



**DESERT HEALTHCARE DISTRICT**  
**Finance, Legal, Administration, & Real Estate Committee**  
**June 14, 2022**

The Finance, Legal, Administration, & Real Estate Committee of the Desert Healthcare District will be held at 3:30 PM, Tuesday, June 14, 2022, via Zoom using the following link:  
<https://us02web.zoom.us/j/88277573637?pwd=RUdMaHR6SGllaWRyUUEzT2JSZHhqUT09>  
Password: 359935

Participants will need to download the Zoom app on their mobile devices. Members of the public may also be able to participate by telephone, using the following dial in information:

Dial in #:(669) 900-6833 To Listen and Address the Board when called upon:  
Webinar ID: 882 7757 3637  
Password: 359935

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**AGENDA**

**I. CALL TO ORDER**

**II. APPROVAL OF AGENDA**

**III. PUBLIC COMMENT**

At this time, comments from the audience may be made on items not listed on the agenda that are of public interest and within the subject-matter jurisdiction of the District. The Committee has a policy of limiting speakers to not more than three minutes. The Committee cannot take action on items not listed on the agenda. Public input may be offered on an agenda item when it comes up for discussion and/or action.

**IV. APPROVAL OF MINUTES**

1. F&A Meeting Minutes – May 10, 2022 – Pg. 3-7

**ACTION**

**V. CEO REPORT**

Information

**VI. CHIEF ADMINISTRATION OFFICER’S REPORT – Pg. 8**

Information

1. LPMP Leasing Update – Pg.9

**VII. FINANCIAL REPORTS**

**ACTION**

1. District and LPMP Financial Statements – Pg. 10-20
2. Accounts Receivable Aging Summary – Pg. 21
3. District - Deposits – Pg. 22
4. District - Property tax receipts – Pg. 23
5. LPMP – Deposits – Pg. 24-25
6. District – Check Register – Pg. 26
7. Credit Card – Detail of Expenditures – Pg. 27
8. LPMP – Check Register – Pg. 28
9. Retirement Protection Plan Update – Pg. 29
10. Grant Payment Schedule – Pg. 30

**VIII. OTHER MATTERS**

1. Consulting Services Agreement – Spitfire Strategies – Board Development – NTE \$45,000 – Pg. 31-40
2. Amendment #3 to the Kaufman Hall Associates May 20, 2021, Engagement Letter – Effective May-July 2022 - \$75,000 per month, plus expenses – Pg. 41-43

**ACTION**

**ACTION**



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3. Addendum #3 - Magdalena Martinez HR Consultant - \$927/month – Pg. 44-45
4. LPMP – Suite 2W-101 - Dr. Wolfson Lease Renewal – 3 Years – Pg. 46-68
5. LPMP – Suite 3W-103 - Dr. Gundry Lease Renewal – 3 Years – Pg. 69-91
6. Policies -
  - a. Policy #FIN-02 – Authorized Check Signers, Signers, Dollar Limits, and Transfer of Funds – Pg. 92-96
  - b. Policy #FIN-03 – Investment Policy – Pg. 97-100
  - c. Resolution No. 22-13 – FY22-23 Statement of Investment Policy – Pg. 101-102
  - d. Policy #FIN-05 – Credit Card Usage – Pg. 103-106

**ACTION**  
**ACTION**  
**ACTION**  
**ACTION**

**IV. ADJOURNMENT**

*If you have any disability which would require accommodation to enable you to participate in this meeting, please email Andrea S. Hayles, Special Assistant to the CEO and Board Relations Officer, at [ahayles@dhcd.org](mailto:ahayles@dhcd.org) or call (760) 323-6110 at least 24 hours prior to the meeting.*



**DESERT HEALTHCARE DISTRICT**  
**FINANCE, ADMINISTRATION, REAL ESTATE, LEGAL, AND COMMITTEE**  
**MEETING MINUTES**  
**May 10, 2022**

Directors Present	District Staff Present	Absent
Chair/Treasurer Arthur Shorr President Karen Borja Director Les Zendle, MD	Conrado E. Bázquez, MD, Chief Executive Officer Chris Christensen, Chief Administration Officer Eric Taylor, Accounting Manager Donna Craig, Chief Program Officer Alejandro Espinoza, Chief of Community Engagement Andrea S. Hayles, Clerk to the Board	

AGENDA ITEMS	DISCUSSION	ACTION
<b>I. Call to Order</b>	Chair Shorr called the meeting to order at 3:00 p.m.	
<b>II. Approval of Agenda</b>	Chair Shorr asked for a motion to approve the agenda with a request by Director Zendle to move item 3. in other matters, the Consulting Services Agreement for NPO Centric following the CEO Report.	<b>Moved and seconded by Director Zendle and President Borja to approve the agenda with the change.</b> <b>Motion passed unanimously.</b>
<b>III. Public Comment</b>	There was no public comment.	
<b>IV. Approval of Minutes</b> <b>1. F&amp;A Minutes – Meeting April 12, 2022</b>	Chair Shorr motioned to approve the April 12, 2022, minutes.	<b>Moved and seconded by Director Zendle and President Borja to approve the April 12, 2022, meeting minutes.</b> <b>Motion passed unanimously.</b>
<b>V. CEO Report</b>	Conrado Bázquez, MD, CEO, explained that the agreement with Riverside County Health Systems (RUHS) in the amount of \$750k for the COVID-19 Collaborative is signed. A contract with an organization experienced in Board development will be introduced at the June Board meeting.	
<b>VI. Investment Reports</b> <b>1. District &amp; RPP Investment Reports 1Q22 – Keith Stribling, Vice President,</b>	Keith Stribling, Vice President, Senior Portfolio Manager, Highmark Capital, provided an	

**DESERT HEALTHCARE DISTRICT  
FINANCE, ADMINISTRATION, REAL ESTATE, LEGAL, AND COMMITTEE  
MEETING MINUTES  
May 10, 2022**

<p><b>Senior Portfolio Manager, Highmark Capital</b></p>	<p>overview of the asset allocation summary, the performance report, retirement plan, and other aspects of the portfolio, highlighting the consequences of the economy on the investments.</p>	
<p><b>VII. Chief Administration Officer’s Report</b></p>	<p>Chris Christensen, CAO, explained that the annual budget preparations are underway for approval and recommendation to the board. The interim audit will commence in May, and the Las Palmas Medical Plaza is 97% occupied with \$1.3M annual rent CAM Fees.</p>	
<p><b>VIII. Financial Reports</b></p> <ol style="list-style-type: none"> <li>1. District and LPMP Financial Statements</li> <li>2. Accounts Receivable Aging Summary</li> <li>3. District – Deposits</li> <li>4. District – Property Tax Receipts</li> <li>5. LPMP Deposits</li> <li>6. District – Check Register</li> <li>7. Credit Card – Detail of Expenditures</li> <li>8. LPMP – Check Register</li> <li>9. Retirement Protection Plan Update</li> <li>10. Grant Payment Schedule</li> </ol>	<p>Chris Christensen, CAO, reviewed the financials with the committee highlighting the loss in investments during April due to the economy and the war in Ukraine’s effect on the market.</p>	<p><b>Moved and seconded by President Borja and Director Zendle approve the April 2022 financials – items 1-10 and to forward to the Board for approval. Motion passed unanimously.</b></p>
<p><b>IX. Other Matters</b></p> <ol style="list-style-type: none"> <li>1. Consulting Services Agreement – Prest/Vuksic/Greenwood (Chris Mills) – Architectural/Engineering Services for Clinical</li> </ol>	<p>Chris Christensen, CAO, summarized the strategies for enhancing the Coachella Valley Healthcare Infrastructure associated with strategic plan goal #2 to proactively expand community</p>	

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<p><b>Projects – Hourly NTE \$5,000</b></p>	<p>access to primary and specialty care services. Additionally, the CEO has been exploring opportunities to assist with targeted services in particular areas, Prest/Vuksic/Greenwood has worked with the district in the past and will assist with the district’s goals. The item is informational with funds covered by the Professional Services budget - NTE \$5k.</p>	
<p><b>2. LPMP Suite 1W 104 - Dr. Bencheqroun – Early Lease Termination</b></p>	<p>Chris Christensen, CAO, described the challenges for a pulmonary clinic with a 2-year lease due to staff shortages and turnover from the pandemic while still conducting patient visits via telehealth, which has hindered reopening the office. The terms of the lease end November 30, 2022. Dr. Bencheqroun has requested an early termination effective May 31, 2022. As a first-floor suite with direct access to Desert Regional Medical Center, staff anticipates a short vacancy.</p>	<p><b>Moved and seconded by Director Zendle and Director Shorr to approve the LPMP Suite 1W 104 - Dr. Bencheqroun – Early Lease Termination and forward to the Board for approval. Motion passed unanimously.</b></p>
<p><b>3. Consulting Services Agreement for NPO Centric – Education and Training for Results Based Accountability (RBA) and Clear Impact Platforms – NTE \$48,000</b></p>	<p>Donna Craig, Chief Program Officer, described the consulting services agreement and scope of work from NPO Centric, Stephanie Minor, trained consultant’s role with Clear Impact, and the Board’s approval of evaluating the platform for tracking and reporting the strategic plan</p>	<p><b>Moved and seconded by Director Zendle and President Borja to approve the Consulting Services Agreement for NPO Centric – Education and Training for Results Based Accountability (RBA) and Clear Impact Platforms – NTE \$48,000 and forward to the Board for approval. Motion passed unanimously.</b></p>

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FINANCE, ADMINISTRATION, REAL ESTATE, LEGAL, AND COMMITTEE  
MEETING MINUTES  
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<p><b>4. FY2022-2023 Annual Budget (Draft) Review</b></p>	<p>components of results-based accountability platform.</p> <p>Stephanie Minor, Director, NPO Centric, described the platform, creating the scorecard with results-based accountability (RBA) to train the staff and the board on understanding RBA. Ms. Minor explained her certification, as one of the few in the nation, answering questions of the committee, such as the possibility of additional fees throughout the process.</p> <p>Chris Christensen, CAO, provided an overview of the FY2022-2023 annual budget highlighting the salaries cost-of-living increase broken into increments of a 5% increase on July 1, 2022, an additional 5% on January 1, 2023, and a 2.5% reduction to the annual merit increase effective November 1, 2022. Mr. Christensen provided a brief overview of the Riverside County Consumer Price Index. The committee discussed the option of an increase to the healthcare cap from \$10k to \$10,600, given the increase in the Medicare Part B plan. The increase in the healthcare cap will require an update to the board's compensation policy.</p> <p>President Borja requested an additional page to the budget illustrating a summary of the budget.</p>	<p><b>Moved and seconded by Director Zendle and President Borja to approve the FY2022-2023 Annual Budget (Draft) Review and forward to the Board for approval with a modification that includes a healthcare increase from a \$10,000 per year cap to \$10,600. Motion passed unanimously.</b></p>
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**DESERT HEALTHCARE DISTRICT  
FINANCE, ADMINISTRATION, REAL ESTATE, LEGAL, AND COMMITTEE  
MEETING MINUTES  
May 10, 2022**

<b>X. Adjournment</b>	Director Shorr adjourned the meeting at 4:40 p.m.	<i>Audio recording available on the website at <a href="http://dhcd.org/Agendas-and-Documents">http://dhcd.org/Agendas-and-Documents</a></i>
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ATTEST: \_\_\_\_\_  
Arthur Shorr, Treasurer/Chair, Board of Directors  
Finance & Administration Committee Member  
Desert Healthcare District Board of Directors

*Minutes respectfully submitted by Andrea S. Hayles, Clerk of the Board*

DRAFT



## **Chief Administration Officer's Report**

**June 14, 2022**

FY22 Annual Audit – The interim fieldwork was completed in May without questions or concerns from the audit firm.

Fiscal Year End fieldwork will commence the first week of August.

### **Las Palmas Medical Plaza - Property Management:**

#### **Occupancy:**

See attached unit rental status report.

**97.9%** currently occupied –

Total annual rent including CAM fees is **\$1,392,313**.

#### **Leasing Activity:**

Lease renewals for Dr. Wolfson and Dr. Gundry will be presented for approval at this month's Committee meeting.

2 additional tenants will be negotiating lease extensions/renewals before the end of the calendar year.

There is current interest in leasing suite 1W-104, which was recently vacated.



**Las Palmas Medical Plaza**

**Unit Rental Status**

**As of June 1, 2022**

Unit	Tenant Name	Deposit	Lease Dates		Term	Unit Sq Feet	Percent of Total	Monthly Rent	Annual Rent	Rent Per Sq Foot	Monthly CAM	Total Monthly Rent Inclg CAM	Total Annual Rent Inclg CAM
			From	To									
											\$ 0.69		
1W, 104	Vacant					1,024	2.07%						
<b>Total - Vacancies</b>						<b>1,024</b>	<b>2.07%</b>						
<b>Total Suites - 31 - 30 Suites Occupied</b>		\$62,205.34				49,356	97.9%	\$ 82,817.73	\$ 993,812.76	\$ 1.71	\$ 33,208.32	\$ 116,026.05	\$ 1,392,312.60
<b>Summary - All Units</b>													
			Occupied	48,332	97.9%								
			Vacant	1,024	2.1%								
			Pending	0	0%								
			<b>Total</b>	<b>49,356</b>	<b>100%</b>								

<b>DESERT HEALTHCARE DISTRICT</b>
<b>MAY 2022 FINANCIAL STATEMENTS</b>
<b>INDEX</b>
Year to Date Variance Analysis
Cumulative Profit & Loss Budget vs Actual - Summary
Cumulative Profit & Loss Budget vs Actual - District Including LPMP
Cumulative Profit & Loss Budget vs Actual - LPMP
Balance Sheet - Condensed View
Balance Sheet - Expanded View
Accounts Receivable Aging
Deposit Detail - District
Property Tax Receipts - YTD
Deposit Detail - LPMP
Check Register - District
Credit Card Expenditures
Check Register - LPMP
Retirement Protection Plan Update
Grants Schedule

**DESERT HEALTHCARE DISTRICT  
YEAR TO DATE VARIANCE ANALYSIS  
ACTUAL VS BUDGET  
ELEVEN MONTHS ENDED MAY 31, 2022**

<b>Scope: \$25,000 Variance per Statement of Operations Summary</b>				
<b>Account</b>	<b>YTD</b>		<b>Over(Under)</b>	<b>Explanation</b>
	<b>Actual</b>	<b>Budget</b>	<b>Budget</b>	
	4000 - Income	\$ 6,853,502	\$ 5,762,088	
4500 - LPMP	\$ 1,221,988	\$ 1,170,070	\$ 51,918	Higher CAM revenue \$33k; higher rent revenue \$20k; lower misc income \$1k
4501 - Misc Income	\$ 183,250	\$ 8,250	\$ 175,000	Higher misc income \$175k from Coachella Valley Resource Conservation District for Mobile Medical Unit
5000 - Direct Expenses	\$ 1,078,132	\$ 1,397,301	\$ (319,169)	Lower wage related expenses \$158k due to open positions; lower education expense \$66k; lower board expenses \$51k; lower health insurance expense \$29k; lower workers comp expense \$10k; lower retirement expense \$5k
6000-General & Admin Expense	\$ 450,236	\$ 526,482	\$ (76,246)	Lower depreciation expense \$57k; higher bank and investment fees expense \$30k; lower supplies expense \$14k; lower travel expense \$12k; higher computer services expense \$5k; lower personnel expense \$10k; lower staff mileage reimbursement expense \$7k; lower postage expense \$3k; lower meals and entertainment expense \$3k; lower various \$5k
6445 - LPMP Expense	\$ 981,497	\$ 943,492	\$ 38,005	Higher plumbing expenses \$26k; higher depreciation expenses \$19k; higher marketing expense \$17k; lower interior building expense \$8k; lower deferred maintenance expense \$6k; lower lighting expense \$5k; higher security expense \$5k; lower bank charges \$4k; lower landscaping expense \$4k; higher rubbish removal expense \$4k; lower HVAC maintenance expense \$3k; lower various \$3k
6500 - Professional Fees Expense	\$ 724,148	\$ 1,142,900	\$ (418,752)	Lower Professional Services expense \$222k; lower legal expense \$120k; lower PR/Communications expense \$77k
7000 - Grants Expense	\$ 20,819	\$ 3,721,663	\$ (3,700,844)	Budget of \$4 Million for fiscal year is amortized straight-line over 12-month fiscal year. As of May 31, 2022, there is \$4 million remaining in the fiscal year grant budget as well as \$970,227 from FY21.

