customer's equivalency rating based on actual flows or loadings and thereafter bill for its services in accordance with such recalculated loadings.

12. **TAMPERING CHARGE**

In the event the Utility's equipment, mains, service lines, elder valves, or other plant or facilities have been damaged or tampered with by a customer, the Utility may charge the customer responsible for the damage the actual cost of repairing the Utility's equipment, plant or facilities not to exceed \$250.00. The tampering charge shall be paid in full prior to the Utility re-connecting service or continuing the provision of service. This charge shall be in addition to any notification, reconnection, or similar charges that the Utility is entitled to impose under this rate schedule or under Commission orders, rules, and regulations.

13. **LIMITATION OF LIABILITY**

The liability of the Utility, its officers, employees, and agents for damages arising out of the interruption of service or failure to furnish service, whether caused by acts or omissions, shall be limited to those remedies provided in the Commission's rules and regulations governing wastewater utilities.

Undine Texas, LLC and Undine Texas Environmental, LLC
 Schedule II-5 Known and Measurable Changes
 For the Test Year Ended September 30, 2019

Schedule II-5 Known and Measurable Changes - Water

| Line # | Acct No. | Sch/WP | Tab | Col # /Line # | Amount | Sch/WP | Tab | Col # /Line # | Amount | Less: Test Year Amount | TOTAL CHANGE |
|--------|----------|-----------------|-----------------|---------------|------------|------------|-------------------|---------------|--------------|---------------------------|-----------------|
| 1 | 610 | WP I-1; WP II-5 | K&M Adj by Acct | U-V; 10 | (4,832.72) | WP II-6 | Rollforward | F/32 & 40 | (21,694.07) | | (26,526.79) |
| 2 | 615.1 | WP I-1; WP II-5 | K&M Adj by Acct | S-V; 12 | 23,212.19 | | | | | | 23,212.19 |
| 3 | 618 | WP I-1; WP II-5 | K&M Adj by Acct | S-V; 13 | 5,632.38 | | | | | | 5,632.38 |
| 4 | 620 | WP I-1; WP II-5 | K&M Adj by Acct | S-V; 15 | 1,162.02 | | | | | | 1,162.02 |
| 5 | 631-642 | WP I-1; WP II-5 | K&M Adj by Acct | S-V; 16 | 41,714.01 | | | | | | 41,714.01 |
| 6 | 670 | WP I-1; WP II-5 | K&M Adj by Acct | S-V; 23 | 3,592.43 | WP II-6 | Rollforward | F/31,35, & 38 | (58,451.14) | | (54,858.71) |
| 7 | 676 | | | | | WP II-5 | Office Rent | M/10 | 35,153.90 | | 35,153.90 |
| 8 | 684 | WP I-1; WP II-5 | K&M Adj by Acct | S-V; 27 | (1,179.64) | | | | | | (1,179.64) |
| 9 | 667 | WP I-1; WP II-5 | K&M Adj by Acct | S-V; 28 | 2,268.48 | WP II-6 | Rollforward | F/33,36, & 39 | (91,945.60) | | (89,677.12) |
| 10 | 675 | | | | | WP II-7 | Summary ... | D/75 | 1,928,934.88 | | 1,928,934.88 |
| 11 | 675 | | | | | Attachment | Payroll 1st Qtr | V/171 | 265,151.74 | | 265,151.74 |
| 12 | 675 | | | | | Attachment | Payroll 4th Qtr | V/181 | (396,100.58) | | (396,100.58) |
| 13 | 675 | | | | | WP II-5 | IRIS | B/12 | 4,165.35 | | 4,165.35 |
| 14 | 675 | | | | | WP II-5 | Audit Tax ... | R/31 | 41,547.35 | | 41,547.35 |
| 15 | 675 | WP I-1; WP II-5 | K&M Adj by Acct | S-V; 29 | 3,483.33 | | | | | | 3,483.33 |
| 16 | 403/404 | | | | | WP III-2 | Summary Plant ... | J/43 | 563,906.23 | 507,585.95 | 56,320.28 |
| | | | | | | | Post TY Adds ... | Y/38 | | | |
| 17 | 408 | WP I-1; WP II-5 | K&M Adj by Acct | S-V; 32 | 1,908.60 | | | | | | 1,908.60 |
| 18 | 408 | | | | | Sch IV-2 | | F/8 | 319,570.77 | 54,162.57 | 265,408.20 |
| 19 | 409 | | | | | Sch V-1 | | C/6 | 188,674.61 | | 188,674.61 |

Schedule II-5 Known and Measurable Changes - Wastewater

| Line # | Acct No. | Sch/WP | Tab | Col # /Line # | Amount | Sch/WP | Tab | Col # /Line # | Amount | Less: Test Year Amount | CHANGE |
|--------|----------|-----------------|-----------------|---------------|------------|------------|-------------------|---------------|--------------|---------------------------|--------------|
| 1 | 711 | WP I-1; WP II-5 | K&M Adj by Acct | E-G/11 | 21,572.63 | | | | | | 21,572.63 |
| 2 | 715.1 | WP I-1; WP II-5 | K&M Adj by Acct | E-H/12 | 64,176.25 | | | | | | 64,176.25 |
| 3 | 718 | WP I-1; WP II-5 | K&M Adj by Acct | E-G/13 | 12,431.24 | | | | | | 12,431.24 |
| 5 | 720 | WP I-1; WP II-5 | K&M Adj by Acct | E-G/15 | 4,458.01 | | | | | | 4,458.01 |
| 6 | 731-736 | WP I-1; WP II-5 | K&M Adj by Acct | E-H/16 | 317,612.44 | | | | | | 317,612.44 |
| 7 | 770 | WP I-1; WP II-5 | K&M Adj by Acct | E-H/23 | 7,905.49 | | | | | | 7,905.49 |
| 8 | 776 | | | | | WP II-5 | Office Rent | M/12 | 11,078.31 | | 11,078.31 |
| 9 | 756-759 | WP I-1; WP II-5 | K&M Adj by Acct | E-H/27 | 9,006.01 | | | | | | 9,006.01 |
| 10 | 767 | WP I-1; WP II-5 | K&M Adj by Acct | E-H/28 | 3,182.38 | | | | | | 3,182.38 |
| 11 | 775 | | | | | WP II-7 | Summary ... | D/76 | 607,879.60 | | 607,879.60 |
| 12 | 775 | | | | | Attachment | Payroll 1st Qtr | V/73 | 83,559.24 | | 83,559.24 |
| 13 | 775 | | | | | Attachment | Payroll 4th Qtr | V/83 | (124,826.12) | | (124,826.12) |
| 14 | 775 | | | | | WP II-5 | IRIS | D/12 | 122.58 | | 122.58 |
| 15 | 775 | | | | | WP II-5 | Audit Tax ... | R/33 | 13,093.12 | | 13,093.12 |
| 16 | 775 | WP I-1; WP II-5 | K&M Adj by Acct | E-H/29 | 1,747.38 | | | | | | 1,747.38 |
| 17 | 403/404 | | | | | WP III-2 | Summary Plant ... | J/79 | 468,293.85 | 221,662.34 | 246,631.51 |
| 18 | 408 | WP I-1; WP II-5 | K&M Adj by Acct | E-H/32 | 5,551.96 | | | | | | 5,551.96 |
| 19 | 408 | | | | | Sch IV-2 | | F/8 | 54,055.35 | 13,264.59 | 40,790.76 |
| 20 | 409 | | | | | Sch V-1 | | C/6 | 189,492.97 | | 189,492.97 |

**Undine Operating, LLC
Telge Road Office Costs Estimate
For an Annual Period**

| | <u>Month</u> | <u>Annual</u> |
|---|---------------------|----------------------|
| Lease | \$ 14,000.00 | \$ 168,000.00 |
| Common Area Maintenance (Taxes, Insurance, Common Maint.) | 3,389.67 | 40,676.04 |
| Electricity | 1,000.00 | 12,000.00 |
| Garbage-Waste Management | 210.00 | 2,520.00 |
| J&W Janitorial | 1,299.00 | 15,588.00 |
| Internet AccessPoint-Phones and Internet Service | 1,990.00 | 23,880.00 |
| iDominion-I/T Services | 2,424.80 | 29,097.60 |
| Total | <u>\$ 24,313.47</u> | <u>\$ 291,761.64</u> |

| Office Space Allocation | <u>SqFt</u> | | | |
|---------------------------------------|-------------------------|----------------|----------------------|---------------------|
| Undine Operating Offices/Cubicles | 6,109.00 | | | |
| Utility Partners Offices/Cubicles | 3,005.00 | | | |
| Warehouse Space-Undine Operating | 3,948.66 | | | |
| Warehouse Space-Utility Partners | 1,942.34 | | | |
| Total Square Footage | <u>15,005.00</u> | | | |
| | | <u>%</u> | <u>Annual</u> | <u>Monthly</u> |
| Total Square Footage-Undine Operating | 10,057.66 | 67.03% | \$ 195,564.17 | \$ 16,297.01 |
| Total Square Footage-Utility Partners | 4,947.34 | 32.97% | 96,197.47 | 8,016.46 |
| TOTAL | <u>15,005.00</u> | <u>100.00%</u> | <u>\$ 291,761.64</u> | <u>\$ 24,313.47</u> |

The total estimated cost of the Telge Office allocated to Utility Partners is \$8,016.46, or ~\$8,000.00 rounded.


LEASE AGREEMENT

| <u>ARTICLE</u> | <u>TITLE</u> | <u>PAGE</u> |
|----------------|---|-------------|
| 1 | Basic Provisions and Certain Defined Lease Terms | 1 |
| 2 | Granting Clause | 2 |
| 3 | Construction and Acceptance of Leased Premises | 2 |
| 4 | Rent, Additional Rent and Security Deposit | 2 |
| 5 | Use and Care of Leased Premises | 4 |
| 6 | Maintenance/Repair of Leased Premises and Alterations | 5 |
| 7 | Landlord's Right of Access | 6 |
| 8 | Signs and Roof | 6 |
| 9 | Utilities | 7 |
| 10 | Insurance | 7 |
| 11 | Non-Liability for Certain Damages | 8 |
| 12 | Damage by Casualty | 9 |
| 13 | Condemnation | 9 |
| 14 | Assignment and Subletting | 10 |
| 15 | Property Taxes and Assessments | 11 |
| 16 | Defaults and Remedies | 11 |
| 17 | Landlord's Lien | 13 |
| 18 | Surrender and Holding Over | 13 |
| 19 | Subordination, Attornment and Estoppel | 14 |
| 20 | Notices | 14 |
| 21 | Miscellaneous | 15 |

EXHIBITS

| | |
|---|--|
| A | Leased Premises Legal Description |
| B | Leased Premises Site Plan |
| C | Construction Rider |
| D | Intentionally Deleted |
| E | Rules and Regulations |
| F | Environmental/Hazardous Waste Addendum |
| G | Tenant Information |
| H | Utility Transfer |
| I | Common Area Maintenance |

THE SUBMISSION OF THIS LEASE FOR EXAMINATION BY TENANT AND/OR EXECUTION THEREOF BY TENANT DOES NOT CONSTITUTE A RESERVATION OF OR OPTION FOR THE LEASED PREMISES AND THIS LEASE SHALL BECOME EFFECTIVE ONLY UPON EXECUTION BY ALL PARTIES HERETO AND DELIVERY OF A FULLY EXECUTED COUNTERPART HEREOF BY LANDLORD TO TENANT.


Initials

LEASE AGREEMENT

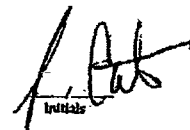
This Lease Agreement ("Lease") is entered into by and between the Landlord and Tenant effective this the 17th day of April, 2018 in accordance with the terms and conditions hereinafter set forth.

ARTICLE 1. BASIC PROVISIONS AND CERTAIN DEFINED LEASE TERMS

1.1 When used herein, the following terms shall have the indicated meanings:

- A. Landlord: AC Telge Business Park, LLC
- B. Landlord's Agent: Adkisson Group, Inc.
Address of Landlord: 12651 Briar Forest #250, Houston TX 77077
- C. Tenant: Undine Operating, LLC
Billing Address of Tenant: 16681 Telge Rd., Cypress, TX 77429
- D. Leased Premises: The real property described in the attached Exhibit "A," together with all improvements thereon or appurtenant thereto, including an approximately 15,000 square foot building shown as BLDG 6 on the site plan attached as Exhibit "B", more commonly known as 16681 Telge Rd., Cypress, TX 77429
- E. Lease Term: Beginning on the Commencement Date and expiring on the Termination Date.
- F. Commencement Date: July 1, 2018 (unless modified under Article 3).
- G. Termination Date: 88 months from the Commencement Date, except that in the event the Commencement Date is a date other than the first day of a calendar month, the Lease Term shall extend for the same number of months in addition to the remainder of the calendar month following the Commencement Date.
- H. Rent:
 - (1) Months 1 - 4: \$0.00 per rentable square foot per month (does not include additional rent of \$3,389.67)
 - Months 5 - 36: \$0.9333 per rentable square foot per month (\$14,000.00/month)
 - Months 37 - 60: \$0.9707 per rentable square foot per month (\$14,560.00/month)
 - Months 61 - 88: \$1.0095 per rentable square foot per month (\$15,142.00/month)
 - (2) Additional Rent: To be adjusted according to Article 4.
 - (3) Insurance Escrow Payment: \$600.00
 - (4) Tax Escrow Payment: \$2,400.00
 - (5) CAM Escrow Payment: \$389.67
 - (6) Total Initial Rental Payment: \$17,389.67
- I. Prepaid Rent: \$17,389.67 to be applied to Tenant's First Month of full rent.
- J. Security Deposit: \$14,000.00
- K. Permitted Use: office, warehouse for water and wastewater operations and equipment, parts, and related property
- L. Real Estate Broker: Adkisson Brokerage & Development

1.2 Each of the foregoing Basic Provisions and Certain Defined Lease Terms shall be construed in conjunction with the references thereto contained in the other provisions of this Lease and shall be limited by such other provisions. Each reference in this Lease to any of the foregoing Basic Provisions and Certain Defined Lease Terms shall be construed to incorporate each term set forth above.