**Desert Healthcare District**  
**Profit & Loss Budget vs. Actual**  
July 2021 through May 2022

	MONTH			TOTAL		
	May 22	Budget	\$ Over Budget	Jul '21 - May 22	Budget	\$ Over Budget
<b>Income</b>						
4000 · Income	3,638,994	1,463,902	2,175,092	6,853,502	5,762,088	1,091,414
4500 · LPMP Income	115,525	106,370	9,155	1,221,988	1,170,070	51,918
4501 · Miscellaneous Income	750	750	0	183,250	8,250	175,000
<b>Total Income</b>	<b>3,755,269</b>	<b>1,571,022</b>	<b>2,184,247</b>	<b>8,258,740</b>	<b>6,940,408</b>	<b>1,318,332</b>
<b>Expense</b>						
5000 · Direct Expenses	105,987	118,477	(12,490)	1,078,132	1,397,301	(319,169)
6000 · General & Administrative Exp	56,725	47,862	8,863	450,236	526,482	(76,246)
6325 · CEO Discretionary Fund	11,358	2,083	9,275	18,368	22,913	(4,545)
6445 · LPMP Expenses	102,243	85,772	16,471	981,497	943,492	38,005
6500 · Professional Fees Expense	109,973	103,900	6,073	724,148	1,142,900	(418,752)
6600 · Mobile Medical Unit	0	3,125	(3,125)	0	34,375	(34,375)
6700 · Trust Expenses	7,958	8,792	(834)	103,132	96,712	6,420
<b>Total Expense Before Grants</b>	<b>394,244</b>	<b>370,011</b>	<b>24,233</b>	<b>3,355,512</b>	<b>4,164,195</b>	<b>(808,683)</b>
7000 · Grants Expense	0	338,333	(338,333)	20,819	3,721,663	(3,700,844)
<b>Net Income</b>	<b>3,361,025</b>	<b>862,678</b>	<b>2,498,347</b>	<b>4,882,409</b>	<b>(945,450)</b>	<b>5,827,859</b>

**Desert Healthcare District**  
**Profit & Loss Budget vs. Actual**  
 July 2021 through May 2022

	MONTH			TOTAL		
	May 22	Budget	\$ Over Budget	Jul '21 - May 22	Budget	\$ Over Budget
<b>Income</b>						
<b>4000 · Income</b>						
<b>4010 · Property Tax Revenues</b>	3,288,706	1,455,287	1,833,419	8,268,482	5,667,575	2,600,907
<b>4200 · Interest Income</b>						
<b>4220 · Interest Income (FRF)</b>	106,223	80,907	25,316	736,601	889,977	(153,376)
<b>9999-1 · Unrealized gain(loss) on invest</b>	242,065	(79,167)	321,232	(2,197,684)	(870,837)	(1,326,847)
<b>Total 4200 · Interest Income</b>	348,288	1,740	346,548	(1,461,083)	19,140	(1,480,223)
<b>4300 · DHC Recoveries</b>	2,000	1,875	125	21,636	20,373	1,263
<b>4400 · Grant Income</b>	0	5,000	(5,000)	24,467	55,000	(30,533)
<b>Total 4000 · Income</b>	3,638,994	1,463,902	2,175,092	6,853,502	5,762,088	1,091,414
<b>4500 · LPMP Income</b>	115,525	106,370	9,155	1,221,988	1,170,070	51,918
<b>4501 · Miscellaneous Income</b>	750	750	0	183,250	8,250	175,000
<b>Total Income</b>	<b>3,755,269</b>	<b>1,571,022</b>	<b>2,184,247</b>	<b>8,258,740</b>	<b>6,940,408</b>	<b>1,318,332</b>
<b>Expense</b>						
<b>5000 · Direct Expenses</b>						
<b>5100 · Administration Expense</b>						
<b>5110 · Wages Expense</b>	96,137	113,108	(16,971)	1,021,171	1,338,242	(317,071)
<b>5111 · Allocation to LPMP - Payroll</b>	(5,470)	(5,470)	0	(60,170)	(60,170)	0
<b>5112 · Vacation/Sick/Holiday Expense</b>	5,493	10,833	(5,340)	147,872	119,163	28,709
<b>5114 · Allocation to Foundation</b>	(30,321)	(31,823)	1,502	(304,396)	(350,053)	45,657
<b>5115 · Allocation to NEOPB</b>	0	(7,413)	7,413	(23,131)	(81,543)	58,412
<b>5119 · Allocation-FED FUNDS/CVHIP-DHCF</b>	(11,170)	(21,134)	9,964	(189,743)	(232,474)	42,731
<b>5120 · Payroll Tax Expense</b>	7,788	9,252	(1,464)	84,960	101,772	(16,812)
<b>5130 · Health Insurance Expense</b>						
<b>5131 · Premiums Expense</b>	16,555	17,658	(1,103)	183,948	194,238	(10,290)
<b>5135 · Reimb./Co-Payments Expense</b>	2,797	3,000	(203)	14,513	33,000	(18,487)
<b>Total 5130 · Health Insurance Expense</b>	19,352	20,658	(1,306)	198,461	227,238	(28,777)
<b>5140 · Workers Comp. Expense</b>	385	1,270	(885)	4,245	13,970	(9,725)
<b>5145 · Retirement Plan Expense</b>	7,792	8,994	(1,202)	94,048	98,934	(4,886)
<b>5160 · Education Expense</b>	4,697	7,250	(2,553)	13,445	79,750	(66,305)
<b>Total 5100 · Administration Expense</b>	94,683	105,525	(10,842)	986,762	1,254,829	(268,067)
<b>5200 · Board Expenses</b>						
<b>5210 · Healthcare Benefits Expense</b>	1,100	5,834	(4,734)	45,020	64,174	(19,154)
<b>5230 · Meeting Expense</b>	1,044	1,667	(623)	10,815	18,337	(7,522)
<b>5235 · Director Stipend Expense</b>	8,610	4,410	4,200	30,555	48,510	(17,955)
<b>5240 · Catering Expense</b>	550	833	(283)	4,612	9,163	(4,551)
<b>5250 · Mileage Reimbursement Expense</b>	0	208	(208)	368	2,288	(1,920)
<b>Total 5200 · Board Expenses</b>	11,304	12,952	(1,648)	91,370	142,472	(51,102)
<b>Total 5000 · Direct Expenses</b>	<b>105,987</b>	<b>118,477</b>	<b>(12,490)</b>	<b>1,078,132</b>	<b>1,397,301</b>	<b>(319,169)</b>

**Desert Healthcare District**  
**Profit & Loss Budget vs. Actual**  
 July 2021 through May 2022

	MONTH			TOTAL		
	May 22	Budget	\$ Over Budget	Jul '21 - May 22	Budget	\$ Over Budget
<b>6000 · General &amp; Administrative Exp</b>						
6110 · Payroll fees Expense	181	208	(27)	1,975	2,288	(313)
6120 · Bank and Investment Fees Exp	5,997	4,500	1,497	79,790	49,500	30,290
6125 · Depreciation Expense	1,033	6,167	(5,134)	11,209	67,837	(56,628)
6126 · Depreciation-Solar Parking lot	15,072	15,072	0	165,792	165,792	0
6130 · Dues and Membership Expense	1,697	3,737	(2,040)	41,461	41,107	354
6200 · Insurance Expense	2,855	2,667	188	31,705	29,337	2,368
6300 · Minor Equipment Expense	0	42	(42)	0	462	(462)
6305 · Auto Allowance & Mileage Exp	462	500	(38)	5,542	5,500	42
6306 · Staff- Auto Mileage reimb	0	625	(625)	292	6,875	(6,583)
6309 · Personnel Expense	857	1,167	(310)	3,083	12,837	(9,754)
6310 · Miscellaneous Expense	0	42	(42)	0	462	(462)
6311 · Cell Phone Expense	526	776	(250)	5,965	8,536	(2,571)
6312 · Wellness Park Expenses	288	83	205	288	913	(625)
6315 · Security Monitoring Expense	0	50	(50)	465	550	(85)
6340 · Postage Expense	100	417	(317)	1,592	4,587	(2,995)
6350 · Copier Rental/Fees Expense	377	500	(123)	4,283	5,500	(1,217)
6351 · Travel Expense	2,207	1,667	540	6,690	18,337	(11,647)
6352 · Meals & Entertainment Exp	548	875	(327)	6,142	9,625	(3,483)
6355 · Computer Services Expense	20,702	3,875	16,827	47,371	42,625	4,746
6360 · Supplies Expense	1,411	2,167	(756)	10,156	23,837	(13,681)
6380 · LAFCO Assessment Expense	182	208	(26)	2,002	2,288	(286)
6400 · East Valley Office	2,230	2,517	(287)	24,433	27,687	(3,254)
<b>Total 6000 · General &amp; Administrative Exp</b>	<b>56,725</b>	<b>47,862</b>	<b>8,863</b>	<b>450,236</b>	<b>526,482</b>	<b>(76,246)</b>
6325 · CEO Discretionary Fund	11,358	2,083	9,275	18,368	22,913	(4,545)
6445 · LPMP Expenses	102,243	85,772	16,471	981,497	943,492	38,005
<b>6500 · Professional Fees Expense</b>						
6516 · Professional Services Expense	99,080	77,483	21,597	630,373	852,313	(221,940)
6520 · Annual Audit Fee Expense	1,375	1,375	0	15,125	15,125	0
6530 · PR/Communications/Website	0	8,042	(8,042)	11,115	88,462	(77,347)
6560 · Legal Expense	9,518	17,000	(7,482)	67,535	187,000	(119,465)
<b>Total 6500 · Professional Fees Expense</b>	<b>109,973</b>	<b>103,900</b>	<b>6,073</b>	<b>724,148</b>	<b>1,142,900</b>	<b>(418,752)</b>
6600 · Mobile Medical Unit	0	3,125	(3,125)	0	34,375	(34,375)
<b>6700 · Trust Expenses</b>						
6720 · Pension Plans Expense						
6721 · Legal Expense	0	167	(167)	2,075	1,837	238
6725 · RPP Pension Expense	7,500	7,500	0	82,500	82,500	0
6728 · Pension Audit Fee Expense	458	1,125	(667)	18,557	12,375	6,182
<b>Total 6700 · Trust Expenses</b>	<b>7,958</b>	<b>8,792</b>	<b>(834)</b>	<b>103,132</b>	<b>96,712</b>	<b>6,420</b>
<b>Total Expense Before Grants</b>	<b>394,244</b>	<b>370,011</b>	<b>24,233</b>	<b>3,355,512</b>	<b>4,164,195</b>	<b>(808,683)</b>
<b>7000 · Grants Expense</b>						
7010 · Major Grant Awards Expense	0	333,333	(333,333)	(3,648)	3,666,663	(3,670,311)
7027 · Grant Exp - CalFresh	0	5,000	(5,000)	24,467	55,000	(30,533)
<b>Total 7000 · Grants Expense</b>	<b>0</b>	<b>338,333</b>	<b>(338,333)</b>	<b>20,819</b>	<b>3,721,663</b>	<b>(3,700,844)</b>
<b>Net Income</b>	<b>3,361,025</b>	<b>862,678</b>	<b>2,498,347</b>	<b>4,882,409</b>	<b>(945,450)</b>	<b>5,827,859</b>

**Las Palmas Medical Plaza**  
**Profit & Loss Budget vs. Actual**  
July 2021 through May 2022

	MONTH			TOTAL		
	May 22	Budget	\$ Over Budget	Jul '21 - May 22	Budget	\$ Over Budget
<b>Income</b>						
4500 · LPMP Income						
4505 · Rental Income	82,493	75,162	7,331	846,617	826,782	19,835
4510 · CAM Income	33,032	31,125	1,907	375,371	342,375	32,996
4513 · Misc. Income	0	83	(83)	0	913	(913)
<b>Total 4500 · LPMP Income</b>	<b>115,525</b>	<b>106,370</b>	<b>9,155</b>	<b>1,221,988</b>	<b>1,170,070</b>	<b>51,918</b>
<b>Expense</b>						
6445 · LPMP Expenses						
6420 · Insurance Expense	3,114	2,917	197	34,254	32,087	2,167
6425 · Building - Depreciation Expense	24,170	21,462	2,708	243,134	236,082	7,052
6426 · Tenant Improvements -Dep Exp	19,692	16,667	3,025	195,340	183,337	12,003
6427 · HVAC Maintenance Expense	1,759	1,333	426	11,615	14,663	(3,048)
6428 · Roof Repairs Expense	0	208	(208)	0	2,288	(2,288)
6431 · Building -Interior Expense	0	833	(833)	1,000	9,163	(8,163)
6432 · Plumbing -Interior Expense	9,400	542	8,858	33,812	5,962	27,850
6433 · Plumbing -Exterior Expense	0	208	(208)	0	2,288	(2,288)
6434 · Allocation Internal Prop. Mgmt	5,470	5,470	0	60,170	60,170	0
6435 · Bank Charges	31	417	(386)	313	4,587	(4,274)
6437 · Utilities -Vacant Units Expense	(2,769)	183	(2,952)	1,173	2,013	(840)
6439 · Deferred Maintenance Repairs Ex	0	1,250	(1,250)	7,746	13,750	(6,004)
6440 · Professional Fees Expense	11,150	10,825	325	119,400	119,075	325
6441 · Legal Expense	0	83	(83)	0	913	(913)
6458 · Elevators - R & M Expense	236	1,000	(764)	12,156	11,000	1,156
6460 · Exterminating Service Expense	1,775	333	1,442	4,225	3,663	562
6463 · Landscaping Expense	0	1,000	(1,000)	7,294	11,000	(3,706)
6467 · Lighting Expense	0	500	(500)	0	5,500	(5,500)
6468 · General Maintenance Expense	0	83	(83)	0	913	(913)
6471 · Marketing-Advertising	5,791	1,000	4,791	27,602	11,000	16,602
6475 · Property Taxes Expense	6,250	6,250	0	68,750	68,750	0
6476 · Signage Expense	0	125	(125)	553	1,375	(822)
6480 · Rubbish Removal Medical Waste E	1,302	1,583	(281)	16,120	17,413	(1,293)
6481 · Rubbish Removal Expense	3,058	2,250	808	28,988	24,750	4,238
6482 · Utilities/Electricity/Exterior	522	625	(103)	6,274	6,875	(601)
6484 · Utilties - Water (Exterior)	667	625	42	9,335	6,875	2,460
6485 · Security Expenses	10,625	7,833	2,792	90,999	86,163	4,836
6490 · Miscellaneous Expense	0	167	(167)	1,244	1,837	(593)
<b>6445 · LPMP Expenses</b>	<b>102,243</b>	<b>85,772</b>	<b>16,471</b>	<b>981,497</b>	<b>943,492</b>	<b>38,005</b>
<b>Net Income</b>	<b>13,282</b>	<b>20,598</b>	<b>(7,316)</b>	<b>240,491</b>	<b>226,578</b>	<b>13,913</b>

**Desert Healthcare District**  
**Balance Sheet Previous Year Comparison**  
As of May 31, 2022

			May 31, 22	May 31, 21
<b>ASSETS</b>				
<b>Current Assets</b>				
<b>Checking/Savings</b>				
		1000 · CHECKING CASH ACCOUNTS	4,704,519	2,589,883
		1100 · INVESTMENT ACCOUNTS	62,860,609	61,651,373
		<b>Total Checking/Savings</b>	67,565,128	64,241,256
		<b>Total Accounts Receivable</b>	314,180	70,880
<b>Other Current Assets</b>				
		1204.1 · Rent Receivable-Deferred COVID	101,562	161,473
		1270 · Prepaid Insurance -Ongoing	9,594	8,668
		1279 · Pre-Paid Fees	9,907	5,652
		1281 · CalFresh Receivable	0	7,076
		1295 · Property Tax Receivable	0	9,138
		<b>Total Other Current Assets</b>	121,063	192,007
		<b>Total Current Assets</b>	68,000,371	64,504,143
<b>Fixed Assets</b>				
		1300 · FIXED ASSETS	4,933,929	4,913,920
		1335-00 · ACC DEPR	(2,350,843)	(2,220,325)
		1400 · LPMP Assets	7,136,371	7,075,069
		<b>Total Fixed Assets</b>	9,719,457	9,768,664
<b>Other Assets</b>				
		1700 · OTHER ASSETS	3,912,720	2,909,152
<b>TOTAL ASSETS</b>			<b>81,632,548</b>	<b>77,181,959</b>