Initials

ARTICLE 2. GRANTING CLAUSE

2.1 In consideration of the obligation of Tenant to pay Rent as herein provided and in consideration of the other terms, covenants and conditions hereof, Landlord hereby leases to Tenant, and Tenant hereby takes from Landlord the Leased Premises for the Lease Term, unless sooner terminated in accordance with the terms and conditions set forth below.

2.2 EXCEPT AS SPECIFICALLY PROVIDED IN THIS LEASE, TENANT ACKNOWLEDGES THAT LANDLORD HAS MADE NO WARRANTIES TO TENANT AS TO THE CONDITION OF THE LEASED PREMISES, EITHER EXPRESS OR IMPLIED, AND LANDLORD EXPRESSLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, MARKETABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. Landlord will certain manufacture warranties that he will be able to transfer or utilize for any repairs. The Landlord will provide a one (1) year warranty from the General Contractor on the building, site work and interior build out.

ARTICLE 3. CONSTRUCTION AND ACCEPTANCE OF LEASED PREMISES

3.1 The Leased Premises shall be constructed in accordance with the Construction Rider attached as Exhibit "C". [As used herein, "Delivery of Possession" occurs on the first date that: (i) the Landlord Work (as described in the attached Exhibit "C") is substantially complete, (ii) Landlord gives written notice of completion to Tenant, and (iii) Tenant accepts the Landlord Work by counter-signing a declaration of the Commencement Date, such acceptance to be delivered within 5 business days of the receipt of Landlord's written notice of completion, and not to be unreasonably conditioned or withheld

3.2 Unless Tenant notifies Landlord in writing prior to Delivery of Possession of any deficiency in the Landlord Work, Tenant acknowledges that (a) it has inspected and accepts the Leased Premises, specifically including the existing leasehold improvements (if any) that will remain and benefit Tenant, (b) the buildings and improvements comprising the Leased Premises are suitable for the purposes for which they are leased, (c) the Leased Premises are in good and satisfactory condition, and (d) no representation as to the repair of the Leased Premises, nor promises to alter, remodel or improve the Leased Premises have been made by Landlord unless otherwise expressly set forth in the Construction Rider. If Tenant notifies Landlord in writing of any latent defects in the Leased Premises within 60 days after the date of this Lease, Landlord shall, at its cost, repair such latent defects.

3.3 If this Lease is executed before the Leased Premises become vacant or otherwise available and ready for occupancy, or if any present Tenant or occupant of the Leased Premises holds over, and Landlord cannot acquire possession of the Leased Premises prior to the Commencement Date, Landlord shall not be deemed to be in default hereunder and Tenant agrees to accept possession of the Leased Premises at such time as Landlord is able to tender the same, which date shall be deemed the Commencement Date and Landlord hereby waives payment of Rent covering any period prior to the tendering of possession to Tenant hereunder.

3.4 If Tenant fails to occupy the Leased Premises for any reason after substantial completion of any improvements constructed in accordance with the Construction Rider, or if Tenant whether constructively or actively prevents or hinders Landlord from constructing the improvements contemplated by the Construction Rider, this Lease shall be deemed to have been commenced automatically and the Commencement Date shall be deemed to be the date on which the improvements would have been completed in Landlord's sole, but reasonable judgment, but for such hindrance or prevention by Tenant.

3.5 Provided that Tenant obtains and delivers to Landlord the certificates or policies of insurance called for in Article 10, Landlord, in its sole discretion, may permit Tenant and its employees, agents, contractors and suppliers to enter the Leased Premises prior to the Commencement Date (and such entry alone, shall not constitute Tenant's taking possession of the Leased Premises for the purpose of this Article 3) to prepare the Leased Premises for Tenant's occupancy. Landlord may withdraw any permission granted pursuant to this Section upon 24 hours' notice to Tenant. Any prior entry shall be under all of the terms of this Lease (other than the obligation to pay Rent) and at Tenant's sole risk. Landlord shall not be liable in any way for personal injury, death or property damage (including damage to any personal property which Tenant may bring into, or any work which Tenant may perform in, the Leased Premises) which may occur by Tenant or such other person or firm as a result of any prior entry.

ARTICLE 4. RENT, ADDITIONAL RENT AND SECURITY DEPOSIT

4.1 Rent shall accrue hereunder from the Commencement Date as stated in Section 1.1, and shall be payable at the address of Landlord's Agent or such other place as Landlord shall designate in writing to Tenant. Landlord acknowledges receipt from Tenant of the Prepaid Rent, to be applied to the first month's Rent.



Handwritten signature and initials, possibly "A. J. [unclear]", with the word "Initials" written below.

4.2 Tenant shall pay to Landlord the Rent, without demand, deduction or setoff. To effectuate the payments due under this Lease, Tenant hereby authorizes Landlord to initiate debit entries to a deposit account to be designated by Tenant and to debit all payments due under this Lease to such account utilizing the automated clearing house (ACH) system of the Federal Reserve System. This authorization to initiate debit entries shall remain in full force and effect during the Term of this Lease. Tenant acknowledges that (i) if such debit entries may cause an overdraft of any such account; and (ii) if a debit is not made because any such account does not have a sufficient available balance, or otherwise, the Rent payment may be late or past due. Rent shall be due and payable on or before the first day of each calendar month during the Lease Term; provided, that if the Commencement Date should fall on a date other than the first day of a calendar month, there shall be due and payable a prorata proportion of the Rent.

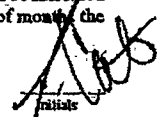
4.3 Should Landlord fail to receive any monthly installment of Rent due under this Lease within 10 days after such payment is due, Tenant agrees to pay Landlord as a late charge, 10% of any such payment in order to compensate Landlord for expenses incurred for processing late payments.

4.4 In addition to and separate from the Base Rent, Tenant will pay to Landlord an amount equal to all Taxes (as defined below) and all Insurance Premiums (as defined below). The amount of the Tax Escrow Payment and Insurance Escrow Payment (collectively, the "Additional Rent") shall initially be in the amounts specified in Section 1.1. The Additional Rent shall be payable monthly in advance during the Lease Term; except, however, if the Lease Term does not begin on the first day of a calendar month, Tenant shall pay a prorata portion of such sums for such partial month. As used herein, the following terms shall have the hereinafter indicated meaning:

- A. The term "Taxes" shall mean, all taxes, assessments, special assessments, impositions, levies, charges, excises, fees, licenses and other sums levied, assessed, charged or imposed by any governmental authority or other taxing authority or which accrue on the Leased Premises for each calendar year (or portion thereof) during the term of this Lease, and all penalties, interest, and other charges (with respect to Taxes) payable by reason of any delay in or failure or refusal of Tenant to make timely payment as required under this Lease.
- B. The term "Insurance Premiums" shall mean, the total annual insurance premiums which accrue on all fire and extended coverage insurance, boiler insurance, public liability and property damage insurance, contractual liability insurance and other insurance which, from time to time, may at Landlord's election be carried by Landlord with respect to the Leased Premises during any applicable calendar year (or portion thereof) occurring during the term of this Lease; provided, however, in the event that during any such calendar year all or any part of such coverage is written under a "blanket policy" or otherwise in such manner that Landlord was not charged a specific insurance premium applicable solely to the Leased Premises, then in such event, the amount considered to be the Insurance Premium with respect to such coverage for such calendar year shall be that amount which would have been the annual insurance premium payable under the rates in effect on the first day of such applicable calendar year for a separate Texas Standard Form insurance policy generally providing such type and amount of coverage (without any deductible amount) with respect to the Leased Premises (considering the type of construction and other relevant matters) irrespective of the fact that Landlord did not actually carry such type policy.
- C. The term "CAM" shall apply to the common areas of the development project commonly known as Telge Business Park Phase II for costs listed on Exhibit H. For clarification, the share of Additional Rent for CAM shall be a proportionate amount of the total CAM assigned to 16681 Telge Road as set forth on Exhibit I.

4.5 The initial monthly Additional Rent payments are based upon estimated amounts of the Taxes, Insurance Premiums and CAM shall be increased or decreased annually to reflect the then current projected costs of all such expenses. The taxes once fully assessed by the taxing authority will have an increase from the stated amount on Section H (2) Tax Escrow. Landlord shall total all expenses annually, and reconcile the actual amount of such expenses against Tenant's total Additional Rent payments. If Tenant's total Additional Rent payments are less than the actual amount of such expenses, Tenant shall pay the difference to Landlord within 10 days after demand. If the total Additional Rent payments of Tenant are more than the actual amount of such expenses, Landlord shall retain such excess and credit it against Tenant's future liabilities for such expenses. Tenant shall have the right to review, at Tenant's expense, and after giving 20 days prior notice to Landlord, Landlord's records relating to the Taxes and Insurance Premiums for any periods within 2 years prior to the review; provided, however, no review shall extend to the periods of time preceding the Commencement Date.

4.6 If, at any time during the Lease Term or any renewal or extension thereof, any special assessments should be made against the Leased Premises, whether for street improvements or other purposes, the Additional Rent required to be paid by Tenant to Landlord under the terms of this Lease shall be increased by a sum equal to the fraction (having a numerator of one and a denominator of the number of months the



appropriate governmental agency levying such assessment permits Landlord to pay for same) of the amount of such assessment, plus any interest Landlord must pay thereon. Such increase shall become effective on the first day of the month following the month in which such assessment or expenditure is required to be paid by Landlord and shall continue until the expiration or earlier termination of the Lease Term and any renewals or extensions thereof, or until the expiration of that number of months (being the number of months the appropriate governmental agency levying such assessment permits Landlord to pay for same) after the first such increased Additional Rent payment shall become due, whichever event shall first occur.

4.7 This Lease is a triple net lease, and Tenant shall pay all cost, taxes and assessments, the payment for which Landlord or Tenant is or becomes liable for by reason of Tenant's estate or interest in the Leased Premises or in this Lease, or which are connected with or arise out of the possession, use, occupancy, maintenance, building, or rebuilding of any improvements to the Leased Premises, or repair or remodeling of the interior of the Leased Premises, or a portion thereof.

4.8 Tenant agrees to deposit with Landlord on the date hereof the Security Deposit which shall be held by Landlord, without obligation for interest, as security for the performance of Tenant's obligations under this Lease. It being expressly understood and agreed that the Security Deposit is not an advance rental deposit or a measure of Landlord's damages in case of Tenant's default. Upon each occurrence of an Event of Default, Landlord may use all or part of the Security Deposit to pay past due Rent or other payments due Landlord under this Lease, and the cost of any other damage, injury, expense or liability caused by such Event of Default without prejudice to any other remedy provided herein or provided by law. On demand, Tenant shall pay Landlord the amount that will restore the Security Deposit to its original amount. If Tenant is in default under this Lease, more than 2 times within any 12 month period, irrespective of whether or not such default is cured, then, without limiting Landlord's other rights and remedies provided for in this Lease or at law or in equity, the Security Deposit shall automatically be increased in an amount equal to 2 times the original Security Deposit, which shall be paid by Tenant to Landlord on demand. If Tenant is not then in default hereunder, any remaining balance of the Security Deposit shall be returned by Landlord to Tenant upon termination of this Lease; provided, however, should the Lease terminate, as herein provided, during the middle of any year, Landlord shall be permitted to retain the Security Deposit to secure the payment of any and all amounts, which are provided for in this Lease, which might be due for the Tenant's pro-rata portion of the year that Tenant had occupied the Leased Premises. The Security Deposit shall be promptly returned to Tenant if Landlord determines that no additional amounts are due by the Tenant for such year. If Tenant owes any such additional amounts, the same shall be deducted from the Security Deposit, and the balance thereof, if any, remitted to the Tenant.

4.9 Landlord and Tenant are knowledgeable and experienced in commercial transactions and agree that the provisions of this Lease for determining Additional Rent payable by Tenant are commercially reasonable and valid even though such methods may not state a precise mathematical formula for determining such charges. ACCORDINGLY, TENANT VOLUNTARILY AND KNOWINGLY WAIVES (TO THE MAXIMUM EXTENT ALLOWED UNDER APPLICABLE LAW) ALL RIGHTS AND BENEFITS OF THE TENANT UNDER SECTION 93.012 OF THE TEXAS PROPERTY CODE, AS SUCH SECTION NOW EXISTS OR AS MAY BE HEREAFTER AMENDED OR SUCCEEDED.

ARTICLE 5. USE AND CARE OF LEASED PREMISES

5.1 The Leased Premises shall be used and occupied only for the Permitted Use. Outside storage shall be limited to the fenced area within the Leased Premises, or as otherwise agreed in writing by Landlord, and shall be maintained in a neat and orderly manner. Tenant shall at its own cost and expense obtain any and all licenses and permits necessary for any such use. Tenant shall comply with all governmental orders and directives for the correction, prevention and abatement of nuisances in or upon, or connected with the Leased Premises, all at Tenant's sole expense. Tenant shall take care of the Leased Premises and not permit any unreasonably objectionable or unpleasant odors, smoke, dust, gas, noise or vibrations to emanate from the Leased Premises and not take any other action which would constitute a nuisance. Tenant will not permit the Leased Premises to be used for any purpose or in any manner which would (a) render the insurance thereon void or the insurance risk more hazardous; (b) cause the State Board of Insurance or other insurance authority to disallow any sprinkler credits; or (c) increase the fire and extended coverage insurance rate on the building or structure located on the Leased Premises or a part or its contents. If any increase in the fire and extended coverage insurance premiums paid by Landlord is caused by Tenant's use and occupancy of the Leased Premises, or if Tenant vacates the Leased Premises and causes an increase in such premiums, then Tenant shall pay to Landlord as additional rental the amount of such increase.

5.2 Tenant shall, at its own expense, comply with all laws, orders, and requirements of all governmental entities with reference to the use and occupancy of the Leased Premises. Tenant and Tenant's agents, employees and invitees shall fully comply with the Rules and Regulations attached as Exhibit "E". Landlord may make reasonable changes in the Rules and Regulations from time to time as deemed advisable for the safety, care and cleanliness of the Leased Premises, provided same are in writing and are not in conflict with this Lease.



5.3 Tenant agrees to comply with the terms, covenants and provisions of the Environmental/Hazardous Waste Addendum which is attached as Exhibit "F".

**ARTICLE 6. MAINTENANCE/REPAIR
OF LEASED PREMISES AND ALTERATIONS**

6.1 Landlord shall keep the structural soundness of the foundation, exterior walls (except plate glass, windows, doors, door closure devices, window and door frames, molding, locks and hardware, and interior painting or other interior treatments of exterior walls), and exterior roof of the Leased Premises, and roof membrane in good repair; except that Landlord shall not be required to provide normal maintenance of the Leased Premises, including painting of the exterior walls or make any repairs occasioned by an act of willful misconduct or negligence by Tenant, its employees, subtenants, licensees and concessionaires. In the event that the Leased Premises should become in need of repairs required to be made by the Landlord, Tenant shall give prompt notice thereof to Landlord, and Landlord shall proceed with reasonable diligence to make such repairs. Landlord's obligation to repair or replace the aforementioned items shall be limited solely to the cost of such repairs or replacement or the curing of any defect in the same; provided that if Landlord fails to satisfy its obligations in a timely manner, Tenant has the right to make such repair or replacements and Landlord shall promptly reimburse Tenant for such costs within 30 days after demand therefor by Tenant.

6.2 Except as specifically provided in this Lease, Tenant shall keep the Leased Premises, including the parking lot, driveway, and sidewalk (if any), in a good and clean condition and shall at its sole cost and expense make all needed repairs and replacements, including cracked or broken glass, windows, doors, heating system, plumbing work, pipes and fixtures, air conditioning equipment, electrical equipment and fixtures, utility lines, and the interior and exterior of the Leased Premises generally. Tenant shall make all necessary repairs and replacements of its fixtures required for the proper conduct of its business. Tenant shall repaint the building and all portions thereof (interior and exterior) from time to time whenever the same may be necessary to preserve the building in good condition and maintain it in an attractive appearance. Tenant shall maintain all landscaping at or about the Leased Premises (or originally installed by Tenant in accordance with the terms hereof) in a neat and attractive condition. Tenant shall also perform periodic extermination and pest control within the Leased Premises to keep them free from insect and vermin infestation. At the expiration or earlier termination of this Lease, Tenant shall surrender the Leased Premises, including all improvements located thereon (except as otherwise provided in the Lease) in good condition, reasonable wear and tear and damage by fire or other casualty excepted. Landlord agrees to afford to Tenant the benefit of any guarantees or warranties of third parties which may be applicable to air-conditioning equipment and other machinery and equipment installed by Landlord in the Leased Premises, without recourse upon Landlord. Notwithstanding the foregoing, if, during the Lease Term (and thereafter during Tenant's continuing possession of the Leased Premises), any air conditioner which is to be repaired by Tenant under this Lease can no longer reasonably be repaired (or if repairs are successively made to the air conditioner because of repeated failure), then the cost of the replacement of such air conditioner will be allocated between Tenant and Landlord as follows:

(A) If the age of the applicable air conditioner equals or exceeds the expected life or similar term as set forth in the materials provided by the manufacturer thereof ("the Expected Life") then Landlord shall pay for the entire cost of such replacement air conditioner.

(B) If the age of the applicable air conditioner is less than the Expected Life, so long as the cause of the replacement of the air conditioner is not attributable to Tenant's use or misuse of the air conditioner beyond the operational, functional or structural capacity thereof then the cost of the replacement shall be allocated between the Landlord and Tenant as follows: The Tenant's share (i.e., the amount thereof to be paid by Tenant), will be equal to the product of the total cost thereof multiplied by a fraction (not to exceed 1.0) the numerator of which is equal to the then remaining Lease Term of the Lease (in days) and the denominator of which is equal to the cost of such replacement air conditioner. The balance of the cost will be the Landlord's share.

6.3 If Landlord considers necessary any repairs, maintenance, renewals or replacements required by the provisions of this Lease to be made or provided by Tenant, Landlord may request that Tenant make such repairs or perform such maintenance or provide such renewal or replacements, and, upon Tenant's failure or refusal to initiate and pursue diligently to do so within 10 days after notice is delivered to Tenant by Landlord (and in any event in case of an emergency irrespective of whether Landlord shall have requested or obtained Tenant's prior consent), Landlord shall have the right (but shall not be obligated), to make such repair, perform such maintenance or provide such renewal or replacement; thereupon Tenant will, at Landlord's election, on demand pay (or reimburse Landlord for) the reasonable cost thereby incurred by Landlord. For these purposes an "emergency" shall be deemed to exist if, in the good faith judgment of Landlord, prompt action is needed in order to prevent death, bodily injury or property damage. Any such sum which Tenant becomes liable to pay to or reimburse Landlord for hereunder may be treated by Landlord as a portion of the rental due and owing by Tenant to Landlord with the next succeeding installment of Rent due hereunder, for purposes of determining Landlord's remedies in the event of any failure by Tenant to pay such sum to Landlord contemporaneous with the next succeeding installment of Rent due hereunder. If Landlord makes any such repairs, performs any such

[Handwritten signature]
Initials

maintenance, or provides any such renewal or replacement, or undertakes to do so, then Landlord shall not be liable to Tenant for any loss or damage that may occur to Tenant's merchandise, fixtures, or other property, or to Tenant's business incident to such action by Landlord.

6.4 Tenant, at its own cost and expense, shall enter into a regularly scheduled preventative maintenance/service contract with a maintenance contractor approved by Landlord for servicing all hot water, heating and air conditioning systems and equipment within the Leased Premises. The service contract must include all services suggested by the equipment manufacturer in its operations/maintenance manual and must become effective and a copy thereof delivered to Landlord within 30 days of the date Tenant takes possession of the Leased Premises.

6.5 Tenant shall not make any openings in the roof or exterior walls, nor make any alterations, additions, or improvements to the Leased Premises without the prior written consent of Landlord (which consent shall not be unreasonably withheld or delayed), except for the installation of unattached removable trade fixtures which may be installed without drilling, cutting or otherwise defacing the Leased Premises. All alterations, additions, improvements and fixtures (other than unattached, movable trade fixtures and equipment which may be made or installed by either party hereto) upon the Leased Premises, including, but not limited to, the HVAC system, pipes, paneling or other wall covering, any linoleum or other floor covering of similar character which may be cemented or otherwise adhesively affixed to the floor of the Leased Premises, shall remain upon and be surrendered with the Leased Premises and become the property of Landlord at the expiration or earlier termination of this Lease, all without credit or compensation to Tenant unless Landlord requests their removal at the time of installation thereof, in which event Tenant shall remove the same and restore the Leased Premises to its original condition at Tenant's sole cost and expense. All plumbing or other electrical wiring connections exposed as result of the removal of Tenant's removable trade fixtures, shall be kept by Tenant in a safe and workmanlike manner.

6.6 If, at any time, during the primary term of this Lease or any renewal or extension thereof, any governmental agency or body requires a modification or change in the Leased Premises or any part thereof, including, without limitation, the Americans with Disabilities Act of 1990 due to Tenant's use of the Leased Premises in a manner not consistent with the uses permitted hereunder (the "ADA"). If Tenant is responsible therefor in accordance with the preceding sentence, Tenant shall make such modifications or change at its sole cost, unless Landlord elects, at its sole option, to perform such work, then Tenant shall pay to the Landlord, on demand, the total cost of such modification or change.

6.7 All construction work done by Tenant shall be performed in a good and workmanlike manner, in compliance with all governmental requirements. Without limitation on the generality of the foregoing, Landlord shall have the right to require that such work be performed in accordance with rules and regulations which Landlord may from time to time reasonably prescribe. All costs of such work shall be paid promptly so as to prevent the assertion of any liens for labor or materials. Tenant agrees to indemnify Landlord and hold Landlord harmless against any loss, liability or damage resulting from such work and Tenant shall, if requested by Landlord, furnish a reasonable bond or other security satisfactory to Landlord against any such loss, liability or damage. Whenever Tenant proposes to do any construction work, it shall first furnish to Landlord plans and specifications in such detail as Landlord may request covering all such work. In no event shall any construction work be commenced without Landlord's written approval of such plans and specifications, which consent shall not be unreasonably withheld or delayed, and Tenant furnishing Landlord with such insurance and other assurances as Landlord shall reasonably require.

ARTICLE 7. LANDLORD'S RIGHT OF ACCESS

7.1 Landlord, its employees, contractors, agents and representatives, shall have the right to enter upon the Leased Premises during normal business hours, unless for emergency reasons, for the purpose of inspecting the same, or of making repairs to the Leased Premises, or of showing the Leased Premises to prospective purchasers, tenants or lenders. In an emergency, Landlord (or such other persons and firms) may use any means to open any door into or in the Leased Premises without any liability therefor.

ARTICLE 8. SIGNS AND ROOF

8.1 Tenant shall not, without Landlord's prior written consent, which consent shall not be unreasonably withheld or delayed, (a) install outside the interior surface of the perimeter walls of the Leased Premises any lighting or awnings, or any decorations or paintings, (b) install any drapes, blinds, shades, or other coverings on the windows and entrance doors, or (c) erect or install any signs, window or door lettering, placards, decorations, or advertising media or any type which can be viewed from outside of the Leased Premises. All signs installed shall be kept in good condition and in proper operating order at all times. Tenant shall repair, paint, and/or replace the building fascia surface to which its signs are attached upon vacation of the Leased Premises, or the removal or alteration of its signage. All signs, decorations, advertising media, blinds, draperies and other window treatment or bars or other security installations shall conform at Tenant's expense in all respects to the criteria established by Landlord and any applicable governmental laws, ordinances,

[Handwritten signature]
Initials

regulations, or other requirements. Use of the roof is reserved to the Landlord, provided such use does not unreasonably interfere with Tenant's occupancy.

ARTICLE 9. UTILITIES

9.1 Landlord agrees to provide normal water, sewer, electricity, and telephone service connections to the Leased Premises upon the Commencement Date hereof, which connections, regardless of location, shall hereafter be maintained by Tenant. Tenant will at its own cost and expense pay for all water, sanitary sewer, gas, electricity and other utilities used in connection with the Leased Premises, including the connection cost thereof, and will save and hold Landlord harmless from any charge or liability for same. Such payments shall be made directly to the supplier of any utility separately metered (or submetered) to the Leased Premises.

9.2 Should any governmental body or agency determine that the Tenant's use of the sanitary sewer system serving the Leased Premises causes the sewerage standards of the Leased Premises to exceed the maximum permitted amount provided by such governmental body or agency, which causes an additional impact fee to be charged, Tenant shall be required to pay the amount of such charges.

9.3 Landlord shall not be liable for any interruption whatsoever in utility services due to fire, accident, strike, acts of God, or other causes beyond the control of Landlord or in order to make alterations, repairs, or improvements.

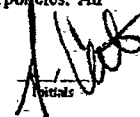
ARTICLE 10. INSURANCE

10.1 Landlord shall obtain and cause to be maintained upon the buildings situated on the Leased Premises, Causes of Loss - Special Form property insurance (formerly known as "All Risk"), and such other insurance as Landlord or its lender may deem appropriate. Tenant shall pay to Landlord, as Additional Rent, the Insurance Escrow Payment, which amount will be adjusted in accordance with Article 4.

10.2 Tenant shall obtain and maintain through the Lease Term the following policies of insurance:

- A. Causes of Loss - Special Form (formerly known as "All Risk") property insurance, (ISO Form CP 10 30 or equivalent) covering the replacement costs, without deduction for depreciation, of (i) all alterations, additions, partitions, and improvements both currently situated on the Leased Premises and those installed or placed on the Leased Premises by Tenant or by Landlord on behalf of Tenant, and (ii) all of Tenant's personal property located in and on the Leased Premises (including, but not limited to, the HVAC system and plate glass).
- B. Commercial General Liability Insurance (ISO Form CG 01 12 04 or equivalent) written on an "occurrence" basis against all claims on account of liability of Tenant, with limits, against claims for bodily injury, death, sickness and property damage occurring in or about the Leased Premises, such insurance to afford protection of not less than \$1,000,000.00 per occurrence, \$2,000,000.00 general aggregate, and an umbrella limit of \$3,000,000.00.
- C. Rental income insurance with coverage for actual loss sustained up to 12 months sufficient to cover Tenant's rental obligations under this Lease.
- E. Worker's compensation insurance and employer's liability insurance, in compliance with statutory requirements.
- F. Business Automobile Liability insurance covering Tenant's vehicles with proper limits, but not less than \$1,000,000.00 combined single limit.
- G. Such other policy or policies of insurance as Landlord may reasonably require against other insurance hazards which at the time are commonly insured against in the case of premises similar situated, with due regard given to the height and type of the improvements located on the Leased Premises, its construction, location, use and occupancy, and any replacements or substitutions therefor.