**Desert Healthcare District**  
**Balance Sheet Previous Year Comparison**  
As of May 31, 2022

				May 31, 22	May 31, 21
<b>LIABILITIES &amp; EQUITY</b>					
<b>Liabilities</b>					
<b>Current Liabilities</b>					
<b>Accounts Payable</b>					
2000 - Accounts Payable				117,122	1,774,431
2001 - LPMP Accounts Payable				8,113	4,852
<b>Total Accounts Payable</b>				<b>125,235</b>	<b>1,779,283</b>
<b>Other Current Liabilities</b>					
2002 - LPMP Property Taxes				(6,018)	(5,950)
2003 - Prepaid Rents				3,123	0
2131 - Grant Awards Payable				3,240,728	1,203,389
2133 - Accrued Accounts Payable				139,550	139,550
2141 - Accrued Vacation Time				82,162	83,867
2188 - Current Portion - LTD				1,234	1,234
2190 - Investment Fees Payable				9,013	21,284
<b>Total Other Current Liabilities</b>				<b>3,469,792</b>	<b>1,443,374</b>
<b>Total Current Liabilities</b>				<b>3,595,027</b>	<b>3,222,657</b>
<b>Long Term Liabilities</b>					
2170 - RPP - Pension Liability				0	4,686,754
2171 - RPP-Deferred Inflows-Resources				675,732	370,700
2280 - Long-Term Disability				16,281	28,809
2281 - Grants Payable - Long-term				4,990,000	6,660,000
2286 - Retirement BOD Medical Liabilit				0	46,729
2290 - LPMP Security Deposits				64,151	52,520
<b>Total Long Term Liabilities</b>				<b>5,746,164</b>	<b>11,845,512</b>
<b>Total Liabilities</b>				<b>9,341,191</b>	<b>15,068,169</b>
<b>Equity</b>					
3900 - *Retained Earnings				67,408,928	59,913,158
Net Income				4,882,409	2,200,632
<b>Total Equity</b>				<b>72,291,337</b>	<b>62,113,790</b>
<b>TOTAL LIABILITIES &amp; EQUITY</b>				<b>81,632,548</b>	<b>77,181,959</b>

**Desert Healthcare District**  
**Balance Sheet Previous Year Comparison**  
As of May 31, 2022

			May 31, 22	May 31, 21
<b>ASSETS</b>				
<b>Current Assets</b>				
<b>Checking/Savings</b>				
<b>1000 · CHECKING CASH ACCOUNTS</b>				
		1010 · Union Bank - Checking	51,585	2,505,017
		1012 · Union Bank Operating - 9356	4,440,214	0
		1046 · Las Palmas Medical Plaza	212,220	84,366
		1047 · Petty Cash	500	500
		<b>Total 1000 · CHECKING CASH ACCOUNTS</b>	<b>4,704,519</b>	<b>2,589,883</b>
<b>1100 · INVESTMENT ACCOUNTS</b>				
		1130 · Facility Replacement Fund	64,373,846	60,878,595
		1135 · Unrealized Gain(Loss) FRF	(1,513,237)	772,778
		<b>Total 1100 · INVESTMENT ACCOUNTS</b>	<b>62,860,609</b>	<b>61,651,373</b>
		<b>Total Checking/Savings</b>	<b>67,565,128</b>	<b>64,241,256</b>
<b>Accounts Receivable</b>				
<b>1201 · Accounts Receivable</b>				
		1204 · LPMP Accounts Receivable	(7,965)	(5,051)
		1205 · Misc. Accounts Receivable	175,000	1,500
		1211 · A-R Foundation - Exp Allocation	147,145	74,431
		<b>Total Accounts Receivable</b>	<b>314,180</b>	<b>70,880</b>
<b>Other Current Assets</b>				
		1204.1 · Rent Receivable-Deferred COVID	101,562	161,473
		1270 · Prepaid Insurance -Ongoing	9,594	8,668
		1279 · Pre-Paid Fees	9,907	5,652
		1281 · CalFresh Receivable	0	7,076
		1295 · Property Tax Receivable	0	9,138
		<b>Total Other Current Assets</b>	<b>121,063</b>	<b>192,007</b>
		<b>Total Current Assets</b>	<b>68,000,371</b>	<b>64,504,143</b>
<b>Fixed Assets</b>				
<b>1300 · FIXED ASSETS</b>				
		1310 · Computer Equipment	91,275	94,790
		1315 · Computer Software	0	68,770
		1320 · Furniture and Fixtures	33,254	33,254
		1321 · Mobile Medical Unit	59,500	0
		1322 · Tenant Improvement - RAP #G100	32,794	0
		1325 · Offsite Improvements	300,849	300,849
		1331 · DRMC - Parking lot	4,416,257	4,416,257

**Desert Healthcare District**  
**Balance Sheet Previous Year Comparison**  
As of May 31, 2022

		May 31, 22	May 31, 21
	<b>Total 1300 · FIXED ASSETS</b>	4,933,929	4,913,920
	<b>1335-00 · ACC DEPR</b>		
	1335 · Accumulated Depreciation	(218,472)	(222,597)
	1336 · Acc. Software Depreciation	0	(68,770)
	1337 · Accum Deprec- Solar Parking Lot	(1,944,459)	(1,763,595)
	1338 · Accum Deprec - LPMP Parking Lot	(187,912)	(165,363)
	<b>Total 1335-00 · ACC DEPR</b>	(2,350,843)	(2,220,325)
	<b>1400 · LPMP Assets</b>		
	1401 · Building	8,705,680	8,705,680
	1402 · Land	2,165,300	2,165,300
	1403 · Tenant Improvements -New	2,271,406	2,187,796
	1404 · Tenant Improvements - CIP	129,550	129,550
	1406 · Building Improvements		
	1406.1 · LPMP-Replace Parking Lot	676,484	676,484
	1406.2 · Building Improvements-CIP	344,141	566,146
	1406 · Building Improvements - Other	2,154,512	1,581,558
	<b>Total 1406 · Building Improvements</b>	3,175,137	2,824,188
	1407 · Building Equipment Improvements	434,526	375,185
	1409 · Accumulated Depreciation		
	1410 · Accum. Depreciation	(7,851,883)	(7,624,664)
	1412 · T I Accumulated Dep.-New	(1,893,345)	(1,687,966)
	<b>Total 1409 · Accumulated Depreciation</b>	(9,745,228)	(9,312,630)
	<b>Total 1400 · LPMP Assets</b>	7,136,371	7,075,069
	<b>Total Fixed Assets</b>	9,719,457	9,768,664
	<b>Other Assets</b>		
	<b>1700 · OTHER ASSETS</b>		
	1731 · Wellness Park	1,693,800	1,693,800
	1740 · RPP-Deferred Outflows-Resources	494,388	1,204,238
	1741 · OPEB-Deferrred Outflows-Resourc	0	11,114
	1742 · RPP - Net Pension Asset	1,724,532	0
	<b>Total Other Assets</b>	3,912,720	2,909,152
	<b>TOTAL ASSETS</b>	<b>81,632,548</b>	<b>77,181,959</b>

**Desert Healthcare District**  
**Balance Sheet Previous Year Comparison**  
As of May 31, 2022

			May 31, 22	May 31, 21
<b>LIABILITIES &amp; EQUITY</b>				
<b>Liabilities</b>				
<b>Current Liabilities</b>				
<b>Accounts Payable</b>				
		2000 - Accounts Payable	117,122	1,774,431
		2001 - LPMP Accounts Payable	8,113	4,852
		<b>Total Accounts Payable</b>	<b>125,235</b>	<b>1,779,283</b>
<b>Other Current Liabilities</b>				
		2002 - LPMP Property Taxes	(6,018)	(5,950)
		2003 - Prepaid Rents	3,123	0
		2131 - Grant Awards Payable	3,240,728	1,203,389
		2133 - Accrued Accounts Payable	139,550	139,550
		2141 - Accrued Vacation Time	82,162	83,867
		2188 - Current Portion - LTD	1,234	1,234
		2190 - Investment Fees Payable	9,013	21,284
		<b>Total Other Current Liabilities</b>	<b>3,469,792</b>	<b>1,443,374</b>
		<b>Total Current Liabilities</b>	<b>3,595,027</b>	<b>3,222,657</b>
<b>Long Term Liabilities</b>				
		2170 - RPP - Pension Liability	0	4,686,754
		2171 - RPP-Deferred Inflows-Resources	675,732	370,700
		2280 - Long-Term Disability	16,281	28,809
		2281 - Grants Payable - Long-term	4,990,000	6,660,000
		2286 - Retirement BOD Medical Liabilit	0	46,729
		2290 - LPMP Security Deposits	64,151	52,520
		<b>Total Long Term Liabilities</b>	<b>5,746,164</b>	<b>11,845,512</b>
		<b>Total Liabilities</b>	<b>9,341,191</b>	<b>15,068,169</b>
<b>Equity</b>				
		3900 - *Retained Earnings	67,408,928	59,913,158
		Net Income	4,882,409	2,200,632
		<b>Total Equity</b>	<b>72,291,337</b>	<b>62,113,790</b>
<b>TOTAL LIABILITIES &amp; EQUITY</b>			<b>81,632,548</b>	<b>77,181,959</b>

**Desert Healthcare District**  
**A/R Aging Summary**  
As of May 31, 2022

	<b>Current</b>	<b>1 - 30</b>	<b>31 - 60</b>	<b>61 - 90</b>	<b>&gt; 90</b>	<b>TOTAL</b>	<b>COMMENT</b>
CV Resource Conservation District	0	0	0	175,000	0	175,000	Mobile Medical Unit
Derakhsh Fozouni, M.D.	0	0	1,737	0	0	1,737	Slow pay
Desert Family Medical Center	0	0	3,835	0	0	3,835	Slow pay
Desert Healthcare Foundation-	41,491	(1,608)	40,878	27,201	39,183	147,145	Due from Foundation
Laboratory Corporation of America	(5,013)	(1,671)	0	0	0	(6,684)	Prepaid
Pathway Pharmaceuticals, Inc.	0	0	734	0	0	734	Received in June
Peter Jamieson, M.D.	(3,338)	0	835	0	0	(2,503)	Prepaid
Quest Diagnostics Incorporated	0	(4,154)	0	0	0	(4,154)	Prepaid
Ramy Awad, M.D.	0	3,494	1,202	0	0	4,696	Received in June
Steven Gundry, M.D.	(5,625)	0	0	0	0	(5,625)	Prepaid
<b>TOTAL</b>	<b>27,515</b>	<b>(3,939)</b>	<b>49,221</b>	<b>202,201</b>	<b>39,183</b>	<b>314,181</b>	

**Desert Healthcare District**  
**Deposit Detail**  
 May 2022

Type	Date	Name	Amount
<b>Deposit</b>	<b>05/03/2022</b>		<b>2,000</b>
		T-Mobile	(2,000)
TOTAL			(2,000)
<b>Deposit</b>	<b>05/04/2022</b>		<b>530</b>
Payment	05/04/2022	Leticia De Lara - Director Premium Reimbursement	(530)
TOTAL			(530)
<b>Deposit</b>	<b>05/11/2022</b>		<b>71,414</b>
		Riverside County Treasurer - Property Tax	(71,414)
TOTAL			(71,414)
<b>Deposit</b>	<b>05/20/2022</b>		<b>13,971</b>
		Riverside County Treasurer - Property Tax	(13,971)
TOTAL			(13,971)
<b>Deposit</b>	<b>05/26/2022</b>		<b>1,343,425</b>
		Riverside County Treasurer - Property Tax	(1,343,425)
TOTAL			(1,343,425)
<b>Deposit</b>	<b>05/31/2022</b>		<b>1,859,896</b>
		Riverside County Treasurer - Property Tax	(1,859,896)
TOTAL			(1,859,896)
<b>Deposit</b>	<b>05/31/2022</b>		<b>750</b>
Payment	05/31/2022	Sovereign	(750)
TOTAL			(750)
		<b>TOTAL</b>	<b>3,291,986</b>

DESERT HEALTHCARE DISTRICT										
PROPERTY TAX RECEIPTS FY 2021 - 2022										
RECEIPTS - ELEVEN MONTHS ENDED MAY 31, 2022										
	FY 2020-2021 Projected/Actual					FY 2021-2022 Projected/Actual				
	Budget %	Budget \$	Act %	Actual Receipts	Variance	Receipts %	Receipts \$	Act %	Actual Receipts	Variance
<b>July</b>	2.5%	\$ 154,934	0.0%	\$ -	\$ (154,934)	2.5%	\$ 182,825	2.2%	\$ 162,345	\$ (20,480)
<b>Aug</b>	1.6%	\$ 99,158	1.9%	\$ 149,547	\$ 50,390	1.6%	\$ 117,008	0.2%	\$ 11,529	\$ (105,479)
<b>Sep</b>	2.6%	\$ 161,131	0.0%	\$ -	\$ (161,131)	0.0%	\$ -	0.0%	\$ -	\$ -
<b>Oct</b>	0.0%	\$ -	2.1%	\$ 162,968	\$ 162,968	2.6%	\$ 190,138	0.0%	\$ 130	\$ (190,008)
<b>Nov</b>	0.4%	\$ 24,789	0.0%	\$ -	\$ (24,789)	0.4%	\$ 29,252	2.5%	\$ 181,286	\$ 152,034
<b>Dec</b>	16.9%	\$ 1,047,354	16.4%	\$ 1,279,429	\$ 232,075	16.9%	\$ 1,235,897	18.3%	\$ 1,337,681	\$ 101,784
<b>Jan</b>	31.9%	\$ 1,976,959	33.4%	\$ 2,596,795	\$ 619,836	31.9%	\$ 2,332,847	37.8%	\$ 2,763,324	\$ 430,477
<b>Feb</b>	0.0%	\$ -	1.2%	\$ 94,294	\$ 94,294	0.0%	\$ -	2.5%	\$ 180,240	\$ 180,240
<b>Mar</b>	0.3%	\$ 18,592	0.2%	\$ 18,789	\$ 196	0.3%	\$ 21,939	0.5%	\$ 35,819	\$ 13,880
<b>Apr</b>	5.5%	\$ 340,855	5.4%	\$ 422,690	\$ 81,835	5.5%	\$ 402,215	6.1%	\$ 443,891	\$ 41,676
<b>May</b>	19.9%	\$ 1,233,275	18.1%	\$ 1,411,155	\$ 177,880	19.9%	\$ 1,455,287	45.0%	\$ 3,288,706	\$ 1,833,419
<b>June</b>	18.4%	\$ 1,140,315	21.2%	\$ 1,647,263	\$ 506,948	18.4%	\$ 1,345,592	0.0%		
<b>Total</b>	<b>100%</b>	<b>\$ 6,197,363</b>	<b>100.0%</b>	<b>\$ 7,782,929</b>	<b>\$ 1,585,566</b>	<b>100.00%</b>	<b>\$ 7,313,000</b>	<b>114.9%</b>	<b>\$ 8,404,951</b>	<b>\$ 2,437,543</b>

**Las Palmas Medical Plaza  
Deposit Detail - LPMP  
May 2022**

Type	Date	Name	Amount
<b>Deposit</b>	<b>05/02/2022</b>		<b>21,261</b>
Payment	05/02/2022	Desert Oasis Healthcare	(2,499)
Payment	05/02/2022	Hassan Bencheqroun, M.D.	(2,771)
Payment	05/02/2022	EyeCare Services Partners Management LLC	(1,909)
Payment	05/02/2022	EyeCare Services Partners Management LLC	(7,552)
Payment	05/02/2022	Laboratory Corporation of America	(1,518)
Payment	05/02/2022	Laboratory Corporation of America	(5,013)
TOTAL			(21,262)
<b>Deposit</b>	<b>05/05/2022</b>		<b>4,856</b>
Payment	05/05/2022	Desert Family Medical Center	(1,021)
Payment	05/05/2022	Desert Family Medical Center	(3,835)
TOTAL			(4,856)
<b>Deposit</b>	<b>05/06/2022</b>		<b>7,194</b>
Payment	05/06/2022	Palmtree Clinical Research	(7,194)
TOTAL			(7,194)
<b>Deposit</b>	<b>05/09/2022</b>		<b>9,943</b>
Payment	05/06/2022	Cure Cardiovascular Consultants	(3,205)
Payment	05/06/2022	Aijaz Hashmi, M.D., Inc.	(3,037)
Payment	05/06/2022	Brad A. Wolfson, M.D.	(3,701)
TOTAL			(9,943)
<b>Deposit</b>	<b>05/12/2022</b>		<b>2,471</b>
Payment	05/12/2022	Pathway Pharmaceuticals, Inc.	(2,471)
TOTAL			(2,471)
<b>Deposit</b>	<b>05/12/2022</b>		<b>11,116</b>
Payment	05/12/2022	Derakhsh Fozouni, M.D.	(6,414)
Payment	05/11/2022	Cohen Musch Thomas Medical Group	(4,703)
TOTAL			(11,117)