Tenant shall deliver to Landlord, prior to the Commencement Date, proof of such insurance (on ACORD Form 28, or ISO Form 20 26, or equivalent) and shall, at all times during the Lease Term, deliver to Landlord upon request, true and correct copies of said insurance policies. The policy or policies shall (i) other than the Worker's compensation insurance, name Landlord and Landlord's Agent as additional insured, (ii) provide that they will not be canceled or reduced in coverage without 30 days' notice to Landlord, (iii) insure an occurrence and not a claims made basis, (iv) contain a replacement cost endorsement, (v) contain a deductible of not more than \$10,000.00, and (vi) be primary coverage, so that any insurance coverage obtained by Landlord shall be in excess thereof. Tenant shall deliver to Landlord certificates of renewal at least 30 days prior to the expiration date of each such policy and copies of new policies at least 30 days prior to terminating any such policies. All



policies of insurance required to be obtained and maintained by Tenant shall be subject to the reasonable approval of Landlord as to terms, coverage, deductibles and insurer.

10.3 Landlord and Tenant hereby waive all claims, rights of recovery and causes of action that either party or any party claiming by, through or under such party may now or hereafter have by subrogation or otherwise against the other party or against any of the other party's officers, directors, shareholders, partners or employees for any loss or damage that may occur to the Leased Premises, Tenant's improvements or any of the contents of any of the foregoing by reason of fire or other casualty, or by reason of any other cause except gross negligence or willful misconduct (thus including simple negligence of the parties hereto or their officers, directors, shareholders, partners or employees), that could have been insured against under the terms of the fire and extended coverage insurance policy required to be obtained and maintained under this Article 10; provided, however, that the waiver set forth in this Section shall (a) be ineffective against any insurer of Landlord or Tenant to the extent that the waiver is prohibited by the laws or insurance regulations of the state in which the Leased Premises is located or would invalidate any insurance coverage of Landlord or Tenant, and (b) not apply to any deductibles on insurance policies carried by Landlord or to any coinsurance penalty which Landlord might sustain. Landlord and Tenant hereby agree to cause (if available) an endorsement to be issued to their respective insurance policies recognizing this waiver of subrogation.

10.4 Tenant hereby assumes liability for, and agrees to defend, indemnify, protect and hold harmless Landlord, its successors, assigns, affiliates, directors, shareholders, partners, contractors, employees and agents (all of the prior parties individually and collectively, the "Landlord's Related Parties") from and against, all liabilities, obligations, fines, demands, judgments, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements (including court costs and reasonable attorneys' fees) of every kind or character (a) arising from any breach, violation or non-performance of any term, provision, covenant, agreement or condition on the part of Tenant hereunder (b) recovered from or asserted against any of the Landlord's Related Parties on account of injury or damage to person or property to the extent that any such damage or injury may be incident to, arise out of, or be caused, either approximately or remotely, wholly or in part, by any act, omission, negligence, or misconduct on the part of Tenant or any of its agents, servants, employees, contractors, or invitees or of any other person entering upon the Leased Premises under or with the express or implied invitation or permission of Tenant, (c) arising from or arising out of the occupancy or use by Tenant, its agents, servants, employees, contractors, or invitees of the Leased Premises, or arising from or out of any event, circumstance, or occurrence within the Leased Premises, howsoever caused, and/or (d) suffered by, recovered from or asserted against any of the Landlord's Related Parties by Tenant's employees, agents, servants, contractors, or invitees. Such indemnification of any of the Landlord's Related Parties by Tenant shall be effective unless such damage results from the gross negligence or willful misconduct of Landlord or any of the Landlord's Related Parties or any of their respective authorized agents or employees.

10.5 The provisions of this Article shall survive for one year following the expiration or termination of this Lease with respect of any claim or liability occurring prior to such expiration or termination. The indemnification provided by this Article is subject to the Landlord's waiver of recovery specified above, to the extent of Landlord's recovery of loss proceeds under policies of insurance described above.

ARTICLE 11. NON-LIABILITY FOR CERTAIN DAMAGES

11.1 Except as specifically provided herein, Landlord and Landlord's Related Parties shall have no responsibility or liability to Tenant, or to Tenant's officers, directors, shareholders, partners, employees, agents, contractors or invitees, and Tenant hereby waives and releases any claims against Landlord and Landlord's Related Parties for bodily injury, death, property damage, business interruption, loss of profits, loss of trade secrets or other direct or consequential damages occasioned by (a) force majeure, (b) vandalism, theft, burglary, robbery, rape, murder, assault, and other criminal acts (other than those committed by Landlord and its employees), (c) water leakage, the backing up of drains, or flooding, or (d) the repair, replacement, maintenance, damage, or destruction of the Leased Premises.

11.2 Any and all security of any kind for Tenant, Tenant's agents, employees or invitees, the Leased Premises, or any personal property thereon (including, without limitation, any personal property of any sublessee) shall be the sole responsibility and obligation of Tenant, and shall be provided by Tenant at Tenant's sole cost and expense. Tenant acknowledges and agrees that the Landlord shall have no obligation or liability whatsoever with respect to the same. Tenant may, at Tenant's sole cost and expense, install alarm systems in the Leased Premises provided such installation complies with the provisions of Article 6 hereof. Removal of such alarm systems shall be Tenant's sole responsibility and, at Tenant's sole cost and expense, shall be completed prior to the Lease termination and all affected areas of the Leased Premises shall be repaired and/or restored in a good and workmanlike manner to the condition that existed prior to such installation.



Handwritten signature of a representative, possibly a landlord or tenant, with the word "Signature" written below it.

ARTICLE 12. DAMAGE BY CASUALTY

12.1 Tenant shall give prompt notice to Landlord of any damage caused to the Leased Premises by fire or other casualty, including a description of the damage and, as far as is known to Tenant, the cause of the damages.

12.2 In the event (a) the improvements located on the Leased Premises are totally destroyed, (b) the improvements located on the Leased Premises are partially destroyed but in Landlord's reasonable opinion, cannot be restored to an economically viable and quality project, (c) the insurance proceeds payable to Landlord as result of such casualty are, in Landlord's reasonable opinion, inadequate to restore the portion remaining to an economically viable and quality project, or (d) less than 24 full calendar months remain in the Lease Term, Landlord may, at its election exercisable by the giving of notice to Tenant within 60 days after the casualty, terminate this Lease as of the date of the casualty or the date Tenant is deprived of possession of the Leased Premises (whichever is later). If the restoration time is estimated to exceed 6 months, Tenant may elect to terminate this Lease on notice to Landlord no later than 30 days after Landlord's notice. If this Lease is not terminated as a result of a casualty, Landlord shall restore the Leased Premises to substantially the condition in which the same existed prior to the casualty. Landlord's obligation to rebuild and repair shall in any event be limited to restoring the Leased Premises to substantially the condition in which the same existed prior to such casualty, exclusive of any Tenant Work (as defined in Exhibit "C") or other alterations, additions, improvements, fixtures and equipment installed by Tenant. Tenant shall, subject to delays arising from the collection of insurance proceeds or from Force Majeure events, promptly re-enter the Leased Premises and commence doing business in accordance with this Lease. During the period of restoration, Rent shall be abated to the extent that Landlord receives the rental loss insurance provided in Section 10. 2.(C) and the Leased Premises are rendered untenantable. After the restoration of the Leased Premises, Rent shall be reduced to such extent as may be fair and reasonable under the circumstances, as reasonably determined by Landlord.

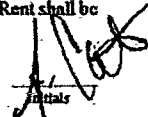
12.3 Notwithstanding anything herein to the contrary, in the event the holder of any indebtedness secured by mortgage or deed of trust covering the Leased Premises requires that the insurance proceeds be applied to such indebtedness, Landlord shall have the right to terminate this Lease by delivering notice of termination to Tenant within 15 days after such requirement is made known by any such holder, whereupon all rights and obligations hereunder shall cease and terminate.

12.4 Tenant, in the event of a casualty loss to the Leased Premises, shall pay to Landlord, the cost of the deductible applicable to the insurance policy maintained pursuant to Article 10 of this Lease. Such deductible amount shall be payable to Landlord within 10 days of receipt from Landlord of a statement therefor and a payment thereof by Tenant shall be a condition precedent to Landlord's obligations to repair or restore the Leased Premises as provided above.

ARTICLE 13. CONDEMNATION

13.1 If during the Lease Term, an authority with the power of eminent domain condemns all of the Leased Premises, then this Lease shall terminate, on the date such authority takes possession of the Leased Premises. If less than all the Leased Premises is condemned, then Tenant shall have the right to terminate this Lease if a Substantial Portion (as defined below) of the improvements on the Leased Premises should be condemned in such a manner that the balance of the Leased Premises are not fit for the continued use by Tenant for the Permitted Use. As used herein, the term "Substantial Portion" shall mean the condemnation of 20% or more of the Leased Premises or Tenant reasonably determines that the Leased Premises will no longer be suitable for Tenant. Tenant shall exercise the termination rights of this Section no later than 30 days after the condemning authority takes possession of the portion of the Leased Premises. Immediately upon the taking of possession of the portion of the Leased Premises taken by the condemning authority, if this Lease is not terminated, the Rent shall be reduced to such extent as may be fair and reasonable under the circumstances, as reasonably determined by Landlord. When any such reduction in Rent has been computed by Landlord, Landlord shall notify Tenant of the amount of the new monthly Rent payment amount.

13.2 In the event the Tenant does not elect to terminate this Lease pursuant to the above Section, Landlord shall restore the Leased Premises remaining after the taking to substantially the same condition to which they existed prior to the taking. Any such restoration work shall be performed within a reasonable time period, done diligently and continually until completed. The Landlord's obligations to rebuild and repair shall in any event be limited to restoring the Leased Premises to substantially the condition in which the same existed prior to such condemnation, exclusive of any Tenant Work (as defined in Exhibit "C") or any other alterations, additions, improvements, fixtures and equipment installed by Tenant. Tenant shall, subject to delays arising from the collection of condemnation proceeds or from Force Majeure events, promptly re-enter the Leased Premises and commence doing business in accordance with this Lease. Any restoration work by Landlord on the Leased Premises shall not constitute an eviction or disturbance of Tenant's use and possession of the Leased Premises or a breach by Landlord of any of its obligations under this Lease or render Landlord liable for damages or entitle Tenant to be relieved from any of its obligations under this Lease (with the exception of a proportionate reduction in Rent) or grant Tenant any right of off-set or recoupment. In addition, Rent shall be


Initials

abated during the restoration process based on the proportion of the Leased Premises not available for use during such restoration process.

13.3 All sums awarded or agreed upon between Landlord and the condemning authority for the taking of the fee and any and all improvements thereon, whether as damages or as compensation, will be the property of Landlord. All sums awarded or agreed upon between Tenant and the condemning authority for the taking of Tenant's leasehold interest in the Leased Premises and Tenant's Removable Trade Fixtures will be the property of Tenant. Tenant hereby assigns to Landlord all proceeds awarded for the condemnation of the Leased Premises so long as such proceeds are not compensation or damages payable to Tenant for Tenant's leasehold interest in the Leased Premises. Tenant agrees that the condemning authority shall cause all checks and drafts issued by it for the taking of the fee and the award for improvements, whether as compensation or as damages, to be issued payable to the order of Landlord. Landlord agrees that the condemning authority shall cause all checks and drafts issued by it for the taking of Tenant's leasehold interest, whether as compensation or damages, to be issued payable to Tenant. Upon request of Landlord, Tenant agrees to promptly execute such instrument, or instruments, as Landlord may reasonably request as evidence of the Tenant's cessation of interest in such portion of the Leased Premises that is condemned by such authority and that this Lease continues to be effective as to the balance of the Leased Premises not condemned. To the extent Tenant has paid for Additional Work, Tenant shall be entitled to the unamortized value of any such Additional Work in proportion to the award received by Landlord for the improvements condemned.

ARTICLE 14. ASSIGNMENT AND SUBLETTING

14.1 Tenant shall not assign this Lease nor sublet all or any part of the Leased Premises without prior written consent of Landlord; provided, however, if the proposed assignee or subtenant is, in the reasonable opinion of Landlord, of equal or better financial condition to Tenant, Landlord shall not unreasonably withhold its consent to the assignment or sublease. Any attempted assignment, subletting, transfer or encumbrance by Tenant in violation of this Section shall be void. Upon the occurrence of an Event of Default (as defined below), if all or any part of the Leased Premises are then assigned or sublet, Landlord, in addition to any other remedies provided by this Lease or provided by law, may, at its option, collect directly from the assignee or subtenant all Rent becoming due to the Tenant by reason of the assignment or subletting. Notwithstanding any subletting or assignment by Tenant, Tenant shall remain fully liable for the performance of all covenants in this Lease to be performed by Tenant. Any sums collected directly by Landlord from the assignee or subtenant shall not be construed to constitute a novation or a release of Tenant from the further performance of its obligations under this Lease. For purposes of this paragraph, a sale or transfer of more than 50% of either the assets of, or ownership interest in, Tenant shall be deemed to be an assignment, unless the transferee is (i) a wholly owned subsidiary, parent or affiliate of Tenant, or (ii) the shares of Tenant are at such time publicly traded on a nationally recognized exchange. Tenant shall reimburse Landlord for all of Landlord's reasonable out-of-pocket expenses incurred in connection with any proposed assignment or sublease in an amount not to exceed \$2500.

14.2 If this Lease is assigned to any person or entity pursuant to the provision of the Bankruptcy Code, 11 U.S.C. § 101 et. seq., (the "Bankruptcy Code"), any and all monies or other consideration payable or otherwise to be delivered in connection with such assignment shall be paid or delivered to Landlord, shall be and remain the exclusive property of Landlord and shall not constitute property of Tenant or of the estate of Tenant within the meaning of the Bankruptcy Code. Any and all monies or other considerations constituting Landlord's property under the preceding sentence not paid or delivered to Landlord shall be held in trust for the benefit of Landlord and be promptly paid or delivered to Landlord.

14.3 Any person or entity to which this Lease is assigned pursuant to the provisions of the Bankruptcy Code shall be deemed, without further act or deed, to have assumed all of the obligations arising under this Lease on and after the date of such assignment. Any such assignee shall upon demand execute and deliver to Landlord an instrument confirming such assumption.

14.4 Landlord shall have the right to transfer, assign, or encumber in whole or in part, its rights and obligations in the building and property that are the subject of this Lease. In the event of the transfer and assignment by Landlord of its interest in this Lease and in the building containing the Leased Premises to a person expressly assuming the Landlord's obligations under this Lease, Landlord shall thereby be released from any further responsibility hereunder, and Tenant agrees to look solely to such successor in interest of the Landlord for performance of such obligations. Any security given by Tenant to Landlord to secure performance of Tenant's obligations hereunder may be assigned and transferred by Landlord to such successor in interest of Landlord; and, upon acknowledgment by such successor of receipt of such security and its express assumption of the obligation to account to Tenant for such security in accordance with the terms of this Lease, Landlord shall thereby be discharged of any further obligation relating thereto.


A. Cook
Attorneys

ARTICLE 15. PROPERTY TAXES AND ASSESSMENTS

15.1 Subject to the provision of Section 15.2 below and Landlord's receipt of the Tax Escrow Payment as provided in Article 4, Landlord agrees to pay before they become delinquent all real estate taxes and special assessments lawfully levied or assessed against the Leased Premises or any part thereof owned by Landlord; provided, however, Landlord may, at its sole cost and expense dispute and contest the same, by appropriate proceedings diligently conducted in good faith. If requested by Tenant, Landlord shall employ a tax consulting firm to attempt to assure a fair tax burden on the Leased Premises with the applicable taxing authority and in such case Tenant pays 100% of the costs of such consultant.

15.2 Tenant shall be liable for all taxes levied or assessed against any personal property or fixtures placed in the Leased Premises. If any such taxes are levied or assessed against Landlord or Landlord's property and (a) Landlord pays the same, or (b) the assessed value of Landlord's property is increased by inclusion of such personal property and fixtures and Landlord pays the increased taxes, then, upon demand, Tenant shall pay to Landlord such taxes.

15.3 If, at any time during the primary term of this Lease or any renewal or extension thereof, any special assessments should be made against the Leased Premises whether for street improvements or other purposes, each monthly installment of Rent required to be paid by Tenant to Landlord under the terms of this Lease shall be increased by a sum equal to the fraction (having a numerator of one and a denominator of the number of months the appropriate governmental agency levying such assessment permits Landlord to pay for same) of the amount of such assessment, plus interest Landlord must pay thereon. Such increase shall become effective on the first day of the month following the month in which such assessment or expenditure is required to be paid by Landlord and shall continue until the expiration or earlier termination of the Lease Term and any renewals or extensions thereof, or until the expiration of that number of months (being the number of months the appropriate governmental agency levying such assessment permits Landlord to pay for same) after the first such increased Rent payment shall become due, whichever event shall first occur.

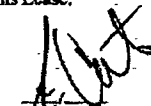
ARTICLE 16. DEFAULTS AND REMEDIES

16.1 The following events shall be deemed to be "Events of Default" by Tenant under this Lease:

- A. Tenant shall fail to pay any installment of Rent or other sums owed to Landlord promptly when due and such failure continues for 15 days after written notice from Landlord.
- B. Any insurance required to be maintained by Tenant pursuant to this Lease shall be canceled, terminated, expire, reduced, or materially changed, except, in each case, as permitted in this Lease, 15 days after written notice from Landlord.
- C. Tenant shall fail to comply with any term, provision, or covenant of this Lease, other than those specified in Paragraph A or B of this Section 16.1, and shall not begin and pursue with reasonable diligence the cure of such failure within 30 days after written notice thereof to Tenant.
- D. Tenant shall become insolvent, make an assignment for the benefit of creditors; file a petition under any section or chapter of the Bankruptcy Code, or under any similar law or statute of the United States of America or any State thereof.
- E. A receiver or trustee shall be appointed for the Leased Premises or for all or substantially all of the assets of Tenant.
- F. Reserved.
- G. Tenant shall do or permit to be done anything which creates a lien upon the Leased Premises, except where Tenant in good faith disputes the underlying charges, establishes a reserve for the disputed amount, and pursues with reasonable diligence the resolution of such claim and lien.

16.2 Upon the occurrence of any such Event of Default, Landlord shall have the option to pursue any one or more of the following remedies in addition to all other rights, remedies and recourses afforded Landlord hereunder or by law or equity, without any notice or demand whatsoever, except as may be specifically provided herein:

- A. Terminate this Lease.
- B. Enter upon and take possession of the Leased Premises without terminating this Lease.


Initials

- C. After all locks and other security devices at the Leased Premises with or without terminating this Lease, and pursue, at Landlord's option, one or more remedies pursuant to this Lease, Tenant hereby specifically waiving any state or federal law to the contrary.
- D. Do whatever Tenant is obligated to do under the terms of this Lease and if necessary, enter upon the Leased Premises using whatever legal means available to Landlord. Tenant agrees that Landlord shall not be liable for any damages resulting to the Tenant from such action, unless caused by the gross negligence or willful misconduct of Landlord.

16.3 Upon any such Event of Default, Tenant shall immediately upon demand surrender the Leased Premises to Landlord, and if Tenant fails so to do, Landlord, without waiving any other remedy it may have, may enter upon and take possession of the Leased Premises and expel or remove Tenant and any other person who may be occupying such Leased Premises or any part thereof using whatever legal means available to Landlord. Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law, nor shall pursuit of any remedy herein provided constitute a forfeiture or violation of any of the terms, provisions and covenants herein contained. Forbearance by Landlord to enforce one or more of the remedies herein provided upon an event of default shall not be deemed or construed to constitute a waiver of such default. Landlord may seek to restrain or enjoin any Event of Default or threatened Event of Default without the necessity of proving the inadequacy of any legal remedy or irreparable harm.

16.4 If Landlord terminates this Lease, at Landlord's option, Tenant shall be liable for and shall pay to Landlord, the sum of all Rent and other payments owed to Landlord hereunder accrued to the date of such termination, plus, as liquidated damages, an amount equal to (a) the present value (using the current "prime" interest rate quoted in The Wall Street Journal, or should such index no longer exist, a comparable index) of the total Rent and other payments owed hereunder for the remaining portion of the Lease Term, calculated as if the Lease Term expired on the date set forth in Section 1.1, less (b) the then fair market rental of the Leased Premises for such period, similarly discounted, provided such fair market rental shall not exceed 75% of the amount determined in (a).

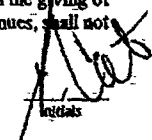
16.5 If Landlord repossesses the Leased Premises without terminating the Lease, Tenant, at Landlord's option, shall be liable for and shall pay Landlord on demand all Rent and other payments owed to Landlord hereunder, accrued to the date of such repossession, plus all amounts required to be paid by Tenant to Landlord until the date of expiration of the Lease Term as stated in Section 1.1, diminished by all amounts received by Landlord through reletting of the Leased Premises during such remaining term (but only to the extent of the Rent herein reserved). Actions to collect amounts due by Tenant to Landlord under this Section may be brought from time to time, on one or more occasions, without the necessity of Landlord's waiting until expiration of the Lease Term.

16.6 If Landlord repossesses the Leased Premises pursuant to the authority herein granted, then Landlord shall have the right to (i) keep in place and use, or (ii) remove and store, all of the furniture, fixtures and equipment at the Leased Premises, including that which is owned by or leased to Tenant at all times prior to any foreclosure thereon by Landlord or repossession thereof by any lessor thereof or third party having a lien thereon. Landlord also shall have the right to relinquish possession of all or any portion of such furniture, fixtures, equipment and other property to any person ("Claimant") who presents to Landlord a copy of any instrument represented by Claimant to have been executed by Tenant (or any predecessor of Tenant) granting Claimant the right under various circumstances to take possession of such furniture, fixtures, equipment or other property, without the necessity on the part of Landlord to inquire into the authenticity or legality of such instrument.

16.7 Upon termination of this Lease or upon termination of Tenant's right to possession of the Leased Premises, Landlord shall attempt to relet the Leased Premises. If Landlord does relet, Landlord may relet such portion of the Leased Premises, for such period, to such tenant, and for such use and purpose as Landlord, in the exercise of its reasonable discretion, may choose. Tenant shall not be entitled to the excess of any rent obtained by reletting over the Rent herein reserved.

16.8 The rights, remedies and recourses of Landlord for an Event of Default shall be cumulative and no right, remedy or recourse of Landlord, whether exercised by Landlord or not, shall be deemed to be in exclusion of any other.

16.9 Provisions of this Lease may not be waived orally or impliedly, but only by the party entitled to the benefit of the provision evidencing the waiver in writing. Thus, neither the acceptance of Rent by Landlord following an Event of Default (whether known to Landlord or not), nor any other custom or practice followed in connection with this Lease, shall constitute a waiver by Landlord of such Event of Default or any other or future Event of Default. Further, the failure by Landlord to complain of any action or inaction by Tenant, or to assert that any action or inaction by Tenant constitutes (or would constitute, with the giving of notice and the passage of time) an Event of Default, regardless of how long such failure continues, shall not



extinguish, waive or in any way diminish the rights, remedies and recourses of Landlord with respect to such action or inaction. No waiver by Landlord of any provision of this Lease or of any breach by Tenant of any obligation of Tenant hereunder shall be deemed to be a waiver of any other provision hereof, or of any subsequent breach by Tenant of the same or any other provision hereof. Landlord's consent to any act by Tenant requiring Landlord's consent shall not be deemed to render unnecessary the obtaining of Landlord's consent to any subsequent act of Tenant. No act or omission by Landlord (other than Landlord's execution of a document acknowledging such surrender) or Landlord's agents, including the delivery of the keys to the Leased Premises, shall constitute an acceptance of a surrender of the Leased Premises.

16.10 Upon any Event of Default, Tenant shall also pay to Landlord all reasonable costs and expenses incurred by Landlord, including court costs and expenses incurred by Landlord, in (a) retaking or otherwise obtaining possession of the Leased Premises, (b) removing and storing Tenant's or any other occupant's property, (c) repairing, restoring, or otherwise putting the Leased Premises into as good a condition as that in which it was originally delivered to Tenant, (d) relocating all or any part of the Leased Premises, (e) paying or performing the underlying obligation which Tenant failed to pay or perform, and (f) enforcing any of Landlord's rights, remedies or recourses arising as a consequence of the Event of Default.

16.11 Landlord shall be in default hereunder only if Landlord has failed, within 30 days from the receipt by Landlord of notice from Tenant of any alleged default by Landlord, to begin and pursue with reasonable diligence the cure of any alleged default of Landlord hereunder. Unless or until Landlord fails to commence cure any default after the receipt of such notice and the passage of such time, Tenant shall not have any remedy or cause of action by reason thereof. In the event of any default by Landlord, Tenant's exclusive remedy shall be an action for damages or a suit for specific performance (Tenant hereby waiving the benefit of any laws granting Tenant a lien upon the property of Landlord and/or upon Rent due to Landlord or the right to terminate this Lease). The obligations of Tenant to pay Rent and to perform the other undertakings of Tenant hereunder constitute independent unconditional obligations to be performed at the times specified hereunder, regardless of any breach or default by Landlord hereunder. Tenant shall have no right, and Tenant hereby waives and relinquishes all rights which Tenant might otherwise have, to withhold, deduct from or offset against any Rent or other sums to be paid to Landlord by Tenant. Landlord's obligations hereunder shall be construed as covenants, not conditions.

16.12 If Landlord defaults under this Lease and, as a consequence of the default, Tenant recovers a money judgment against Landlord and/or any of the Landlord Related Parties, the judgment shall be satisfied only out of, and Tenant hereby agrees to look solely to, the interest of Landlord and/or any of the Landlord Related Parties in the Leased Premises as the same may then be encumbered, and neither Landlord nor any Landlord Related Parties shall otherwise be liable for any deficiency. In no event shall Tenant have the right to levy execution against any property of Landlord other than their interest in the Leased Premises. Under no circumstances whatsoever shall Landlord or any Landlord Related Party ever be liable hereunder in any capacity for consequential damages or special damages. This Section shall not limit any right of Tenant to obtain specific performances of Landlord's obligations hereunder.

ARTICLE 17. LANDLORD'S LIEN

17.1 Landlord hereby waives all statutory and contractual liens. Further, Landlord agrees to sign collateral access agreements/landlord lien waivers required by Tenant's lender promptly upon request by Tenant.