**Las Palmas Medical Plaza  
Deposit Detail - LPMP  
May 2022**

Type	Date	Name	Amount
<b>Deposit</b>	<b>05/16/2022</b>		<b>4,123</b>
Payment	05/16/2022	Global Premier Fertility	(4,123)
TOTAL			(4,123)
<b>Deposit</b>	<b>05/17/2022</b>		<b>6,246</b>
		Coachella Valley Volunteers in Medicine-	(3,123)
		Coachella Valley Volunteers in Medicine-	(3,123)
TOTAL			(6,246)
<b>Deposit</b>	<b>05/23/2022</b>		<b>1,174</b>
Payment	05/23/2022	Quest Diagnostics Incorporated	(1,174)
TOTAL			(1,174)
<b>Deposit</b>	<b>05/26/2022</b>		<b>4,154</b>
Payment	05/26/2022	Quest Diagnostics Incorporated	(4,154)
TOTAL			(4,154)
<b>Deposit</b>	<b>05/31/2022</b>		<b>72,184</b>
Payment	05/31/2022	Peter Jamieson, M.D.	(3,338)
Payment	05/31/2022	Desert Regional Medical Center	(5,690)
Payment	05/31/2022	Tenet HealthSystem Desert, Inc	(6,494)
Payment	05/31/2022	Tenet HealthSystem Desert, Inc.	(33,683)
Payment	05/31/2022	Laboratory Corporation of America	(5,013)
Payment	05/31/2022	Steven Gundry, M.D.	(5,625)
Payment	05/31/2022	Peter Jamieson, M.D.	(3,338)
Payment	05/31/2022	Hassan Bencheqroun, M.D.	(9,002)
TOTAL			(72,183)
		<b>TOTAL</b>	<b>144,722</b>

**Desert Healthcare District**  
**Check Register**  
As of May 31, 2022

Type	Date	Num	Name	Amount
<b>1000 - CHECKING CASH ACCOUNTS</b>				
<b>1012 - Union Bank Operating - 9356</b>				
Bill Pmt -Check	05/02/2022	1100	So.Cal Computer Shop	(810)
Bill Pmt -Check	05/02/2022	1101	Verizon Wireless	(619)
Bill Pmt -Check	05/04/2022	1102	Evet PerezGil - Stipend	(420)
Bill Pmt -Check	05/09/2022	1103	First Bankcard (Union Bank)	(4,009)
Bill Pmt -Check	05/09/2022	1104	Rogers, Carole - Stipend & Expense Reimbursement	(1,108)
Bill Pmt -Check	05/09/2022	1105	Staples Credit Plan	(604)
Bill Pmt -Check	05/09/2022	1106	Carmina Zavala - Stipend	(420)
Bill Pmt -Check	05/09/2022	1107	First Bankcard (Union Bank)	(11,632)
Bill Pmt -Check	05/09/2022	1108	Greater Coachella Valley Chamber of Commerce	(310)
Bill Pmt -Check	05/09/2022	1109	Mangus Accountancy Group, A.P.C.	(500)
Bill Pmt -Check	05/09/2022	1110	Xerox Financial Services	(377)
Check	05/09/2022	Auto Pay	Calif. Public Employees'Retirement System	(14,022)
Bill Pmt -Check	05/12/2022	1111	Angel View Inc. - Grant Payment	(34,555)
Bill Pmt -Check	05/12/2022	1112	California Consulting	(5,100)
Bill Pmt -Check	05/12/2022	1113	Desert Arc - Grant Payment	(46,233)
Bill Pmt -Check	05/12/2022	1114	Swarat Signs	(288)
Bill Pmt -Check	05/12/2022	1115	Time Warner Cable	(267)
Liability Check	05/13/2022		QuickBooks Payroll Service	(50,223)
Bill Pmt -Check	05/13/2022	ACH 051322	Law Offices of Scott & Jackson	(6,480)
Bill Pmt -Check	05/16/2022	1116	Magdalena Martinez - HR Consulting Services	(1,800)
Bill Pmt -Check	05/16/2022	1117	Purchase Power	(100)
Bill Pmt -Check	05/17/2022	1118	Donna Den Bleyker - Expense Reimbursement	(1,339)
Bill Pmt -Check	05/17/2022	1119	Regional Access Project Foundation	(230)
Bill Pmt -Check	05/17/2022	1120	CoPower Employers' Benefits Alliance	(1,719)
Bill Pmt -Check	05/17/2022	1121	State Compensation Insurance Fund	(385)
Bill Pmt -Check	05/18/2022	ACH 051822	Law Offices of Scott & Jackson	(9,518)
Bill Pmt -Check	05/18/2022	1122	Regional Access Project Foundation	(2,000)
Bill Pmt -Check	05/18/2022	1123	Principal Life Insurance Co.	(1,915)
Bill Pmt -Check	05/25/2022	1124	Arthur Shorr - Stipend	(1,050)
Bill Pmt -Check	05/25/2022	1125	Frazier Pest Control, Inc.	(30)
Bill Pmt -Check	05/25/2022	1126	Martha's Village & Kitchen - Grant Payment	(21,091)
Bill Pmt -Check	05/25/2022	1127	Mizell Senior Center - Grant Payment	(10,000)
Bill Pmt -Check	05/25/2022	1128	National Demographic Corporation	(9,250)
Bill Pmt -Check	05/25/2022	1129	Ready Refresh	(50)
Check	05/25/2022		Bank Service Charge	(997)
Liability Check	05/27/2022		QuickBooks Payroll Service	(49,619)
<b>TOTAL</b>				<b>(289,070)</b>

**Desert Healthcare District**  
**Details for Credit Card Expenditures**  
**Credit card purchases - April 2022 - Paid May 2022**

Number of credit cards held by District personnel -2									
Credit Card Limit - \$25,000 - Conrado, \$20,000 - Chris									
Credit Card Holders:									
Conrado Bárzaga - Chief Executive Officer									
Chris Christensen - Chief Administration Officer									
Routine types of charges:									
Office Supplies, Dues for membership, Computer Supplies, Meals, Travel including airlines and Hotels, Catering, Supplies for BOD meetings, CEO Discretionary for small grant & gift items									
Statement									
Year		Month	Total Charges	Expense Type	Amount	Purpose	Description	Participants	
			\$ 15,640.44						
Chris' Statement:									
2022	April		\$ 4,008.94	District					
				GL	Dollar	Description			
				6355	\$ 26.62	Premiere Global Services			
				6309	\$ 325.00	Indeed - Advertising for open positions			
				5160	\$ 2,400.00	Grantmakers In Health Annual Conference (June 2022) - Conrado Barzaga, Donna Craig, Alejandro Espinoza			
				5230	\$ 414.82	Palm Springs Life - Women Who Lead 2022 - President Borja, Vice-President PerezGil, Director De Lara, Director Rogers			
				5160	\$ 622.24	Palm Springs Life - Women Who Lead 2022 - Conrado Barzaga +1, Donna Craig, Alejandro Espinoza, Will Dean, Andrea Hayles			
				6360	\$ 146.26	Zoom Videoconference/Webinar Expense			
				6352	\$ 74.00	Nespresso - Coffee pods for office			
					\$ 4,008.94				
Conrado's Statement:									
2022	April		\$ 11,631.50	District					
				GL	Dollar	Description			
				6351	\$ 327.96	Southwest Airlines - ACHD Advocacy Committee Meeting - Conrado Barzaga			
				6325	\$ 9,500.00	United Way of the Desert Donation	CEO Discretionary Fund		
				6355	\$ 60.00	Grammarly quarterly plan			
				5230	\$ 500.00	DAP Humanitarian Awards - Director Zavala			
				5160	\$ 1,000.00	DAP Humanitarian Awards -Alejandro Espinoza +1			
				6352	\$ 40.25	Casa De Silvia Meeting - President Borja & Conrado Barzaga			
				5230	\$ 50.00	2022 Coachella Valley Business Conference - Director Rogers			
				5230	\$ 79.54	Harvey Milk Diversity Breakfast - Les Zende			
				6351	\$ 48.75	CMT Sacramento for American Cab - Conrado Barzaga			
				5240	\$ 25.00	Uber Eats - 04/26/22 Board Meeting Food			
					\$ 11,631.50				

**Las Palmas Medical Plaza  
Check Register - LPMP  
As of May 31, 2022**

Type	Date	Num	Name	Amount
<b>1000 - CHECKING CASH ACCOUNTS</b>				
<b>1046 - Las Palmas Medical Plaza</b>				
Bill Pmt -Check	05/02/2022	10545	Desert Water Agency	(790)
Bill Pmt -Check	05/04/2022	10546	Imperial Security	(2,125)
Bill Pmt -Check	05/04/2022	10547	Palm Springs Disposal Services Inc	(3,058)
Bill Pmt -Check	05/04/2022	10548	Stericycle, Inc.	(1,298)
Bill Pmt -Check	05/09/2022	10549	Desert Air Conditioning Inc.	(625)
Bill Pmt -Check	05/09/2022	10550	Frazier Pest Control, Inc.	(275)
Bill Pmt -Check	05/09/2022	10551	Terminix	(1,500)
Bill Pmt -Check	05/12/2022	10552	Southern California Edison	(508)
Bill Pmt -Check	05/16/2022	10553	Best Signs, Inc.	(11,316)
Check	05/16/2022		Bank Service Charge	(435)
Bill Pmt -Check	05/17/2022	10554	Imperial Security	(2,125)
Bill Pmt -Check	05/17/2022	10555	Frontier Communications	(236)
Bill Pmt -Check	05/17/2022	10556	Imperial Security	(2,125)
Bill Pmt -Check	05/25/2022	10557	Coldwell Banker Commercial Lyle & Assoc.	(5,791)
Bill Pmt -Check	05/25/2022	10558	Desert Air Conditioning Inc.	(172)
Bill Pmt -Check	05/25/2022	10559	Imperial Security	(2,125)
Bill Pmt -Check	05/26/2022	10560	Imperial Security	(2,125)
Bill Pmt -Check	05/26/2022	10561	INPRO Environmental Management Services	(20,550)
<b>TOTAL</b>				<b>(57,179)</b>



**MEMORANDUM**

DATE: June 14, 2022

TO: F&A Committee

RE: Retirement Protection Plan (RPP)

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Current number of participants in Plan:

	<u>April</u>	<u>May</u>
Active – still employed by hospital	84	84
Vested – no longer employed by hospital	55	55
Former employees receiving annuity	<u>7</u>	<u>7</u>
Total	<u>146</u>	<u>146</u>

The outstanding liability for the RPP is approximately **\$3.4M** (Actives - \$2.1M and Vested - \$1.3M). US Bank investment account balance \$5.1M. Per the June 30, 2021, Actuarial Valuation, the RPP has an Overfunded Pension Asset of approximately **\$1.8M**.

The payouts, excluding monthly annuity payments, made from the Plan for the eleven (11) months ended May 31, 2022, totaled **\$192K**. Monthly annuity payments (7 participants) total **\$1.0K** per month.

DESERT HEALTHCARE DISTRICT								
OUTSTANDING GRANTS AND GRANT PAYMENT SCHEDULE								
May 31, 2022								
TWELVE MONTHS ENDING JUNE 30, 2022								
Grant ID Nos.	Name	Approved Grants - Prior Yrs	6/30/2021 Bal Fwd	Current Yr 2021-2022	Total Paid Prior Yrs July-June	Total Paid Current Yr July-June	Open BALANCE	
2014-MOU-BOD-11/21/13	Memo of Understanding CVAG CV Link Support	\$ 10,000,000	\$ 6,660,000		\$ -		\$ 6,660,000	
2019-994-BOD-05-28-19	One Future Coachella Valley - Mental Health College & Career Pathway Development - 2 Yrs.	\$ 700,000	\$ 148,750		\$ 148,750		\$ -	
2020-1085-BOD-05-26-20	Olive Crest Treatment Center - General Support for Mental Health Services - 1 Yr.	\$ 50,000	\$ 5,000		\$ 5,000		\$ -	
2020-1057-BOD-05-26-20	Desert Cancer Foundation - Patient Assistance Program - 1 Yr.	\$ 150,000	\$ 15,000		\$ 15,000		\$ -	
2020-1139-BOD-09-22-20	CSU San Bernardino Palm Desert Campus Street Medicine Program - 1 Yr.	\$ 50,000	\$ 5,000		\$ -		\$ 5,000	
2020-1135-BOD-11-24-20	Hope Through Housing Foundation - Family Resilience - 1 Yr.	\$ 20,000	\$ 2,000		\$ 1,098		\$ 902	
	Unexpended funds Grant #1135						\$ (902)	
2020-1149-BOD-12-15-20	Voices for Children - Court Appointed Special Advocate Program - 1 Yr.	\$ 40,000	\$ 22,000		\$ 22,000		\$ -	
2021-1136-BOD-01-26-21	Ronald McDonald House Charities - Temporary Housing & Family Support Services - 1 Yr.	\$ 119,432	\$ 65,688		\$ 53,744		\$ 11,944	
2021-1147-BOD-01-26-21	Alzheimer's Association - Critical Program Support - 1 Yr.	\$ 33,264	\$ 18,295		\$ 18,295		\$ -	
2021-1162-BOD-01-26-21	Joslyn Center - Wellness Center Program Support - 1 Yr.	\$ 109,130	\$ 60,022		\$ 60,022		\$ -	
2021-1170-BOD-02-23-21	Jewish Family Services - Mental Health Counseling for Underserved Residents - 1 Yr.	\$ 80,000	\$ 44,000		\$ 44,000		\$ -	
2021-1141-BOD-03-23-21	Martha's Village & Kitchen - Homeless Housing With Wrap Around Services - 1 Yr.	\$ 210,905	\$ 115,998		\$ 115,998		\$ -	
2021-1171-BOD-03-23-21	Blood Bank of San Bernardino/Riverside Counties - Bloodmobiles for Coachella Valley - 18 Months	\$ 150,000	\$ 82,500		\$ 67,500		\$ 15,000	
2021-1174-BOD-03-23-21	Mizell Center - Geriatric Case Management Program 1 Yr.	\$ 100,000	\$ 55,000		\$ 55,000		\$ -	
2021-1266-BOD-04-27-21	Galilee Center - Our Lady of Guadalupe Shelter - 1 Yr.	\$ 150,000	\$ 82,500		\$ 67,500		\$ 15,000	
2021-1277-BOD-04-27-21	Lift To Rise - United Lift Rental Assistance 2021 - 8 Months	\$ 300,000	\$ 210,000		\$ 180,000		\$ 30,000	
2021-1280-BOD-05-25-21	Desert AIDS Project - DAP Health Expands Access to Healthcare - 1Yr.	\$ 100,000	\$ 55,000		\$ 45,000		\$ 10,000	
2021-21-02-BOD-06-22-21	Carry over of remaining Fiscal Year 2020/2021 Funds*	\$ 1,854,873	\$ 1,854,873		\$ 884,646		\$ 970,227	
2021-1296-BOD-11-23-21	Coachella Valley Volunteers In Medicine - Improving Access to Healthcare Services - 1 Yr.			\$ 154,094		\$ 69,342	\$ 84,752	
2021-1289-BOD-12-21-21	Desert Cancer Foundation - Patient Assistance Program - 1 Yr.			\$ 150,000		\$ 67,500	\$ 82,500	
2022-1301-BOD-01-25-22	UCR Regents - Community Based Interventions to Mitigate Psychological Trauma - 1 Yr.			\$ 113,514		\$ 51,081	\$ 62,433	
2022-1302-BOD-01-25-22	Vision To Learn - Palm Springs, Desert Sands, and Coachella Valley School Districts 1 Yr.			\$ 50,000		\$ 22,500	\$ 27,500	
2022-1303-BOD-01-25-22	CSU San Bernardino Palm Desert Campus Street Medicine Program - 1 Yr.			\$ 54,056		\$ 24,325	\$ 29,731	
2022-1306-BOD-02-22-22	Olive Crest Treatment Center - General Support for Mental Health Services - 1 Yr.			\$ 123,451		\$ 55,553	\$ 67,898	
2022-1311-BOD-04-26-22	Desert Arc - Healthcare for Adults with Disabilities Project Employment of Nurses - 1 Yr.			\$ 102,741		\$ 46,233	\$ 56,508	
2022-1313-BOD-04-26-22	Angel View - Improving Access to Primary and Specialty Care Services for Children With Disabilities 1 Yr.			\$ 76,790		\$ 34,555	\$ 42,235	
2022-1314-BOD-05-24-22	Voices for Children - Court Appointed Special Advocate Program - 1 Yr.			\$ 60,000		\$ -	\$ 60,000	
							\$ -	
<b>TOTAL GRANTS</b>		<b>\$ 14,217,604</b>	<b>\$ 9,501,626</b>	<b>\$ 884,646</b>	<b>\$ 1,783,553</b>	<b>\$ 371,089</b>	<b>\$ 8,230,728</b>	
<b>Amts available/remaining for Grant/Programs - FY 2021-22:</b>								
<b>Amount budgeted 2021-2022</b>			\$ 4,000,000			G/L Balance:	<b>5/31/2022</b>	
<b>Amount granted through May 31, 2022:</b>			\$ (884,646)					
Mini Grants:	1293; 1294		\$ (10,000)			2131	\$ 3,240,728	
Financial Audits of Non-Profits			\$ -			2281	\$ 4,990,000	
Net adj - Grants not used:	FY20-21 Funds, 1124, 1135		\$ 1,868,521			<b>Total</b>	<b>\$ 8,230,728</b>	
Matching external grant contributions			\$ -				<b>\$ (0)</b>	
<b>Balance available for Grants/Programs</b>			<b>\$ 4,973,875</b>					

\* Value listed in Total Paid column reflects funds granted from carryover funds. Actual grant payments will be reflected under the respective grant.