17.2 Landlord agrees to subordinate its lien for the benefit of the lessor of any personal property, the seller of any goods holding a purchase money security interest, and any third-party lender requesting a security interest in the fixtures, equipment, inventory and other assets of the Tenant.

ARTICLE 18. SURRENDER AND HOLDING OVER

18.1 Upon the expiration or termination of the Lease Term for whatever cause, or upon the exercise by Landlord of its right to re-enter the Leased Premises without terminating this Lease, Tenant shall immediately, quietly and peaceably surrender to Landlord possession of the Leased Premises in "broom clean" and good order, condition and repair, except only for ordinary wear and tear. If Tenant fails to surrender possession as herein required, Landlord may initiate any and all legal action as Landlord may elect to dispossess Tenant and all of its property, and all persons or firms claiming by, through or under Tenant and all of their property, from the Leased Premises, and may remove from the Leased Premises and store (without any liability for loss, theft, damage or destruction thereto) any such property at Tenant's cost and expense. If Tenant fails to surrender possession of the Leased Premises in the condition herein required, Landlord may, at Tenant's expense, restore the Leased Premises to such condition.

18.2 For so long as Tenant remains in possession of the Leased Premises after the expiration or termination of the Lease Term, or exercise by Landlord of its re-entry right, Tenant shall be deemed to be occupying the Leased Premises as a tenant-at-sufferance, subject to all of the obligations of Tenant under this



Handwritten signature and initials, possibly "M. J. Smith", written in black ink.

Lease, except that the daily Rent shall be one and one half times the per day Rent in effect immediately prior to such expiration, termination or exercise by Landlord. No such holding over shall extend the Lease Term. Tenant shall be liable to Landlord for all loss or damage on account of any such holding over against Landlord's will after the termination of this Lease, whether such loss or damage may be contemplated at this time or not.

ARTICLE 19. SUBORDINATION, ATTORNMEN AND ESTOPPEL

19.1 Landlord's obligation and the rights of Tenant hereunder are contingent upon Landlord's obtaining (i) financing acceptable to Landlord for the performance of Landlord's Work (if any) hereunder, and (ii) the consent of the holder of any mortgage or deed of trust covering the Leased Premises, if such consent is required; and this Lease shall not be binding on Landlord unless and until such financing and/or consent has been obtained. Tenant accepts this Lease subject and subordinate to any mortgage, deed of trust, or other lien presently existing or hereafter placed upon the Leased Premises as a whole, and to any renewals and extensions thereof; provided, however, Tenant's rights under this Lease shall not be disturbed unless there is an Event of Default by Tenant. Tenant agrees to execute such instruments subordinating this Lease as Landlord may reasonably request, provided such subordination shall be upon the express condition that this Lease shall be recognized by the mortgagee, and that the rights of Tenant shall remain in full force and effect during the term of this Lease so long as Tenant shall continue to perform all of the covenants and conditions of this Lease.

19.2 Upon the written request of any person or party succeeding to the interest of Landlord under this Lease, Tenant shall automatically become the tenant of and attorn to such successor in interest without any change in any of the terms of this Lease. No successor in interest shall be (a) bound by any payment of rent for more than one month in advance, (b) subject to any offset, defense or damages arising out of a default or any obligations of any preceding Landlord, or (c) bound by any amendment of this Lease entered into after Tenant has been given notice of the name and address of Landlord's mortgagee and without the written consent of Landlord's mortgagee or such successor in interest. The subordination, attornment and mortgage protection clauses of this Article 19 shall be self-operative and no further instruments of subordination, attornment or mortgage protection need be required by any mortgagee or successor in interest thereto. Nevertheless, upon the written request therefor and without any compensation or consideration being payable to either party each party agrees to execute, have acknowledged and deliver such instruments as may be reasonably requested to confirm the same.

19.3 Landlord and Tenant shall promptly execute and deliver to each other, at such time or times as either may request, a certificate stating:

- A. Whether or not the Lease is in full force.
- B. Whether or not the Lease has been modified or amended in any respect, and submit such copies of such modifications or amendments, if any.
- C. Whether or not there are any existing defaults under the Lease as far as the party executed the certificate knows and specifying the nature of such defaults, if any.
- D. Such other information as may be reasonably requested.

19.4 Notwithstanding anything contained herein to the contrary, in the event of any default by Landlord in performing its covenants or obligations hereunder, Tenant shall not exercise any rights it may have on account of such default until (i) Tenant gives written notice of such default (which notice shall specify the exact nature of said default and how the same may be cured) to each holder of any such mortgage or deed of trust who has theretofore notified Tenant in writing of its interest and the address to which notices are to be sent, and (ii) each such holder fails to cure or cause to be cured said default within 30 days from the receipt by such holder of such notice by Tenant.

19.5 If requested by Landlord, but not more than once per calendar year, Tenant shall provide Landlord with an updated financial statement of Tenant, which financial statement shall contain a balance sheet, profit and loss statement, and such other information as reasonably requested by Landlord. Landlord agrees to keep such financial statement in strict confidence; provided, however, Landlord may disclose such information to its representatives, consultants, lender, and prospective purchasers of the Leased Premises.

ARTICLE 20. NOTICES

20.1 Except as otherwise provided herein, all notices, demands, requests, and other communications required or permitted hereunder shall be given in writing and sent by personal delivery, or expedited delivery service with proof of delivery, or United States mail, postage prepaid, registered or certified mail, return receipt requested, or facsimile (provided that such facsimile is confirmed by expedited delivery service or by United States mail in the manner previously described), addressed to the addressee at such party's address set forth herein, or to such other address as such party may specify by written notice, sent in accordance with this



paragraph at least 30 days prior to the date of the giving of such notice. Any such notice or communication shall be deemed to have been given and received either at the time of personal delivery, or in the case of mail, as of the date of deposit in an official depository of the United States mail, or in the case of either delivery service, or facsimile, upon receipt. To the extent actual receipt is required, rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was received shall be deemed to be receipt of the notice, demand, request or other communication sent. For the purposes of notice, the address of (a) Landlord shall be at the Landlord address specified in Section 1.1, and (b) Tenant shall be the address recited in Section 1.1. Each party shall have the continuing right to change its address for notice hereunder by the giving of 15 days' prior notice to the other party in accordance with this Section.

20.2 If and when included within the term "Landlord", as used in this Lease, there is more than one person, firm or corporation, all shall jointly arrange among themselves for their joint execution of such a notice specifying some individual at some specific address for the receipt of notices and payments to Landlord. Landlord may change the designation of Landlord's Agent at any time, which change will be effective upon Landlord's giving notice to Tenant as provided above. If and when included within the term "Tenant", as used in this Lease, there is more than one person, firm or corporation, all shall jointly arrange among themselves for their joint execution of such a notice specifying some individual at some specific address for the receipt of notices and payments to Tenant. All parties included within the terms "Landlord" and "Tenant", respectively, shall be bound by notices and payments given in accordance with the provisions of this Article to the same effect as if each had received such notice or payment.

ARTICLE 21. MISCELLANEOUS

21.1 Nothing herein contained shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto. It is expressly understood and agreed that neither the method of computation of rent, nor any other provisions contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of landlord and tenant.

21.2 The captions used in this Lease are for convenience only and do not in any way limit or amplify the terms and provisions hereof.

21.3 Whenever a period of time is herein prescribed for action to be taken by Landlord or Tenant, neither shall be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, governmental laws, regulations, or restrictions or any other causes of any kind whatsoever which are beyond the reasonable control of Landlord or Tenant.

21.4 All obligations of Landlord and Tenant under the terms of this Lease shall be payable in Houston, Harris County, Texas and performable in the County in which the Leased Premises is located. The laws of the State of Texas shall govern the interpretation, validity, performance, and enforcement of this Lease.

21.5 Landlord hereby covenants and agrees that if Tenant shall perform all of the covenants and agreements herein required to be performed on the part of the Tenant, Tenant shall, subject to the terms of this Lease, at all times during the continuance of this Lease have the peaceable and quiet enjoyment and possession of the Leased Premises.

21.6 Words of any gender used in this Lease shall be held and construed to include any gender and words in the singular number shall be held to include the plural, unless the context otherwise requires.

21.7 This Lease, together with the attached exhibits, contains the entire agreement between the parties, and supersedes any prior understandings or written or oral agreements between the parties. No amendment, modification or alteration of this Lease shall be effective to change, modify or terminate this Lease in whole or in part unless such agreement is in writing and duly signed by the party against whom enforcement of such change, modification or termination is sought.

21.8 Time is of the essence with respect to each date or time specified in this Lease by which an event is to occur.

21.9 The terms, provisions and covenants contained in this Lease shall apply to, inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors in interest, legal representatives and assigns, except as otherwise herein expressly provided or limited. All rights, powers, privileges, immunities and duties of Landlord under this Lease, including but not limited to any notices required or permitted to be delivered by Landlord to Tenant hereunder, may, at Landlord's option, be exercised or performed by Landlord's Agent or attorney.



Initials

21.10 If any provision of this Lease should be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Lease shall not be affected thereby.

21.11 Except as designated in Article 1, Tenant hereby warrants and represents to Landlord that it has not incurred or authorized any brokerage commission, finder's fees or similar payments in connection with this Lease, and agrees to defend, indemnify and hold Landlord harmless from and against any claim for brokerage commission, finder's fees or similar payment arising by virtue of authorization of Tenant, or any affiliate of Tenant, in connection with this Lease. Landlord hereby warrants and represents to Tenant that it has not incurred or authorized any brokerage commission, finder's fees or similar payments in connection with this Lease, and agrees to defend, indemnify and hold Tenant harmless from and against any claim for brokerage commission, finder's fees or similar payment arising by virtue of authorization of Landlord, or any affiliate of Landlord, in connection with this Lease.

21.12 Any amount due from Tenant to Landlord which is not paid when due shall bear interest at the lesser of the maximum rate allowed by law, or 10% per annum, from the date such payment is due until paid, but the payment of such interest shall not excuse or cure the default in payment.

21.13 As used in this Lease, the symbol "\$" shall mean United States dollars, the lawful currency of the United States.

21.14 The person executing this Lease on behalf of Tenant personally warrants and represents to Landlord that (a) if Tenant is duly organized, legally existing, and in good standing in the state Texas; (b) Tenant has full right and authority to execute, deliver and perform this Lease; (c) the person executing this Lease on behalf of Tenant was authorized to do so; and, (d) upon request of Landlord, such person will deliver to Landlord satisfactory evidence of his or her authority to execute this Lease on behalf of Tenant.

21.15 Neither this Lease (including any Exhibit hereto) nor any memorandum hereof shall be recorded without the prior written consent of Landlord.

21.16 All Exhibits and written addenda hereto are incorporated herein for any and all purposes.

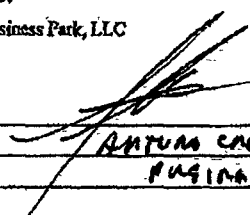
21.17 This Lease may be executed in multiple counterparts, each of which shall be an original, but all of which shall constitute but one instrument.

21.18 SPECIAL TERMS AND CONDITIONS:

1. Landlord will fence the property at his sole cost and expense with chain link, and will have wrought iron in the front of the building with an electric gate for Tenant's use. Completion of the fence shall be upon substantial completion of the improvements by Landlord. The Landlord shall pay up to \$20,000 with the Tenant paying up to the next \$5,000 in the cost of the fence and its installation. If applicable the Landlord will pay an cost that exceeds \$25,000 on the fence and its installation.


DATE: 4/17/18

LANDLORD:
AC Telge Business Park, LLC

By: 
Name: Arturo Carrizosa
Title: Manager

DATE: 4.17.2018

TENANT:
Undine Operating, LLC

By: 
Name: Carry A. Thomas
Title: Senior Vice President



BUILDING 6

FIELD NOTES OF 1.4411 ACRES OF LAND (Page 1 of 2)

All of that certain 1.4411 acres of land situated in the J. P. Christen Survey, Abstract No. 994, Harris County, Texas and the Charles Theeck Survey, Abstract No. 1560, Harris County, Texas, being out of and a part of that certain called 21.020 acres of land conveyed to Telge Business Park, LLC, as described in the deed recorded under Clerk's File No. RP-2017-48040 of the Harris County Official Public Records of Real Property (H.C.O.P.R.R.P.), and being more particularly described by metes and bounds as follows:

COMMENCING at a 5/8 inch iron rod found at the northeast corner of said 21.020 acres, same being the southeast corner of a called 12.500 acres of land conveyed to Hou-Scape, Inc., as described in the deed recorded under Clerk's File No. 20120400119 of the H.C.O.P.R.R.P. and situated in the west right-of-way line of Telge Road (60 feet wide);

THENCE South 00 deg. 25 min. 26 sec. East, along and with said west right-of-way line of Telge Road and the east line of the 21.020 acres, a distance of 673.82 feet to a 5/8 inch iron rod found at the southeast corner of the 21.020 acres, same being the northeast corner of a called 1.8375 acres of land conveyed to E2S Property, LLC, as described in the deed recorded under Clerk's File No. RP-2016-23244 of the H.C.O.P.R.R.P.;

THENCE South 89 deg. 00 min. 58 sec. West, departing the west right-of-way line of Telge Road, along and with the south line of the 21.020 acres and the north line of those certain tracts of land recorded under Clerk's File No's. RP-2016-23244, 20150559113, RP-2016-108497, RP-2016-503588 and RP-2016-475117, all of the H.C.O.P.R.R.P., a distance of 1,010.76 feet to a point for the southeast corner and POINT OF BEGINNING of the herein described tract of land;

THENCE South 89 deg. 00 min. 58 sec. West, continuing along and with said south line of the 21.020 acres and the north line of those certain tracts of land recorded under Clerk's File No's. RP-2016-475117 and RP-2017-65069, both of the H.C.O.P.R.R.P., a distance of 345.80 feet to a 1/2 inch iron rod found at the common southwest corner of the 21.020 acres and the herein described tract of land, same being the northwest corner of said tract of land recorded under Clerk's File No. RP-2017-65069 of the H.C.O.P.R.R.P. and situated in the apparent east line of a called 67.0723 acres of land conveyed to Petrzelka Family Limited Partnership, as described in the deed recorded under Clerk's File No. 20110310805 of the H.C.O.P.R.R.P.;

THENCE North 00 deg. 30 min. 44 sec. West, along and with the west line of the 21.020 acres and said apparent east line of the 67.0723 acres, a distance of 27.28 feet to a one (1) inch buggy axle found in the south line of the J. P. Christen Survey and the north line of said Charles Theeck Survey;

THENCE North 00 deg. 55 min. 07 sec. West, continuing along and with said west line of the 21.020 acres and the apparent east line of the 67.0723 acres, a distance of 149.69 feet to a point for the northwest corner of the herein described tract of land;

THENCE North 89 deg. 00 min. 58 sec. East, over and across the 21.020 acres, a distance of 268.09 feet to an angle point;

EXHIBIT "A"

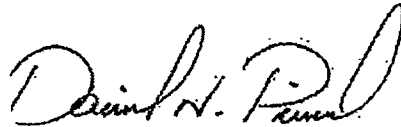
FIELD NOTES OF 1.4411 ACRES OF LAND
(Page 2 of 2)

THENCE North 44 deg. 07 min. 15 sec. East, continuing over and across the 21.020 acres, a distance of 62.95 feet to a point situated in a non-tangent curve concave to the northeast, said point being the upper northeast corner of the herein described tract of land;

THENCE in a southeasterly direction, continuing over and across the 21.020 acres, along and with the arc of a curve to the left subtending a central angle of 68 deg. 02 min. 15 sec., having a radius of 43.00 feet, an arc length of 51.06 feet, a chord bearing of South 43 deg. 49 min. 59 sec. East, and a chord distance of 48.11 feet to a point for the lower northeast corner of the herein described tract of land;

THENCE South 00 deg. 59 min. 02 sec. East, continuing over and across the 21.020 acres, a distance of 186.12 feet to the POINT OF BEGINNING, and containing within these metes and bounds 1.4411 acres (62,773 square feet) of land.

This tract of land has not been surveyed on the ground. Bearings based on the description of the 21.020 acres recorded under Clerk's File No. RP-2017-48040 of the H.C.O.P.R.R.P.



Daniel N. Pinnell
Registered Professional Land Surveyor
Texas Registration No. 5349



06-26-2017

The Pinnell Group, LLC
26730 I-45 North
Spring, TX 77386
281-363-8700
www.thepinnellgroup.com
FIRM Reg. #10039600

EXHIBIT "B" SITE PLAN

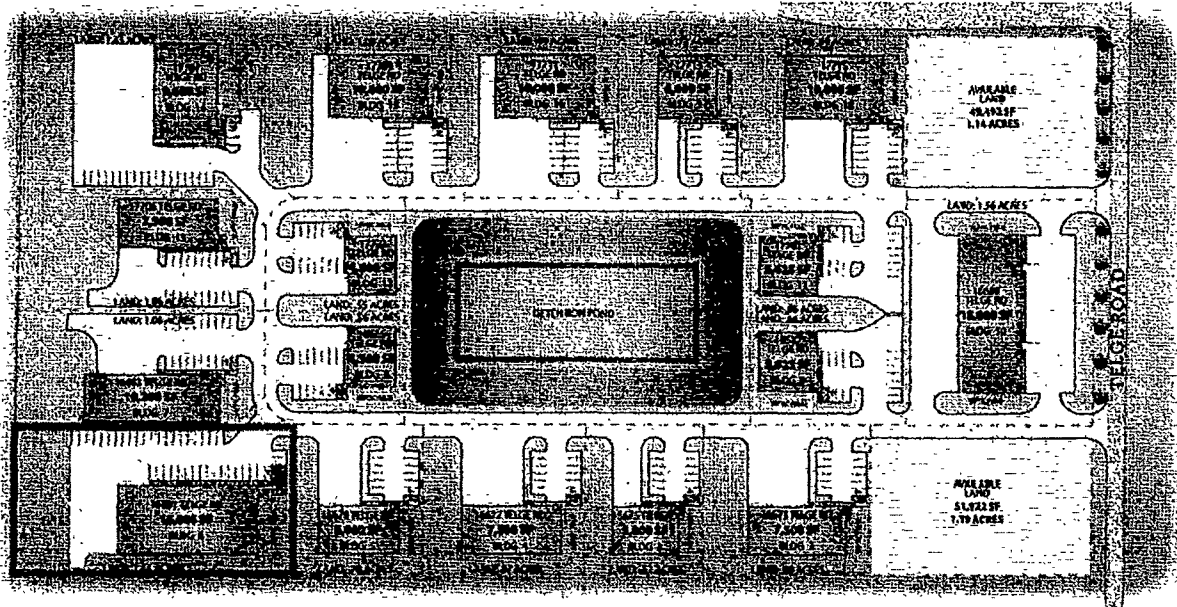


EXHIBIT "C"
CONSTRUCTION RIDER

This Construction Rider is attached to and forms a part of that certain Lease Agreement (the "Lease") dated ~~April 11, 2018~~, between AC Telgo Business Park, LLC as "Landlord" and Undine Operating, LLC, as "Tenant".

Article 1. - Landlord Work

Section 1.1. The Leased Premises will be erected by Landlord (the "Landlord Work") substantially in accordance with the plans and specifications (the "Preliminary Landlord Plans") which shall be based upon Exhibit "C-1," attached hereto and made a part hereof. If at the time of execution of the Lease, Landlord and Tenant have not agreed upon the Preliminary Landlord Plans, Landlord shall, within 30 days after the final execution of the Lease, prepare and submit to Tenant for Tenant's approval the Preliminary Landlord Plans proposed by Landlord. Tenant shall cause the submitted Preliminary Landlord Plans to be examined and reviewed and shall submit suggested modifications and revisions, if any, to Landlord within 7 days from the date Landlord submits such original Preliminary Landlord Plans to Tenant. Landlord shall have no obligation to modify the Preliminary Landlord Plans in the manner indicated by Tenant, but in the event that Landlord and Tenant shall not have agreed upon a mutually acceptable set of Preliminary Landlord Plans by the expiration of 10 days after the date Tenant submits such modifications and revisions to Landlord, then Landlord shall have the option to terminate the Lease at any time thereafter upon written notice to Tenant. If Landlord and Tenant have mutually agreed upon the Preliminary Landlord Plans, Landlord shall have the final construction plans, drawings, and specifications prepared and submit same to Tenant for final approval in the same procedure as provided above with the Preliminary Landlord Plans. When Landlord and Tenant have mutually agreed upon the final plans and specifications for construction of the Landlord Work (the "Final Landlord Plans"), such Final Landlord Plans shall be signed or initialed by both Landlord and Tenant, and dated, but need not be attached to the Lease.

Section 1.2. Upon completion of the Final Landlord Plans, Landlord shall attempt to obtain all required permits and letters of utility availability (collectively referred to herein as the "Landlord Building Permits") from appropriate governmental authorities. In the event the Landlord Building Permits are not issued to Landlord on the basis of the approved Final Landlord Plans, Landlord and Tenant will attempt to make mutually agreeable revisions in the Final Landlord Plans to enable Landlord to obtain the Landlord Building Permits (although neither Landlord nor Tenant shall be obligated to approve any such revisions). If within 30 days after the original denial, Landlord has not yet obtained the Landlord Building Permits, Landlord shall have the right, at its option, to terminate this Lease at any time thereafter upon written notice to Tenant.

Section 1.3. For all purposes under the Lease, the "Construction Start-Up Date" shall mean the date by which both of the hereinafter stated circumstances shall have occurred: (i) Landlord and Tenant have agreed in writing upon the Final Landlord Plans, and (ii) Landlord has obtained the necessary Landlord Building Permits.

Section 1.4. If the Construction Start-Up Date shall have occurred, the Landlord Work will be performed by Landlord in accordance with the Final Landlord Plans. Landlord may not make material changes in its construction work from the Final Landlord Plans without Tenant's approval; provided, Tenant will not unreasonably withhold approval or disapproval of changes proposed by Landlord, and Tenant shall indicate such approval or disapproval within 5 days from submission of such changes to Tenant for Tenant's approval or disapproval. Failure to indicate such approval or disapproval within such 5 day period shall conclusively be deemed to be approval of any such proposed changes.

Section 1.5. Landlord shall allow Tenant, and Tenant's agents and representatives, reasonable access to the Leased Premises, at their sole risk, throughout the period of construction of Landlord Work in order to inspect compliance of the Landlord Work with the Final Landlord Plans.

Section 1.6. If Tenant desires Landlord to do any additional work different from or in excess of the Landlord Work ("Additional Work"), Tenant shall submit to Landlord detailed proposed plans of such Additional Work. Such proposed plans shall be subject to Landlord's approval, which approval shall not be unreasonably conditioned, withheld, or delayed. Landlord's obligation to perform the Additional Work shall be conditioned upon Landlord and Tenant having mutually agreed in writing as to the cost of the Additional Work. It is understood that Landlord will progress bill Tenant and Tenant will pay Landlord for such Additional Work on a monthly basis as such Additional Work is performed. Landlord shall have no obligation to perform any Additional Work or make any change orders unless Tenant shall execute within 3 business days after receipt from Landlord of a written request, a change order in a form mutually acceptable to Landlord and Tenant.

Section 1.7. If the Construction Start-Up Date shall have occurred, Landlord will achieve Substantial Completion (as defined below) on or before June 30, 2018 unless Landlord's failure so to complete is caused by governmental delays or restrictions, strikes, lockouts, shortages of labor or material, Acts of God, war or civil commotion, fire, unavoidable casualty, inclement weather or any cause beyond the reasonable control of Landlord (any one or more of the reasons for Landlord's failure so to complete being herein referred

to as "Excusable Delays"), in which event Landlord shall have a period of time equal to the total of all Excusable Delays in addition to the time specified above in which to complete such construction. If Substantial Completion has not occurred on or before the date required under this Section 1.7, then Tenant shall receive \$10,000.00 for the month of June, and if Substantial Completion has not occurred by July 31, 2018, then Tenant shall have the option, on or after that date, to terminate the Lease without penalty or cost, on notice to the Landlord.

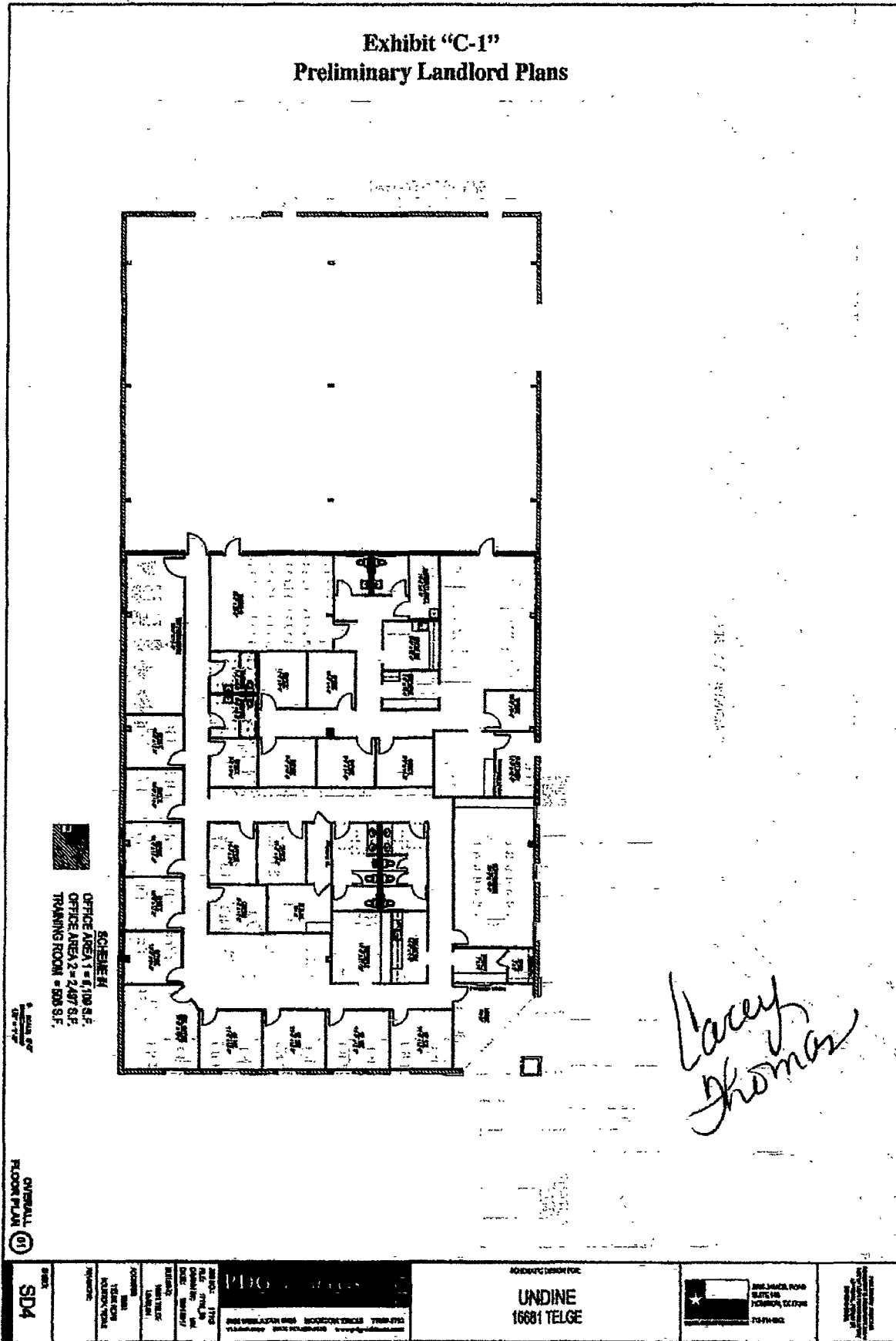
Section 1.8. Upon substantial completion by Landlord of the Landlord Work in accordance with the Final Landlord Plans ("Substantial Completion"), Landlord will tender possession of the Leased Premises to Tenant, and Tenant will accept and occupy the Leased Premises. Substantial Completion shall be deemed to have occurred, notwithstanding that minor adjustments may be required to be made by Landlord and that minor items of Landlord Work have not been fully completed, so long as Tenant would be able to use the Leased Premises for the purpose provided hereunder upon performance of Tenant's own construction, installation of its fixtures and equipment, stocking of its merchandise, and staffing of its personnel. Substantial Completion in accordance with the Final Landlord Plans by Landlord may, but need not be, evidenced by a certificate of completion or certificate of substantial completion issued by Landlord's Architect (if any). Entry into possession by Tenant will constitute acknowledgment by Tenant that the Leased Premises are in the condition called for by the Lease and the Final Landlord Plans and that Landlord has performed all of Landlord's obligations relating to such construction.