**DESERT HEALTHCARE**  
**DISTRICT & FOUNDATION**

Date: June 14, 2022  
To: Finance & Administration Committee  
Subject: Consideration to approve a Consulting Services Agreement with Spitfire Strategies to conduct Board development workshops – NTE \$45,000.

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**Staff Recommendation:** Consideration to approve a Consulting Services Agreement with Spitfire Strategies to conduct Board development workshops – NTE \$45,000.

**Background:**

- Since 2019, the District has conducted Board development workshops with focus on Board and CEO roles and relationships, and to develop key issues and goals for the Board.
- Staff would like to continue the Board development workshops with a new consulting firm, Spitfire Strategies (Spitfire).
- Spitfire works with organizations to assist with social-change goals and to help bring big ideas to life with smart communication, winning campaigns and learning opportunities to become more powerful changemakers.
- Equity, diversity and inclusion are at the heart of their work.
- Guidance is provided to advance racial, economic and social justice, and to protect the environment.
- Spitfire will develop sessions for capacity building and secure speakers for special sessions on governance and campaign finances.
- Sessions will be planned quarterly through the end of 2023.
- The draft consulting services agreement along with the scope of work is included in the packet for your review.
- Staff recommends approval of the Consulting Services Agreement with Spitfire Strategies – NTE \$45,000.

**Fiscal Impact:**

NTE \$45,000 and is included in the annual FY22-23 budget.

## **CONSULTING SERVICES AGREEMENT**

This Professional Services Agreement (“Agreement”) is entered into by and between Desert Healthcare District (“District”), a public agency organized and operating pursuant to California Health and Safety Code section 32000 et seq., and Spitfire Strategies, (“Consultant”) as follows:

### **R-E-C-I-T-A-L-S**

1. District would like to retain the professional services of Consultant to provide Board development services.
2. Consultant has worked with public agencies and other organizations domestically and internationally, is qualified, and possesses the knowledge, skill, expertise, necessary to provide the professional services (“Services”) as more specifically outlined in the attached Exhibit “A” (“Consultant Proposal”).

### **C-O-V-E-N-A-N-T-S**

#### **1. CONSULTANT’S SERVICES.**

1.1 Services. Consultant shall provide all labor, materials, equipment, and incidentals necessary to fully and adequately provide the District with the professional services described in the Consultant Proposal. All Services shall be performed by Consultant to the reasonable satisfaction of the District.

1.2 Compliance with Laws. In performing the Services, Consultant shall, at all times comply with all applicable laws, rules, regulations, codes, ordinances, and orders of every kind whatsoever issued, adopted, or enacted by any federal, state, or local governmental body having jurisdiction over the Services.

1.3 Performance Standard. Consultant shall perform the Services with efficiency and diligence and shall execute the Services in accordance with the standards of Consultant’s profession, generally described as that degree of skill and care ordinarily exercised by professionals providing similar services as Consultant practicing in California.

1.4 District and Foundation’s Representative. For purposes of this Agreement, the District and Foundation’s Representative shall be District’s Chief Executive Officer Conrado Barzaga, located at 1140 North Indian Canyon Drive, Palm Springs, CA 92262. All amendments to this Agreement shall be approved by the District Board.



## **2. FEES AND PAYMENTS.**

2.1 Compensation for Services. For the full and satisfactory performance of the Services, District shall compensate Consultant in an amount not to exceed \$45,000, plus reimbursement of out-of-pocket expenses as outlined in the attached Consultant Proposal.

2.2 Invoices. Consultant shall deliver quarterly invoices to the District no later than the 10th day of each quarter for Services. Expenses in excess of \$100 will not be made without the prior approval of the District.

2.3 Payment. The District shall remit payment for all amounts due to Consultant within thirty (30) days after receipt of invoices; provided, however, in the event District disputes any portion of Consultant's invoice, it shall timely pay any undisputed amounts invoiced and notify Consultant within thirty (30) days of its receipt of the invoice of the specifics of any disputed amounts. The parties shall expeditiously resolve the subject of any disputed amounts by way of negotiation or, if necessary, mediation. Any such dispute shall not relieve Consultant of its obligation to continue diligently performing the Services.

## **3. TERM; TERMINATION.**

3.1 Term. The term of this Agreement shall be from the date the agreement is signed through December 31, 2023, subject to Section 1.3.

3.2 Termination for Convenience. District may, at any time in the exercise of its sole discretion, terminate this Agreement in whole or in part, with or without cause, by providing at least 10 calendar days written notice to Consultant of its intention to terminate the Agreement for convenience. So long as Consultant is not in default under this Agreement at the time of such termination, District shall pay Consultant for all Services incurred up to and including the date of termination. Consultant may also terminate this contract with or without cause upon giving 10 calendar days' written notice to District.

## **4. INDEPENDENT CONTRACTOR.**

District has retained Consultant to provide, and Consultant shall perform, the Services as an independent contractor maintaining exclusive direction and control over its employees; and, no personnel utilized by Consultant to perform the Services are employees of the District.

## **5. OWNERSHIP OF DOCUMENTS.**

Consultant reserves the right to bring additional staff to the training sessions for observation or training purposes, unless client expresses specific objections at the time this contract is executed due to sensitive training content issues.

District acknowledges it has specially ordered and commissioned Consultant to create materials for District's use. All original new materials created and contributed by Consultant are defined as "works made for hire" (hereinafter "the Works") under United States copyright laws, subject to the limitations specified below.

### **5.1 Pre-Existing Intellectual Property of Consultant**

District acknowledges that Consultant may use its pre-existing intellectual property (including, without limitation, know-how and proprietary methodologies) ("Pre-Existing IP") as it creates the Works hereunder, and nothing in this Contract is intended to transfer ownership in Consultant's Pre-Existing IP to District.

### **5.2 Licenses**

Should District wish to use or distribute the Works to third parties, and to the extent that such use or distribution by Client of the Works is for charitable purposes only, and subject to the terms of this Contract, District may use and distribute the Works. In no event may District sell or resell the Works for profit or otherwise commercialize the Works. To the extent that any of the Works created by Consultant contain any elements owned by third parties, Consultant warrants that any necessary licenses to use such materials have been obtained and apply to District equally.

### **5.3 Third-Party Materials**

Should Consultant wish to use or distribute the Works or elements of the Works contributed by District to third parties, Consultant shall obtain prior written approval from District.

### **5.4 Use of Names and Logos**

Consultant and District acknowledge that each owns all rights in their respective names, trademarks, service marks, logos, and other indicia of source ("Marks") and that each may not use any of the other's Marks except as expressly authorized in the course of performing the services covered by this contract and in connection with the attribution as described above in this contract.

## **6. INDEMNIFICATION.**

Consultant agrees to indemnify and hold the District and Foundation, its governing body, officers, employees, representatives, agents, successors and assigns (collectively the District/Foundation Indemnities), harmless from and against any and all losses, liabilities, claims, causes of action or costs and expenses of whatever nature or kind, incurred or

suffered by the District or the District/Foundation Indeminities including indemnity claims arising by reason of any personal injury of any person or property loss, loss of use, or damage, to the extent the same arise out of or in connection with the negligent act(s) or omission(s), recklessness, or willful misconduct of Consultant, its officers, employees, subcontractors, or representatives, relating to the performance of the services outlined in this Agreement.

## **7. NOTICE.**

All notices to be given under this Agreement shall be in writing and shall be deemed effective upon receipt when personally served or two days after mailing by certified, return receipt requested, to the following addresses:

To: District  
Desert Healthcare District  
Attention: Conrado Barzaga, Chief Executive Officer  
1140 N. Indian Canyon Drive  
Palm Springs, California 92262

To: Consultant  
Spitfire Strategies  
2300 N Street NW – Suite 610  
Washington, D.C. 20037

## **8. MISCELLANEOUS PROVISIONS.**

8.1 Venue. Venue shall lie only in the federal or state courts nearest to the City of Palm Springs, in the County of Riverside, State of California.

8.2 Modification. This Agreement may not be altered in whole or in part except by a modification, in writing, executed by all the parties to this Agreement.

8.3 Entire Agreement. This Agreement, together with all Schedules attached, contains all representations and the entire understanding between the parties with respect to the subject matter of this Agreement. Any prior correspondence, memoranda, or agreements, whether or not such correspondence, memoranda, or agreements are in conflict with this Agreement, are intended to be replaced in total by this Agreement and its schedules.

8.4 Assignment. Consultant shall not be entitled to assign all or any portion of its rights or obligations contained in this Agreement without obtaining the prior written consent of the District. Nothing in this Agreement shall obligate the District to give such consent. Any purported assignment without the District's consent shall be void.

8.5 Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties and their respective purchasers, successors, heirs, and assigns.

8.6 Unenforceable Provisions. The terms, conditions, and covenants of this Agreement shall be construed whenever possible as consistent with all applicable laws and regulations. To the extent that any provision of this Agreement, as so interpreted, is held to violate any applicable law or regulation, the remaining provisions shall nevertheless be carried into full force and effect and remain enforceable.

This Agreement is entered into in the County of Riverside, State of California.

“District”:

Desert Healthcare District

By: \_\_\_\_\_  
Conrado Barzaga, CEO

Date: \_\_\_\_\_

“Consultant”:

Spitfire Strategies

By: \_\_\_\_\_  
Erin B. Hart, Chief Innovation Officer

Date: \_\_\_\_\_

DRAFT



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**TO:** Conrado Barzaga, Desert Healthcare District  
**FR:** Erin Hart, Spitfire  
**RE:** Board development approach  
**DA:** April 26, 2022

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Thank you for inviting us to propose an approach for board development for the Desert Healthcare District and Foundation. We are eager to collaborate with your staff and board to extend learning from these board sessions into the district's everyday work. With that aim in mind, we've crafted an approach that will provide several board development sessions, evaluates those sessions to inform future learning within the group and includes strategic counsel sessions between meetings to connect content to everyday practice.

Please note that we are working to secure speakers for sessions on campaign finances and governance. We have identified individuals with insight on these topics and how these subjects specifically relate to health care districts, but we have not yet identified the best partners to work as a trainers or share information with Spitfires to deliver via a training with your board. We are continuing conversations with the Association of California Healthcare Districts and various public affairs partners to identify the best information providers and trainers to share content and insight from lived experience to inform these sessions.

## Proposed scope of work

We recommend the following scope of work, based on our discussion and experience with similar projects:

### *Topics*

You have noted a variety of topics for capacity building among district board members, and as with most groups, we anticipate varied degrees of expertise and experience with topics covered in these sessions. To cover the most important content and account for various experience levels, we recommend two-hour sessions on each of the following topics for district board capacity-building.

- **Get inside the box:** Well-crafted messages create clarity and consistency in communication, and both factors increase understanding and engagement with audiences you need to reach. This session will build from social science insights that guide us on how to effectively engage audiences and will feature a message-box construct that every participant can use to create messages about the district and specific aspects of their work. The session will review the importance of consistent messaging, walk your board members through this approach to creating messages, identify content for a shared district message and prepare them to use this approach in their everyday work.
- **Ethical storytelling:** Stories are powerful tools for capturing attention, engaging audiences and motivating people to act. As we learn more about how our brains work, we're also discovering that stories play a critical role in shaping our worldviews and sparking our decision making. In this session Spitfire will



showcase how to use the power of storytelling and offer specific ways that participants can share their stories to advance their work. We will explore how to ethically find, create and share meaningful stories and share tips for creating a storytelling culture within your own organization.

- **What's your spiel?** How do district board members describe their work – via a short description or a long-and-winding road? For meetings, presentations, Zoom calls and more, it's important for district board members to have a clear overview of the district's work to help audiences understand it and recognize consistency from one board or staff member to the next. This session will walk board members through an approach to crafting a spiel (often called an elevator speech) that will create comfort as they introduce their work and help audience members better understand and remember what you share.
- **See what you mean:** Just as you are intentional about the words in your messages, mission statement or social media content, you must be intentional about the visuals you choose and use. Images have power because we process them in the same part of our brain where we process emotion. That means they stick, and that matters when you're working to reset a perspective, encourage a specific behavior or otherwise create change. This session will provide an overview of the importance of visuals and everyday decisions we make to employ them effectively – even if you're not a professional designer or photographer.
- **Governance:** To be determined, as noted earlier.
- **Campaign contributions:** To be determined, as noted earlier.

We will discuss these topics with you to determine if they are a good match for board members' interests and needs. Based on what we learn from further discussion with you, we may together choose to include sessions on presentation delivery, interview skills, crisis communication or other communication topics.

### ***Insights and evaluation***

To enable us to craft effective sessions, we recommend beginning with a survey where board members will share more about their understanding of and experience with topics that we will cover together. We will reflect on their responses as we identify information to present and plan for activities and facilitated conversation within each session. In addition, we will provide evaluations for every individual session to learn what's useful, what adjustments would be helpful and where board members may seek additional learning opportunities or support.

### ***Strategic communication counsel***

We recognize the intention of providing these capacity building sessions to support board members' day-to-day work. To review how and if that is happening and consider how these insights are carrying over into district staff work, we recommend holding 90-minute communication counsel sessions with district staff



between quarterly board meetings. These sessions likely will include planning for the upcoming session, reflections on any past session(s) and emergent communication priorities for the district.

## Estimated timeline and budget

We have outlined activities and fixed costs per quarter, starting with kickoff activities in Q2 of this year. This table outlines a recommended development topic for each quarter, and we can adjust these based on board member needs and speaker/trainer availability.

Timing	Activity	Cost
<b>Q2 2022</b>	Kickoff meeting Board assessment survey (scheduled in Q2 or Q3)	\$3,000
<b>Q3 2022</b>	Strategic comm session (possibly scheduled in Q2) <i>Get inside the box</i> (messaging) session and evaluation	\$6,000
<b>Q4 2022</b>	Strategic comm session (possibly scheduled in Q3) <i>Ethical storytelling</i> session and evaluation	\$6,000
<b>Q1 2023</b>	Strategic comm session (possibly scheduled in Q4) <i>What's your spiel?</i> session and evaluation	\$6,000
<b>Q2 2023</b>	Strategic comm session (possibly scheduled in Q1) <i>See what you mean</i> session and evaluation	\$6,000
<b>Q3 2023</b>	Strategic comm session (possibly scheduled in Q2) Governance session TBD and evaluation	TBD
<b>Q4 2023</b>	Strategic comm session (possibly scheduled in Q3) Campaign contribution session TBD and evaluation	TBD
	Expenses: Spitfire charges a 5% administrative fee for all projects. We will secure your advance approval for any expenses, such as travel or printing, that we may need to incur if any session is offered in person or other needs arise during the course of this work	TBD based on final budget amount



## About Spitfire

**A woman-owned firm, Spitfire has fundamental values rooted in one core principle: Everyone belongs and has the power to spark change.** We help our clients and their work in communities across the country and around the world, all in the pursuit of representing the best interests of people and the planet. We are aligned with your mission and do not work on projects that are at odds with your goals. A leader in public interest communication, Spitfire brings a team of communication and advocacy professionals dedicated to supporting organizations that are driving change on the most significant issues of our time. We push ourselves to advance equity, diversity and inclusion in our work, policies, practices and day-to-day interactions. We have an active equity, diversity and inclusion initiative that shares resources, creates space for staff to have challenging conversations and promotes learning and accountability across the firm.

**We are curious, strategic thinkers.** Strategy is our North Star, and our focus on it enables us to deliver strong results. We begin by asking lots of questions – unusual, astute and sometimes provocative ones – to inform strategic thinking. By showing you our desire to learn and draw connections, we demonstrate sincere respect for your goals, your expertise and your time.