Section 1.9. Within 30 days after the delivery of possession, Landlord and Tenant shall meet to make a written punch list of items which must be completed by Landlord to insure final completion of the Landlord Work. Landlord shall notify Tenant in writing when Landlord believes that the punch list items have been completed. Within 5 days after the date Landlord has notified Tenant that the punch list items have been completed, Landlord and Tenant shall walk through the Leased Premises to confirm that the punch list items have in fact been completed.

Section 1.10. Landlord shall promptly correct or cause its contractor to promptly correct any Landlord Work and Additional Work reasonably rejected by Tenant as defective or as failing to conform to the Final Landlord Plans, including latent defects, whether observed before or after the Commencement Date, provided Tenant notifies Landlord of the need for such warranty work prior to the expiration of 1 year after the Commencement Date (except for Landlord's repair and maintenance obligations outlined in the Lease). The provisions of this Section shall apply to work done by Landlord's contractors as well as to work done by direct employees of Landlord. Landlord shall assign to Tenant all warranties for the HVAC and other systems incorporated within the Leased Premises.

Section 1.10. In the event that this Lease is terminated pursuant to the terms of this Construction Rider, Landlord and Tenant shall be released from all obligations to each other, except as may be specifically provided to the contrary in the Lease.

Exhibit "C-1"
Preliminary Landlord Plans



Lacey Thomas

| | | | | |
|------------|-------------------------------|--|-------------------------------|-------------------------------|
| <p>SD4</p> | <p>UNDINE 16681 TELGE</p> | <p>PRELIMINARY AND NOT TO BE USED FOR CONSTRUCTION</p> | <p>UNDINE 16681 TELGE</p> | <p>UNDINE 16681 TELGE</p> |
|------------|-------------------------------|--|-------------------------------|-------------------------------|

EXHIBIT "F"

ENVIRONMENTAL/HAZARDOUS WASTE ADDENDUM

Tenant hereby agrees that (1) no activity will be conducted on the Leased Premises that will produce any Substance (as defined below), except for such activities that are part of the ordinary course for Tenant's business activities (the "Permitted Use") provided the Permitted Use is conducted in accordance with all Environmental Laws (as defined below) and has been approved in advance in writing by Landlord; (2) the Leased Premises will not be used in any manner for the storage of any Substances except for the temporary storage of such materials that are used in the ordinary course of Tenant's business (the "Permitted Materials") provided such Permitted Materials are properly stored in a manner and location meeting all Environmental Laws and approved in advance, in writing, by Landlord; (3) no portion of the Leased Premises will be used as a landfill or a dump; (4) Tenant will not install any underground tanks of any type; (5) Tenant will not allow any surface or subsurface conditions to exist or come into existence that constitute, or with the passage of time may constitute a public or private nuisance; (6) Tenant will not permit any Substances to be brought onto the Leased Premises, except for the Permitted Materials described below or upon written permission from Landlord, and if so brought or found located thereon, the same shall be removed, with proper disposal, and all required cleanup procedures shall be diligently undertaken pursuant to all Environmental Laws. The term "Substances", as used in this Lease shall mean pollutants, contaminants, toxic or hazardous wastes, or any other substances, the use, storage, handling, disposal, transportation or removal of which is regulated, restricted prohibited or penalized by any "Environmental Law", which term shall mean any federal, state or local law, ordinance or other statute of a governmental or quasi-governmental authority relating to pollution or protection of the environment and shall specifically include, but not be limited to, any "hazardous substance" as that term is defined under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and any amendments or successors in function thereto. Prior to any Substance being brought upon or into the Leased Premises, whether with Landlord's written permission or not, Tenant will provide to Landlord any applicable material safety data sheets regarding the Substance as well as a written description of the amount of such Substance to be brought upon or into the Leased Premises and the common and recognized chemical name of such Substance. Landlord or Landlord's representative shall have the right but not the obligation to enter the Leased Premises for the purpose of inspecting the storage, use and disposal of Permitted Materials to ensure compliance with all Environmental Laws. Tenant shall be responsible for obtaining any required permits and paying any fees and providing any testing required by any governmental agency or Environmental Law. Should it be determined, in Landlord's sole opinion, that Permitted Materials are being improperly stored, used, or disposed of, then Tenant shall immediately take such corrective action as requested by Landlord. Should Tenant fail to take such corrective action within 72 hours, Landlord shall have the right to perform such work and Tenant shall promptly reimburse Landlord for any and all costs associated with said work. If at any time during or after the term of the Lease the Leased Premises are found to be so contaminated or subject to said conditions, Tenant shall diligently institute proper and thorough cleanup procedures at Tenant's sole cost, and Tenant agrees to indemnify and hold Landlord harmless from all claims, demands, actions, liabilities, costs, expenses, damages, fines, reimbursement, restitution, response costs, cleanup costs, and obligations (including investigative responses and attorney's fees) of any nature arising from or as a result of the use of the Leased Premises by Tenant. The foregoing indemnification of the responsibilities of Tenant shall survive for twelve months after the termination of this Lease.

Permitted Materials (if none, enter "None"): None.

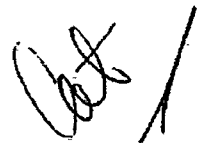


EXHIBIT "G"

TENANT INFORMATION

* The following information should be completed by the new tenant at the time of lease signature

Company Name: _____ Phone: _____
Current Address: _____
Current Landlord: _____ Current Landlord Phone: _____

COMPANY DETAILS

Individually Owned: _____ Partnership: _____ Corporation: _____ Year Incorporated: _____
Date Business Started: _____ Type of Business: _____
Headquarters Address: _____ # of Employees _____

FINANCIAL & BANKING DETAILS

Bank Name: _____ Address: _____
Phone: _____ Bank Officer: _____
Account Numbers/Type of Account: _____

CREDIT REFERENCES (LIST THREE)

| COMPANY NAME | CONTACT | PHONE |
|--------------|---------|-------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

COMMUNICATION PREFERENCES

AP contact(s) to receive Rent or Other Invoices:

Name: _____ Email: _____
Name: _____ Email: _____

Contact to receive copies of lease, warranties, etc...:

Name: _____ Email: _____
Name: _____ Email: _____

Emergency Contact if Tenant is unreachable:

Name: _____ Phone# _____

The above information is true and correct to the best of my knowledge and the signature shown below
authorizes the Landlord's agent to conduct a credit check on the information shown above:

Name: _____ Signature: _____ Date: _____

Name: _____ Signature: _____ Date: _____

EXHIBIT "H"

UTILITY TRANSFERS & SERVICE MAINTENANCE AGREEMENT

Company Name: Lindine Operating, LLC
Tenant Address: 16681 Telge Rd. Cypress, TX 77429

UTILITY TRANSFERS

All UTILITY transfers MUST BE completed no later than 14 DAYS FROM COMMENCEMENT DATE

(ELECTRICITY)

With respect to the electricity supplied to the above address:

- We will provide you with relevant contact, phone number and meter number to complete the transfer when available.

NOTICE: Landlord will be suspending service, if in its name, 14 DAYS FROM COMMENCEMENT DATE. As such, Landlord will not be responsible for any additional fees that Tenant may incur to restart service in its name.

SERVICE MAINTENANCE AGREEMENT

Per Paragraph 6.4 of the Lease, "Tenant, at its own cost and expense, shall enter into a regularly scheduled preventative maintenance/service contract with a maintenance contractor approved by Landlord for servicing all hot water, heating and air conditioning systems and equipment within the Leased Premises...within 30 days of the date Tenant takes possession."

Tenant agrees that they have been made aware of their responsibility to Transfer Utilities to their name and securing a Service Maintenance Contract.

Name: Carey Thomas Signature: Carey Thomas Date: 4/17/2018
Name: _____ Signature: _____ Date: _____

EXHIBIT I
COMMON AREA MAINTENANCE

TELGE BUSINESS PARK PHASE II - Operating Budget -- 2018

| | | 2018 | |
|-----------------------------------|---|---------------|------|
| | | Amount | |
| Management | | | |
| 12 Months | Management Contract | 8,400 | |
| Security Patrol | | | |
| 0 Months | | 0 | |
| Landscaping | | | |
| 12 Months | Landscape Proposed Maintenance Contract | 36,000 | |
| Extras: | Landscape Repairs and Replacement | 0 | |
| | Irrigation Repairs | 3,000 | EST. |
| Total Landscaping | | <u>39,000</u> | |
| Water / Well | Common Area Water Expense | 4,000 | EST. |
| Electricity | | 1,400 | EST. |
| Road, Entrance Maintenance | | | |
| | Road Maintenance, Utility line & detention site maintenance | 1,500 | EST. |

| | | |
|--------------------------------------|----------------------------------|---------------------|
| Miscellaneous Expenses | Estimated Miscellaneous Expenses | 200 |
| Taxes | Property Taxes & Filing | 0 |
| | (FILE FOR NOMINAL VALUE) | |
| Insurance | PCA Insurance | 3,400 |
| Office Expenses | | |
| Forms/Print/Copies | | 100 |
| Office Supplies | | 50 |
| Postage | | 50 |
| Total Office Expenses | | <u>200</u> |
| RESERVE CONTRIBUTION | | 1,000 |
| TOTAL 2018 Operating Budget Expenses | | <u>\$ 59,100.00</u> |

TELGE INDUSTRIAL PARK - PHASE II
Annual Assessment Allocation for 2018

| Tract No. (A.C. #) | Name | Tract Size (A.C. #) | Ownership Percentage | Annual Assessment |
|--------------------|----------------|---------------------|----------------------|--------------------|
| 16671 Telge Rd. | Adkisson Group | 1.190 | 6.54% | \$3,864.23 |
| 16673 Telge Rd. | Adkisson Group | 0.900 | 4.95% | \$2,922.53 |
| 16675 Telge Rd. | Adkisson Group | 0.630 | 3.46% | \$2,045.77 |
| 16677 Telge Rd. | Adkisson Group | 0.870 | 4.78% | \$2,825.11 |
| 16679 Telge Rd. | Adkisson Group | 0.700 | 3.85% | \$2,273.08 |
| | | | | |
| 16683 Telge Rd. | Adkisson Group | 1.060 | 5.82% | \$3,442.09 |
| 16685 Telge Rd. | Adkisson Group | 0.560 | 3.08% | \$1,818.46 |
| 16687 Telge Rd. | Adkisson Group | 0.660 | 3.63% | \$2,143.19 |
| 16689 Telge Rd. | Adkisson Group | 1.560 | 8.57% | \$5,065.71 |
| 17701 Telge Rd. | Adkisson Group | 0.650 | 3.57% | \$2,110.71 |
| 17703 Telge Rd. | Adkisson Group | 0.550 | 3.02% | \$1,785.99 |
| 17705 Telge Rd. | Adkisson Group | 1.060 | 5.82% | \$3,442.09 |
| 17707 Telge Rd. | Adkisson Group | 1.430 | 7.86% | \$4,643.57 |
| 17709 Telge Rd. | Adkisson Group | 1.090 | 5.99% | \$3,539.51 |
| 17711 Telge Rd. | Adkisson Group | 0.990 | 5.44% | \$3,214.78 |
| 17713 Telge Rd. | Adkisson Group | 0.730 | 4.01% | \$2,370.49 |
| 17715 Telge Rd. | Adkisson Group | 0.990 | 5.44% | \$3,214.78 |
| Land | Adkisson Group | 1.140 | 6.26% | \$3,701.87 |
| Total | | 18.20 | 100% | \$59,100.00 |