**We share your vision for a better world.** Our clients address society's most complex issues. You are the game changers whose work speaks to the human condition and the earth we share. And whether it's addressing health equity, advancing LGBTQIA equality, protecting the environment, providing high-quality education to all students, increasing access to employment or fighting discrimination alongside immigrant families, we stand with you – because we share your determination to make our world a better place, and we never want to miss an opportunity to do just that.

## Thank you

We look forward to your feedback and will work with you to refine this approach and budget as needed. Please contact me at [ehart@spitfirestrategies.com](mailto:ehart@spitfirestrategies.com) with questions and feedback on next steps together.

### Non-disclosure agreement

This Proposal is being submitted with the understanding that you agree to the following. Acceptance of the Proposal will signify your agreement. The Proposal contains Confidential Information including but not limited to information, technical data, and know-how relating to strategic communications and campaign planning, training, counseling and the tools to maximize the impact of such communications, and may include written, video or online training materials disclosed by Spitfire in electronic media, in writing, orally or otherwise, all of which is proprietary and protected under this Agreement, the US Copyright and Trademark laws and applicable common law. By accepting this proposal, you agree not to use Confidential Information for any purpose except to evaluate whether you wish to hire Spitfire for the full development and implementation of the Proposal. Confidential Information that becomes publicly available other than as a result of your acts, or was in your possession prior to the disclosure by Spitfire, or becomes available to you from a source that, to your knowledge, is not bound by a confidentiality agreement with Spitfire prohibiting such disclosure, shall no longer be considered to be Confidential Information. All Confidential Information furnished to you shall remain the property of Spitfire and nothing contained herein shall be construed as giving you any license or rights with respect to any Confidential Information or materials except as otherwise agreed by the parties in a definitive agreement. The restrictions and remedies contained in this Agreement will survive any termination of the negotiations relating to the contract.





**DESERT HEALTHCARE**  
**DISTRICT & FOUNDATION**

Date: June 14, 2022  
To: Finance & Administration Committee  
Subject: Consideration to approve Addendum #3 to the engagement letter with Kaufman, Hall & Associates, dated July 18, 2019, to continue support of the District's strategic options regarding Desert Regional Medical Center - \$75,000 per month – May through July 2022.

---

**Staff Recommendation:** Consideration to approve Addendum #3 to the engagement letter with Kaufman, Hall & Associates, dated July 18, 2019, to continue support of the District's strategic options regarding Desert Regional Medical Center - \$75,000 per month – May through July 2022.

**Background:**

- Since 2017, the District has been in various levels of discussion regarding the Tenet lease of the Desert Regional Medical Center (DRMC).
- July 18, 2019, the District engaged the services of Kaufman Hall to support the District's strategic options regarding DRMC.
- In 2020, the COVID-19 pandemic hit hard and required full attention to the health and wellness of the District by both DRMC/Tenet and the District & Foundation.
- September 2021, the District re-engaged the services of Kaufman Hall.
- Addendum #3 to the engagement letter extends the ongoing work from May 2022 through July 2022.
- Staff recommends approval of Addendum #3.

**Fiscal Impact:**

Payment terms include \$75,000 monthly payments for 3 months (\$225,000). The fees are included in the annual FY21-22 & FY22-23 budgets.



May 17, 2022

Conrado Bárzaga, M.D.  
Chief Executive Officer  
Desert Healthcare District  
1140 N. Canyon Drive  
Palm Springs, California 92262

Dear Conrado:

Kaufman, Hall & Associates, LLC (“Kaufman Hall”) is pleased to present this proposal to Desert Healthcare District (“Desert Health” or the “District”) to continue support of the District’s strategic options analysis for its major asset, Desert Regional Medical Center (“DRMC”) (the “Client Project”). Following a year plus of significant change that is transforming the healthcare industry and the regional/local dynamics, the District has determined that it would like to evaluate its strategic options related to DRMC, which could include (a) a new lease or sale to Tenet Health (“Tenet”), the current lessee of DRMC, or (b) an alignment with an alternative operator. Similarly, the District would like to evaluate how it may deploy resources related to the aforementioned, which may or may not be received under one of the above scenarios, to further the District goals in meeting the important healthcare needs of the community.

This serves as an addendum (the “Addendum Three”) to the engagement letter dated July 18, 2019 (the “Engagement Letter”). This Addendum Three shall be governed by the terms and conditions set forth and agreed upon in the Engagement Letter. To the extent that the terms of the Addendum Three conflict with the terms of the Engagement Letter, the terms of the Addendum Three shall control. All other terms and conditions of the Engagement Letter shall remain in full force and effect.

### SCOPE OF SERVICES

Kaufman Hall proposes continuing the approach to develop a fully informed fact-base that (I) evaluates the existing market environment and (II) reviews strategic options that account for these dynamics.

#### Continued Strategic Plan Preparation and Execution

- **Preparation for Renewed Options:** Review, evaluate and appropriately communicate updates of fair market value estimates, seismic retrofit assumptions, and other key drivers to potential value of a transaction
- **Community Needs Review:** Integrate the potential investments and capital required to meet community needs and address health and wellness gaps in the District’s region
- **Establish Clear Thresholds:** Determine the refreshed form and amount of consideration that may be proposed by the existing operator, as well as evaluating the basic facets of potential alternative parties to ensure the District can make an informed decision regarding the future of the hospital
- **Continue Direct Conversations:** Continue to actively engage in directed, and in certain cases, confidential, face to face meetings to better understand existing and alternative options

Conrado Bárzaga, M.D.  
Desert Healthcare District  
May 17, 2022  
Page 2

Following this effort, the District will be positioned to execute on its various stakeholder and suitor discussions.

*For the avoidance of doubt, the District understands that in rendering services hereunder, Kaufman Hall will not provide accounting, legal, investment, tax, audit, compliance, or regulatory advice, and the District will rely upon the advice of counsel and other advisors to District for such matters, as applicable. These services do not include municipal advisory services.*

## ENGAGEMENT TIMING AND PROFESSIONAL FEES

The term of this Addendum Three will be 90 days, beginning in May 2022 and continuing through July 2022. Professional fees for this engagement will be fixed fees of \$75,000 a month, billed in three consecutive monthly installments beginning in May 2022.

In addition to professional fees, the District is responsible for monthly administrative expenses of \$2,650 and, to the extent applicable, reimbursable travel and third-party data/analytics expenses, which are billed as incurred and not subject to markup. Invoices are sent at the end of each month and are due upon receipt.

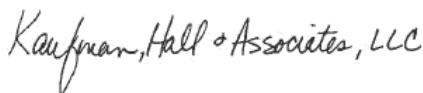
Engagement fees will remain fixed unless the scope or timing of this engagement materially changes for reasons beyond the control of Kaufman Hall. In the unlikely event that would occur, Kaufman Hall may be entitled to additional fees subject to the mutual agreement of the parties.

## AUTHORIZATION

We very much appreciate the opportunity to present this proposal and look forward to serving the District on this important assignment. Your signature below will indicate your agreement with this Addendum Three. Please sign and return via email or by fax to (847) 965-3511.

If you have additional questions or require further information, please feel free to contact Jody or Anu.

Sincerely,  
KAUFMAN, HALL & ASSOCIATES, LLC



/sd

cc: Jody Hill-Mischel  
Anu Singh

This Addendum Three is accepted.  
DESERT HEALTHCARE DISTRICT

\_\_\_\_\_  
Authorizing Signature / Date

\_\_\_\_\_  
Printed Name / Title



**DESERT HEALTHCARE**  
DISTRICT & FOUNDATION

Date: June 14, 2022  
To: Finance & Administration Committee  
Subject: Addendum #3 to the Consulting Services Agreement for Magdalena Martinez dba Personnel 411 HR Consulting – increasing to \$927/month plus special projects fees and extending the period to June 30, 2023

---

**Staff Recommendation:** Consideration to approve Addendum #3 to the Consulting Services Agreement for Magdalena Martinez dba Personnel 411 HR Consulting – increasing to \$927/month plus special projects fees and extending the period to June 30, 2023.

**Background:**

- In September 2019, the Board approved a Consulting Services Agreement with Magdalena Martinez to review personnel records, review employee handbook, conduct employment investigations, review compliance with regulatory trainings.
- Ms. Martinez continues to assist the district with human resource administrative guidance.
- Addendum #3 both, increases the monthly fee from \$900 to \$927, plus fees for special projects and extends the service agreement period to June 30, 2023.
- Staff recommends approval of Addendum #3 of the Consulting Services Agreement for Magdalena Martinez dba Personnel 411 HR Consulting.

**Fiscal Impact:**

\$927 per month (\$11,124 annually), plus fees for special projects.

The HR Consultant is included in the District’s FY21-22 annual budget.

**CONSULTING SERVICES AGREEMENT  
ADDENDUM #3**

A Professional Services Agreement (“Agreement”) was entered into by and between Desert Healthcare District (“District”), a public agency organized and operating pursuant to California Health and Safety Code section 32000 et seq., and Magdalena Martinez dba Personnel 411 Consulting (“Consultant”) on September 30, 2019.

**R-E-C-I-T-A-L-S**

1. District would like to continue the professional services of Consultant to Human Resources Consulting Services.
2. Compensation for Services. The District shall compensate Consultant a flat monthly retainer of \$927.00.
3. Term. The term of this Addendum shall run from July 1, 2022 to June 30, 2023.
4. All other terms remain unchanged.

This Agreement is entered into in the County of Riverside, State of California.

“District”:

Desert Healthcare District

By: \_\_\_\_\_  
Karen Borja, President

Date: \_\_\_\_\_

“Consultant”:

Personnel 411 HR Consulting

By: \_\_\_\_\_  
Magdalena Martinez

Date: \_\_\_\_\_



**DESERT HEALTHCARE**  
**DISTRICT & FOUNDATION**

Date: June 14, 2022  
To: Finance & Administration Committee  
Subject: Lease Agreement – Dr. Brad A Wolfson, 2W-101

---

**Staff Recommendation:** Consideration to approve the draft lease agreement for Dr. Brad A Wolfson at the Las Palmas Medical Plaza.

**Background:**

- Dr. Wolfson has been a long-standing tenant of the Las Palmas Medical Plaza.
- Dr. Wolfson’s current lease expires July 31, 2022.
- Dr. Wolfson would like to renew a three (3) year lease.
- Annual increases for the term are 3%.
- Staff recommends approval of the lease agreement.
- Draft lease agreement is attached for review.

**Fiscal Impact:**

Estimated Revenue from Rent and CAMs for life of the base lease - \$132,445

Estimated Cost of Tenant Improvement Allowance (\$9/sf) – \$11,520

Net Lease Income (base lease) - \$120,925

**OFFICE BUILDING LEASE**

**Between**

**DESERT HEALTHCARE DISTRICT,  
DOING BUSINESS AS LAS PALMAS MEDICAL PLAZA  
AS LANDLORD**

**And**

**BRAD A. WOLFSON, M.D.**

**AS TENANT**

**DATED**

**AUGUST 1, 2022**

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OFFICE BUILDING LEASE

This Lease between Desert Healthcare District, doing business as Las Palmas Medical Plaza hereinafter referred to as “Landlord”, and Brad A. Wolfson, M.D., hereinafter referred to as “Tenant”, and is dated August 1, 2022.

1. LEASE OF PREMISES.

In consideration of the Rent (as defined at Section 5.4) and the provisions of this Lease, Landlord leases to Tenant and Tenant leases from Landlord the Premises described in Section 2L. The Premises are located within the Building and Project described in Section 2m. Tenant shall have the non-exclusive right (unless otherwise provided herein) in common with Landlord, other tenants, subtenants, and invitees, to use of the Common Areas (as defined at Section 2e).

2. DEFINITIONS.

As used in this Lease, the following terms shall have the following meanings:

- a. *Base Rent (Initial)*: \$ Thirty-Two Thousand, Five Hundred Sixty-Three and 20/100 Dollars (\$32,563.20) per year.
- b. *Base Year*: The calendar year of August 1 to July 31.
- c. *Broker(s)*:  
 Landlord’s: N/A.  
 Tenant’s: N/A.  
 In the event that N/A represents both Landlord and Tenant, Landlord and Tenant hereby confirm that they were timely advised of the dual representation and that they consent to the same, and that they do not expect said broker to disclose to either of them the confidential information of the other party.
- d. *Commencement Date*: August 1<sup>st</sup>, 2022.
- e. *Common Areas*: The building lobbies, common corridors and hallways, restrooms, parking areas, stairways, elevators and other generally understood public or common areas. Landlord shall have the right to regulate or restrict the use of the Common Areas.
- f. *Expiration Date*: July 31<sup>st</sup>, 2025, unless otherwise sooner terminated in accordance with the provisions of this Lease.
- g. *Landlord's Mailing Address*: 1140 N. Indian Canyon Dr., Palm Springs, CA 92262.  
*Tenant's Mailing Address*: 555 E. Tachevah Dr., 2W-101, Palm Springs, CA 92262.
- h. *Monthly Installments of Base Rent (initial)*: \$ Two Thousand, Seven Hundred Thirteen & 60/100 Dollars (\$2,713.60) per month.
- i. *Project Operating Costs (CAMs)*: Currently Sixty-Nine Cents (\$.69) per square foot per month.
- j. *Tenant Improvement Allowance (TI)*: Nine Dollars (\$9.00) per square foot or Eleven Thousand, Five Hundred Twenty & 00/100 Dollars (\$11,520).
- k. *Parking*: Tenant shall be permitted, to park 6 cars on a non-exclusive basis in the area(s) designated by Landlord for parking (for Staff - generally in the back of the parking area, perimeter streets, and Wellness Park parking lot). Tenant shall abide by any and all parking regulations and rules established from time to time by Landlord or Landlord's parking operator.
- l. *Premises*: That portion of the Building containing approximately 1,280 square feet of Rentable Area, located in Building 2W and known as Suite 101.

- m. *Project*: The building of which the Premises are a part (the "Building") and any other buildings or improvements on the real property (the "Property") located at 555 E. Tachevah Drive, Palm Springs, California 92262. The Project is known as The Las Palmas Medical Plaza.
- n. *Rentable Area*: As to both the Premises and the Project, the respective measurements of floor area as may from time to time be subject to lease by Tenant and all tenants of the Project, respectively, as determined by Landlord and applied on a consistent basis throughout the Project.
- o. *Security Deposit (Section 7)*: \$ Tenant will carry over from previous lease in the amount of Zero & 00/100 Dollars (\$0.00).
- p. *State*: the State of California.
- q. *Tenant's First Adjustment Date (Section 5)*: The first day of the calendar month following the Commencement Date plus 12 months.
- r. *Tenant's Proportionate Share*: 2.59%. Such share is a fraction, the numerator of which is the Rentable Area of the Premises and the denominator of which is the Rentable Area of the Project, as determined by Landlord from time to time. The Project consists of six building(s) containing a total Rentable Area of 49,356 square feet.
- s. *Tenant's Use Clause (Article 8)*: Medically related office use consistent with and use the City may allow under the City of Palm Springs zoning, subject to Landlord's reasonable approval.
- t. *Term*: The period commencing on the Commencement Date and expiring at midnight on the Expiration Date.

3. EXHIBITS AND ADDENDA.

The exhibits and addenda listed below (unless lined out) are incorporated by reference in this Lease:

- a. Exhibit "A" Rules and Regulations.
- b. Addenda\*

\*See Addendum attached hereto and by this reference made a part hereof.

4. DELIVERY OF POSSESSION.

If for any reason Landlord does not deliver possession of the Premises to Tenant on the commencement Date, Landlord shall not be subject to any liability for such failure, the Expiration Date shall not change and the validity of this Lease shall not be impaired, but Rent shall be abated until delivery of possession, "Delivery of possession" shall be deemed to occur on the date Landlord completes Landlord's Work as defined in Addendum. If Landlord permits Tenant to enter into possession of the Premises before the Commencement Date, such possession shall be subject to the provisions of this Lease, including, without limitation, the payment of Rent.

5. RENT.

5.1 *Payment of Base Rent*: Tenant agrees to pay the base rent for the premises. Monthly installments of Base Rent shall be payable in advance on the first day of each calendar month of the term. If the term begins (or ends) on other than the first (or last) day of a calendar month, the Base Rent for the partial month shall be prorated on a per diem basis. Tenant shall pay Landlord the first Monthly Installment of Base Rent when Tenant executes the Lease.

5.2 *Adjusted Base Rent*:

- a. The Base Rent (and the corresponding monthly installments of Base Rent) set forth at Section 2a shall be adjusted annually (the "Adjustment Date"), commencing on Tenant's First Adjustment Date.
- b. Such adjustment shall be the greater of 3% over the preceding year or Consumer Price Index.
- c.

5.3 *Project Operating Costs (CAMs)*:

- a. In order that the Rent payable during the Term reflect Project Operating Costs, Tenant agrees to pay to Landlord as Rent, Tenant's Proportionate Share of all costs, expenses and obligations attributable to the Project and its operation as set forth in 2i, all as provided below.
- b. If, during any calendar year during the Term, Project Operating Costs exceed the Project Operating Costs for the Base Year, Tenant shall pay to Landlord, in addition to the Base Rent and all other payments due under this lease, an amount equal to Tenant's Proportionate Share of such excess Project Operating Costs in accordance with the provisions of this Section 5.3b.

(1.) The term "Project Operating Costs" shall include all those items described in the following subparagraphs (a) and (b).

\_\_\_\_\_ District      \_\_\_\_\_ Recipient

(a.) All taxes, assessments, water and sewer charges and other similar governmental charges levied on or attributable to the Building or Project or their operation, including without limitation, (i) real property taxes or assessments levied or assessed against the Building or Project, (ii) assessments or charges levied or assessed against the Building or Project by any redevelopment agency, (iii) any tax measured by gross rentals received from the leasing of the Premises, Building or Project, excluding any net income, franchise, capital stock, estate or inheritance taxes imposed by the State or federal government or their agencies, branches or departments; provided that if at any time during the Term any governmental entity levies, assesses or imposes on Landlord any (1) general or special, ad valorem or specific, excise, capital levy or other tax, assessment, levy or charge directly on the Rent received under this lease or on the rent received under any other leases of space in the Building or Project, or (2) and license fee, excise or franchise tax, assessment, levy or charge measured by or based, in whole or in part, upon such rent, or (3) any transfer, transactions, or similar tax, assessment, levy or charge based directly or indirectly upon the transaction represented by this Lease or such other leases, or (4) any occupancy, use, per capita or other tax, assessment, levy or charge based directly or indirectly upon the use or occupancy of the Premises or other premises within the Building or Project, then any such taxes, assessments, levies and charges shall be deemed to be included in the term Project Operation Costs. If at any time during the Term the assessed valuation of, or taxes on, the Project are not based on a completed Project having at least eighty-five percent (85%) of the Rentable Area occupied, then the "taxes" component of Project Operating Costs shall be adjusted by Landlord to reasonably Approximate the taxes, which would have been payable if the Project were completed and at least eighty-five percent (85%) occupied.

(b.) Operating costs incurred by Landlord in maintaining and operating the Building and Project, including without limitation the following: costs of (1) utilities; (2) supplies; (3) insurance (including public liability, property damage, earthquake, and fire and extended coverage insurance for the full replacement cost of the Building and Project as required by Landlord or its lenders for the Project; (4) services of independent contractors; (5) compensation (including employment taxes and fringe benefits) of all persons who perform duties connected with the operation, maintenance, repair or overhaul of the Building or Project, and equipment, improvements and facilities located within the Project, including without limitation engineers, janitors, painters, floor waxers, window washers, security and parking personnel and gardeners (but excluding persons performing services not uniformly available to or performed for substantially all Building or Project tenant); (6) operation and maintenance of a room for delivery and distribution of mail to tenants of the Building or Project as required by the U.S. Postal Service (including, without limitation, an amount equal to the fair market rental value of the mail room premises); (7) management of the Building or Project, whether managed by Landlord or an independent contractor (including, without limitation, an amount equal to the fair market value of any on-site manager's office); (8) rental expenses for (or a reasonable depreciation allowance on) personal property used in the maintenance, operation or repair of the Building or Project; (9) costs, expenditures or charges (whether capitalized or not) required by any governmental or quasi-governmental authority; (10) amortization of capital expenses (including financing costs) (i) required by a governmental entity for energy conservation or life safety purposes, or (ii) made by landlord to reduce Project Operating Costs; and (11) any other costs or expenses incurred by Landlord under this Lease and not otherwise reimbursed by tenants of the Project. If at any time during the Term, less than eighty-five percent (85%) of the Rentable Area of the Project is occupied, the "operating costs" component of Project Operating Costs shall be adjusted by Landlord to reasonably approximate the operating costs which would have been incurred if the Project had been at least eighty-five percent (85%) occupied.

(2.) Tenant's Proportionate Share of Project Operating Costs shall be payable by Tenant to Landlord as follows:

(a.) Beginning with the calendar year following the Base Year and for each calendar year thereafter ("comparison Year"), Tenant shall pay Landlord an amount equal to Tenant's Proportionate Share of the Project Operating Costs incurred by Landlord in the Comparison Year which exceeds the total amount of Project Operating Costs payable by Landlord for the Base Year. This excess is referred to as the "Excess Expenses."

(b.) To provide for current payments of Excess Expenses, Tenant shall, at Landlord's request, pay as additional rent during each Comparison Year, an amount equal to Tenant's Proportionate Share of the Excess Expenses payable during such Comparison Year, as estimated by Landlord from time to time. Such payments shall be made in monthly installments, commencing on the first day of the month following the month in which Landlord notifies Tenant of the amount it is to pay hereunder and continuing until the first day of the month following the month in which Landlord gives Tenant a new notice of estimated Excess Expenses. It is the intention hereunder to estimate from time to time the amount of the Excess Expense for each Comparison Year and Tenant's Proportionate Share thereof, and then to make an adjustment in the following year based on the actual Excess Expenses incurred for that Comparison Year.

(c.) On or before April 1 of each Comparison Year after the first Comparison Year (or as soon thereafter as is practical), Landlord shall deliver to Tenant a statement setting forth Tenant's Proportionate Share of the Excess Expenses for the preceding Comparison Year. If Tenant's Proportionate Share of the actual Excess Expenses for the previous Comparison Year exceeds the total of the estimated monthly payments made by Tenant for such year, Tenant shall pay Landlord the amount of the deficiency within ten (10)

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days of the receipt of the statement. If such total exceeds Tenant's Proportionate Share of the actual Excess Expenses for such Comparison Year, then Landlord shall credit against Tenant's next ensuing monthly installment(s) of additional rent an amount equal to the difference until the credit is exhausted. If the credit is due from Landlord on the Expiration Date, Landlord shall pay Tenant the amount of the credit. The obligations of Tenant and Landlord to make payments required under this Section 5.3 shall survive the Expiration Date.

- (d.) Tenant's Proportionate Share of Excess Expenses in any Comparison Year having less than 365 days shall be appropriately prorated.
- (e.) If any dispute arises as to the amount of any additional rent due hereunder, Tenant shall have the right after reasonable notice and at reasonable times to inspect Landlord's accounting records at Landlord's accounting office and, if after such inspection Tenant still disputes the amount of additional rent owed, a certification as to the proper amount shall be made by Landlord's certified public accountant, which certification shall be final and conclusive. Tenant agrees to pay the cost of such certification unless it is determined that Landlord's original statement overstated Project Operating Costs by more than five percent (5%).
- (f.) If this Lease sets forth an Expense Stop at Section 2f, then during the Term, Tenant shall be liable for Tenant's Proportionate Share of any actual Project Operating Costs which exceed the amount of the Expense Stop. Tenant shall make current payments of such excess costs during the Term in the same manner as is provided for payment of Excess Expenses under the applicable provisions of Section 5.3(2)(b) and (c) above.

**5.4 Definition of Rent:** The Rent shall be paid to the Building manager (or other person) and at such place, as Landlord may from time to time designate in writing, without any prior demand therefore and without deduction or offset, in lawful money of the United States of America.

**5.5 Rent Control:** If the amount of Rent or any other payment due under this Lease violates the terms of any governmental restrictions on such Rent or payment, then the Rent or payment due during the period of such restrictions shall be the maximum amount allowable under those restrictions. Upon termination of the restrictions, Landlord shall, to the extent it is legally permitted, recover from Tenant the difference between the amounts received during the period of the restrictions and the amounts Landlord would have received had there been no restrictions.

**5.6 Taxes Payable by Tenant:** In addition to the Rent and any other charges to be paid by Tenant hereunder, Tenant shall reimburse Landlord upon demand for any and all taxes payable by Landlord (other than net income taxes) which are not otherwise reimbursable under this Lease, whether or not now customary or within the contemplation of the parties, where such taxes are upon, measured by or reasonably attributable to (a) the cost or value of Tenant's equipment, furniture, fixtures and other personal property located in the Premises, or the cost or value of any leasehold improvements made in or to the Premises by or for Tenant, other than Building Standard Work made by Landlord, regardless of whether title to such improvements is held by Tenant or Landlord; (b) the gross or net Rent payable under this Lease, including, without limitation, any rental or gross receipts tax levied by any taxing authority with respect to the receipt of the Rent hereunder; (c) the possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy by Tenant of the Premises or any portion thereof; or (d) this transaction or any document to which Tenant is a party creating or transferring an interest or an estate in the Premises. If it becomes unlawful for Tenant to reimburse Landlord for any costs as required under this Lease, the Base Rent shall be revised to net Landlord the same net Rent after imposition of any tax or other charge upon Landlord as would have been payable to Landlord but for the reimbursement being unlawful.

**5.7 Tenant Improvement Allowance:** In recognition for Tenant completing all improvements to the premises as mutually agreed by Landlord and Tenant, Landlord shall provide Tenant with a total Tenant improvement allowance not to exceed that set forth in Section 2j upon completion of agreed tenant improvements. This allowance will be reimbursed to tenant upon satisfactory receipt of paid invoices and inspection by Property Management that work has been satisfactorily completed. Any additional tenant improvements will be at the sole expense of the Tenant. Improvements shall conform to a high quality of design approved by Landlord prior to commencement of work and shall be performed by a licensed General Contractor approved by Landlord in advance. Tenant shall submit plans and specifications for any and all improvements to Landlord, and where necessary, the City of Palm Springs and other applicable government agencies for their required approval (if any) prior to commencement of work. Tenant and the General Contractor shall indemnify and hold Landlord and its officers, agents and employees harmless from any liability resulting from the tenant improvement work and shall be named as an additional insured on the insurance policy of both the Tenant and the General Contractor. All costs shall be subject to prevailing wages and if construction costs exceed \$25,000, then the tenant improvements shall also be subject to California competitive bid statutes.

## 6. INTEREST AND LATE CHARGES.

If Tenant fails to pay when due any Rent or other amounts or charges which Tenant is obligated to pay under the terms of this Lease, the unpaid amounts shall bear interest at the maximum rate then allowed by law. Tenant acknowledges that the late payment of any Monthly Installment of Base Rent will cause Landlord to lose the use of that money and incur costs and expenses not contemplated under this Lease, including without limitation, administrative and collection costs

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and processing and accounting expenses, the exact amount of which is extremely difficult to ascertain. Therefore, in addition to interest, if any such installment is not received by Landlord within five (5) days from the date it is due, Tenant shall pay Landlord a late charge equal to ten percent (10%) of such installment. Landlord and Tenant agree that this late charge represents a reasonable estimate of such costs and expenses and is fair compensation to Landlord for the loss suffered from such nonpayment by Tenant. Acceptance of any interest or late charge shall not constitute a waiver of Tenant's default with respect to such nonpayment by Tenant nor prevent Landlord from exercising any other rights or remedies available to Landlord under this Lease.

## 7. SECURITY DEPOSIT.

Tenant agrees to deposit with Landlord the Security Deposit set forth at Section 2.0 upon execution of this Lease, as security for Tenant's faithful performance of its obligations under this Lease. Landlord and Tenant agree that the Security Deposit may be commingled with funds of Landlord and Landlord shall have no obligation or liability for payment of interest on such deposit. Tenant shall not mortgage, assign, transfer, or encumber the Security Deposit without the prior written consent of Landlord and any attempt by Tenant to do so shall be void, without force or effect and shall not be binding upon Landlord.

If Tenant fails to pay Rent or other amount when due and payable under this Lease, or fails to perform any of the terms hereof, Landlord may appropriate and apply or use all or any portion of the Security Deposit for Rent payments or any other amount then due and unpaid, for payment of any amount for which Landlord has become obligated as a result of Tenant's default or breach, and for any loss or damage sustained by Landlord as a result of Tenant's default or breach, and Landlord may so apply or use this deposit without prejudice to any other remedy Landlord may have by reason of Tenant's default or breach. If Landlord so uses any of the Security Deposit, Tenant shall, within ten (10) days after written demand, therefore, restore the Security Deposit to the full amount originally deposited; Tenant's failure to do so shall constitute an act of default hereunder and Landlord shall have the right to exercise any remedy provided for at Article 27 hereof. Within fifteen (15) days after the Term (or any extension thereof) has expired or Tenant has vacated the Premises, whichever shall last occur, and provided Tenant is not then in default on any of its obligations hereunder, Landlord shall return the Security Deposit to Tenant, or, if Tenant has assigned its interest under this Lease, to the last assignee of Tenant. If Landlord sells its interest in the Premises, Landlord may deliver this deposit to the purchaser of Landlord's interest and thereupon be relieved of any further liability or obligation with respect to the Security Deposit.

## 8. TENANT'S USE OF THE PREMISES

Tenant shall use the Premises solely for the purposes set forth in Tenant's Use Clause. Tenant shall not use or occupy the Premises in violation of law or any covenant, condition or restriction affecting the Building or Project, or the certificate of occupancy issued for the Building or Project, and shall, upon notice from Landlord, immediately discontinue any use of the Premises which is declared by any governmental authority having jurisdiction to be a violation of law or the certificate of occupancy. Tenant, at Tenant's own cost and expense, shall comply with all laws, ordinances, regulations, rules and/or any directions of any governmental agencies or authorities having jurisdiction which shall, by reason of the nature of Tenant's use or occupancy of the Premises, impose any duty upon Tenant or Landlord with respect to the Premises or its use or occupation. A judgment of any court of competent jurisdiction or the admission by Tenant in any action or proceeding against Tenant that Tenant has violated any such laws, ordinances, regulations, rules and/or directions in the use of the Premises shall be deemed to be a conclusive determination of that fact as between Landlord and Tenant. Tenant shall not do or permit to be done anything, which will invalidate or increase the cost of any fire, extended coverage or other insurance policy covering the Building or Project and/or property located therein, and shall comply with all rules, orders, regulations, requirements and recommendations of the Insurance Services Office or any other organization performing a similar function. Tenant shall promptly upon demand reimburse Landlord for any additional premium charged for such policy by reason of Tenant's failure to comply with the provisions of this Article. Tenant shall not do or permit anything to be done in or about the Premises which will in any way obstruct or interfere with the rights of other tenants or occupants of the Building or Project, or injure or annoy them, or use or allow the Premises to be used for any improper, immoral, unlawful, or objectionable purpose, nor shall Tenant cause, maintain or permit any nuisance in, on or about the Premises. Tenant shall not commit or suffer to be committed any waste in or upon the Premises.

## 9. SERVICES AND UTILITIES.

Provided that Tenant is not in default hereunder, Landlord agrees to furnish to the Premises during generally recognized business days, and during hours determined by Landlord in its sole discretion, and subject to the Rules and Regulations of the Building or Project, electricity for normal desk top office equipment and normal copying equipment, and heating, ventilation and air conditioning ("HVAC") as required in Landlord's judgment for the comfortable use and occupancy of the Premises. If Tenant desires HVAC at any other time, Landlord shall use reasonable efforts to furnish such service upon reasonable notice from Tenant and Tenant shall pay Landlord's charges therefore on demand. Landlord shall also maintain and keep lighted the common stairs, common entries and restrooms in the Building. Landlord shall not be in default hereunder or be liable for any damages directly or indirectly resulting from, nor shall the Rent be abated by reason of (i) the installation, use or interruption of use of any equipment in connection with the furnishing of any of the foregoing services, (ii) failure to furnish or delay in furnishing any such services where such failure or delay is caused by accident or any condition or event beyond the reasonable control of Landlord, or by the making of necessary repairs or improvements to the Premises, Building or Project, or (iii) the limitation, curtailment or rationing of, or restrictions on,

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use of water, electricity, gas or any other form of energy serving the Premises, Building or Project. Landlord shall not be liable under any circumstances for a loss of or injury to property or business, however occurring, through or in connection with or incidental to failure to furnish any such services. If Tenant uses heat generating machines or equipment in the Premises which affect the temperature otherwise maintained by the HVAC system, Landlord reserves the right to install supplementary air conditioning units in the Premises and the cost thereof, including the cost of installation, operation and maintenance thereof, shall be paid by Tenant to Landlord upon demand by Landlord.

Tenant shall not, without the written consent of Landlord, use any apparatus or device in the Premises, including without limitation, electronic data processing machines, punch card machines or machines using in excess of 120 volts, which consumes more electricity than is usually furnished or supplied for the use of premises as general office space, as determined by Landlord. Tenant shall not connect any apparatus with electric current except through existing electrical outlets in the Premises. Tenant shall not consume water or electric current in excess of that usually furnished or supplied for the use of premises as general office space (as determined by Landlord), without first procuring the written consent of Landlord, which Landlord may refuse, and in the event of consent, Landlord may have installed a water meter or electrical current meter in the Premises to measure the amount of water or electric current consumed. The cost of any such meter and of its installation, maintenance and repair shall be paid for by the Tenant and Tenant agrees to pay to Landlord Promptly upon demand for all such water and electric current consumed as shown by said meters, at the rates charged for such services by the local public utility plus any additional expense incurred in keeping account of the water and electric current so consumed. If a separate meter is not installed, the excess cost for such water and electric current shall be established by an estimate made by a utility company or electrical engineer hired by Landlord at Tenant's expense.

Nothing contained in this Article shall restrict Landlord's right to require at any time separate metering of utilities furnished to the Premises. In the event utilities are separately metered, Tenant shall pay promptly upon demand for all utilities consumed at utility rates charged by the local public utility plus any additional expense incurred by Landlord in keeping account of the utilities so consumed. Tenant shall be responsible for the maintenance and repair of any such meters at its sole cost.

Landlord shall furnish elevator service, lighting replacement for building standard lights, restroom supplies, window washing and janitor services of common area in a manner that such services are customarily furnished to comparable office buildings in the area.

## 10. CONDITION OF THE PREMISES.

Tenant's taking possession of the Premises shall be deemed conclusive evidence that as of the date of taking possession of the Premises are in good order and satisfactory condition, except for such matters as to which Tenant gave Landlord notice on or before the Commencement Date. No promise of Landlord to alter, remodel, repair or improve the Premises, the Building or the Project and no representation, express or implied, respecting any matter or thing relating to the Premises, Building, Project or this Lease (including, without limitation, the condition of the Premises, the Building or the Project) have been made to Tenant by Landlord or its Broker or Sales Agent, other than as may be contained herein or in a separate exhibit or addendum signed by Landlord and Tenant.

## II. CONSTRUCTION, REPAIRS AND MAINTENANCE.

- a. *Landlord's Obligations:* Landlord shall maintain in good order, condition and repair the Building and all other portions of the Premises not the obligation of Tenant or of any other tenant in the Building.
- b. *Tenant's Obligations:*
  - (1.) Tenant shall perform Tenant's Work to the Premises as described in an exhibit specific to Tenant Improvements, if applicable."
  - (2.) Tenant at Tenant's sole expense shall, except for services furnished by Landlord pursuant to Article 9 hereof, maintain the Premises in good order, condition and repair, including the interior surfaces of the ceilings, walls and floors, all doors, all interior windows, all plumbing, pipes and fixtures, electrical wiring, switches and fixtures, Building Standard furnishings and special items and equipment installed by or at the expense of Tenant.
  - (3.) Tenant shall be responsible for all repairs and alterations in and to the Premises, Building and Project and the facilities and systems thereof, the need for which arises out of (i) Tenant's use or occupancy of the Premises, (ii) the installation, removal, use or operation of Tenant's Property (as defined in Article 13) in the Premises, (iii) the moving of Tenant's Property into or out of the Building, or (iv) the act, omission, misuse or negligence of Tenant, its agents, contractors, employees or invitees.
  - (4.) If Tenant fails to maintain the Premises in good order, condition and repair, Landlord shall give Tenant notice to do such acts as are reasonably required to so maintain the Premises. If Tenant fails to promptly commence such work and diligently prosecute it to completion, then Landlord shall have the right to do such acts and expend such funds at the expense of Tenant as are reasonably required to perform such work. Any amount so expended by Landlord shall be paid by Tenant promptly after demand with interest at the prime commercial rate then being charged by Bank of America NT & SA plus two percent (2%) per annum, from the date of such work, but not to exceed the maximum rate then allowed by law. Landlord shall have no

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liability to Tenant for any damage, inconvenience, or interference with the use of the Premises by Tenant as a result of performing any such work.

- c. *Compliance with Law*: Landlord and Tenant shall each do all acts required to comply with all applicable laws, ordinances, and rules of any public authority relating to their respective maintenance obligations as set forth herein.
- d. *Waiver by Tenant*: Tenant expressly waives the benefits of any statute now or hereafter in effect which would otherwise afford the Tenant the right to make repairs at Landlord's expense or to terminate this Lease because of Landlord's failure to keep the Premises in good order, condition and repair.
- e. *Load and Equipment Limits*: Tenant shall not place a load upon any floor of the Premises which exceeds the load per square foot which such floor was designed to carry, as determined by Landlord or Landlord's structural engineer. The cost of any such determination made by Landlord's structural engineer shall be paid for by Tenant upon demand. Tenant shall not install business machines or mechanical equipment which cause noise or vibration to such a degree as to be objectionable to Landlord or other Building tenants.
- f. Except as otherwise expressly provided in this Lease, Landlord shall have no liability to Tenant nor shall Tenant's obligations under this Lease be reduced or abated in any manner whatsoever by reason of any inconvenience, annoyance, interruption or injury to business arising from Landlord's making any repairs or changes which Landlord is required or permitted by this Lease or by any other tenant's lease or required by law to make in or to any portion of the Project, Building or the Premises. Landlord shall nevertheless use reasonable efforts to minimize any interference with Tenant's business in the Premises.
- g. Tenant shall give Landlord prompt notice of any damage to or defective condition in any part or appurtenance of the Building's mechanical, electrical, plumbing, HVAC or other systems serving, located in, or passing through the Premises.
- h. Upon the expiration or earlier termination of this Lease, Tenant shall return the Premises to Landlord clean and in the same condition as on the date Tenant took possession, except for normal wear and tear. Any damage to the Premises, including any structural damage, resulting from Tenant's use or from the removal of Tenant's fixtures, furnishings and equipment pursuant to Section 13b shall be repaired by Tenant at Tenant's expense.

## 12. ALTERATIONS AND ADDITIONS.

- a. Tenant shall not make any additions, alterations or improvements to the Premises without obtaining the prior written consent of Landlord. Landlord's consent may be conditioned on Tenant's removing any such additions, alterations or improvements upon the expiration of the term and restoring the Premises to the same condition as on the date Tenant took possession. All work with respect to any addition, alteration or improvement shall be done in a good and workmanlike manner by properly qualified and licensed personnel approved by Landlord, and such work shall be diligently prosecuted to completion. Landlord may, at Landlord's option, require that any such work be performed by Landlord's contractor in which case the cost of such work shall be paid for before commencement of the work. Tenant shall pay to Landlord upon completion of any such work by Landlord's contractor, an administrative fee of fifteen percent (15%) of the cost of the work.
- b. Tenant shall pay the costs of any work done on the Premises pursuant to Section 12a, and shall keep the Premises, Building and Project free and clear of liens of any kind. Tenant shall indemnify, defend against and keep Landlord free and harmless from all liability, loss, damage, costs, attorneys' fees and any other expense incurred on account of claims by any person performing work or furnishing materials or supplies for Tenant or any person claiming under Tenant.

Tenant shall keep Tenant's leasehold interest, and any additions or improvements which are or become the property of Landlord under this Lease, free and clear of all attachment or judgment liens. Before the actual commencement of any work for which a claim or lien may be filed, Tenant shall give Landlord notice of the intended commencement date a sufficient time before that date to enable Landlord to post notices of non-responsibility or any other notices which Landlord deems necessary for the proper protection of Landlord's interest in the Premises, Building or the Project, and Landlord shall have the right to enter the Premises and post such notice at any reasonable time.

- c. Landlord may require, at Landlord's sole option, that Tenant provide to Landlord, at Tenant's expense, a lien and completion bond in an amount equal to at least one and one-half (1.5) times the total estimated cost of any additions, alterations or improvements to be made in or to the Premises, to protect Landlord against any liability for mechanic's and material men's liens and to insure timely completion of the work. Nothing contained in this Section 12c shall relieve Tenant of its obligations under Section 12b to keep the Premises, Building and Project free of all liens.
- d. Unless their removal is required by Landlord as provided in Section 12a, all additions, alterations and improvements made to the Premises shall become the property of Landlord and be surrendered with the Premises upon the expiration of the Term; provided, however, Tenant's equipment, machinery and trade fixtures which

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can be removed without damage to the Premises shall remain the property of Tenant and may be removed, subject to the provisions of Section 13b.

### 13. LEASEHOLD IMPROVEMENTS; TENANT'S PROPERTY.

- a. All fixtures, equipment, improvements and appurtenances attached to or built into the Premises at the commencement of or during the Term, whether or not by or at the expense of Tenant ("Leasehold Improvements"), shall be and remain a part of the Premises, shall be the property of Landlord and shall not be removed by Tenant, except as expressly provided in Section 13b.
- b. All movable partitions, business and trade fixtures, machinery and equipment, communications equipment and office equipment located in the Premises and acquired by or for the account of Tenant, without expense to Landlord, which can be removed without structural damage to the Building, and all furniture, furnishings and other articles of movable personal property owned by Tenant and located in the Premises (collectively "Tenant's Property") shall be and shall remain the property of Tenant and may be removed by Tenant at any time during the Term; provided that if any of Tenant's Property is removed, Tenant shall promptly repair any damage to the Premises or to the Building resulting from such removal.

### 14. RULES AND REGULATIONS.

Tenant agrees to comply with (and cause its agents, contractors, employees and invitees to comply with) the rules and regulations attached hereto as Exhibit "D" and with such reasonable modifications thereof and additions thereto as Landlord may from time to time make. Landlord shall not be responsible for any violation of said rules and regulations by other tenants or occupants of the Building of Project.

### 15. CERTAIN RIGHTS RESERVED BY LANDLORD.

Landlord reserves the following rights, exercisable without liability to Tenant for (a) damage or injury to property, person or business, (b) causing an actual or constructive eviction from the Premises, or (c) disturbing Tenant's use or possession of the Premises:

- a. To name the Building and Project and to change the name or street address of the Building or Project;
- b. To install and maintain all signs on the exterior and interior of the Building and Project;
- c. To have pass keys to the Premises and all doors within the Premises, eluding Tenant's vaults and safes;
- d. At any time during the Term, and on reasonable prior notice to Tenant, to inspect the Premises, and to show the Premises to any prospective purchaser or mortgagee of the Project, or to any assignee of any mortgage on the Project, or to others having an interest in the Project or Landlord, and during the last six months of the Term, to show the Premises to prospective tenants thereof; and
- e. To enter the Premises for the purpose of making inspections, repairs, alterations, additions or improvements to the Premises or the Building (including, without limitation, checking, calibrating, adjusting or balancing controls and other parts of the HVAC system), and to take all steps as may be necessary or desirable for the safety, protection, maintenance or preservation of the Premises or the Building or Landlord's interest therein, or as may be necessary or desirable for the operation or improvement of the Building or in order to comply with laws, orders or requirements of governmental or other authority. Landlord agrees to use its best efforts (except in an emergency) to minimize interference with Tenant's business in the Premises in the course of any such entry.

### 16. ASSIGNMENT AND SUBLETTING.

No assignment of this Lease or sublease of all or any part of the Premises shall be permitted, except as provided in this Article 16.

- a. Tenant shall not, without the prior written consent of Landlord, assign or hypothecate this Lease or any interest herein or sublet the Premises or any part thereof, or permit the use of the Premises by any party other than Tenant. Any of the foregoing acts without such consent shall be void and shall, at the option of Landlord, terminate this Lease. This Lease shall not, nor shall any interest of Tenant herein, be assignable by operation of law without the written consent of Landlord.
- b. If at any time or from time to time during the Term Tenant desires to assign this Lease or sublet all or any part of the Premises, Tenant shall give notice to Landlord setting forth the terms and provisions of the proposed assignment or sublease, and the identity of the proposed assignee or subtenant. Tenant shall promptly supply Landlord with such information concerning the business background and financial condition of such proposed assignee or subtenant as Landlord may reasonably request. Landlord shall have the option, exercisable by notice given to Tenant within twenty (20) days after Tenant's notice is given, either to sublet such space from Tenant at the rental and on the other terms set forth in this Lease for the term set forth in Tenant's notice, or, in the case of an assignment, to terminate this Lease. If Landlord does not exercise such option, Tenant may assign the Lease or sublet such space to such proposed assignee or subtenant on the following further conditions:

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- (1.) Landlord shall have the right to approve such proposed assignee or subtenant, which approval shall not be unreasonably withheld;
  - (2.) The assignment or sublease shall be on the same terms set forth in the notice given to Landlord;
  - (3.) No assignment or sublease shall be valid and no assignee or sub lessee shall take possession of the Premises until an executed counterpart of such assignment or sublease has been delivered to Landlord;
  - (4.) No assignee or sub lessee shall have a further right to assign or sublet except on the terms herein contained; and
  - (5.) Any sums or other economic consideration received by Tenant as a result of such assignment or subletting, however denominated under the assignment or sublease, which exceed, in the aggregate, (i) the total sums which Tenant is obligated to pay Landlord under this Lease (prorated to reflect obligations allocable to any portion of the Premises subleased), plus (ii) any real estate brokerage commissions or fees payable in connection with such assignment or subletting, shall be paid to Landlord as additional rent under this Lease without affecting or reducing any other obligations of Tenant hereunder.
- c. Notwithstanding the provisions of paragraphs a and b above, Tenant may assign this Lease or sublet the Premises or any portion thereof, without Landlord's consent and without extending any recapture or termination option to Landlord, to any corporation which controls, is controlled by or is under common control with Tenant, or to any corporation resulting from a merger or consolidation with Tenant, or to any person or entity which acquires all the assets of Tenant's business as a going concern, provided that (i) the assignee or sub lessee assumes, in full, the obligations of Tenant under this Lease, (ii) Tenant remains fully liable under this Lease, and (iii) the use of the Premises under Article 8 remains unchanged.
  - d. No subletting or assignment shall release Tenant of Tenant's obligations under this Lease or alter the primary liability of Tenant to pay the Rent and to perform all other obligations to be performed by Tenant hereunder. The acceptance of Rent by landlord from any other person shall not be deemed to be a waiver by Landlord of any provision hereof. Consent to one assignment or subletting shall not be deemed consent to any subsequent assignment or subletting. In the event of default by an assignee or subtenant or any successor of Tenant in the performance of any of the terms hereof, Landlord may proceed directly against Tenant without the necessity of exhausting remedies against such assignee, subtenant or successor. Landlord may consent to subsequent assignments of the Lease or sub lettings or amendments or modifications to the Lease with assignees of tenant, without notifying Tenant, or any successor of Tenant, and without obtaining its or their consent thereof and any such actions shall not relieve Tenant of liability under this Lease.
  - e. If Tenant assigns the Lease or sublets the Premises or requests the consent of Landlord to any assignment or subletting or if Tenant requests the consent of Landlord for any act that Tenant proposes to do, then Tenant shall, upon demand, pay Landlord an administrative fee of One Hundred Fifty and No/100 Dollars (\$150.00) plus any attorney's fees reasonably incurred by Landlord in connection with such act or request.

#### 17. HOLDING OVER.

If after expiration of the Term, Tenant remains in possession of the Premises with Landlord's permission (express or implied), Tenant shall become a tenant from month to month only, upon all the provisions of this Lease (except as to term and Base Rent), but the "Monthly Installments of Base Rent" payable by Tenant shall be increased to one hundred fifty percent (150%) of the Monthly Installments of Base Rent payable by Tenant at the expiration of the Term. Such monthly rent shall be payable in advance on or before the first day of each month. If either party desires to terminate such month-to-month tenancy, it shall give the other party not less than thirty (30) days advance written notice of the date of termination.

#### 18. SURRENDER OF PREMISES.

- a. Tenant shall peaceably surrender the Premises to Landlord on the Expiration Date, in broom-clean condition and in as good condition as when Tenant took possession, except for (i) reasonable wear and tear, (ii) loss by fire or other casualty, and (iii) loss by condemnation. Tenant shall, on Landlord's request, remove Tenant's Property on or before the Expiration Date and promptly repair all damage to the Premises or Building caused by such removal.
- b. If Tenant abandons or surrenders the Premises, or is dispossessed by process of law or otherwise, any of Tenant's Property left on the Premises shall be deemed to be abandoned, and, at Landlord's option, title shall pass to Landlord under this Lease as by a bill of sale. If Landlord elects to remove all or any part of such Tenant's Property, the cost of removal, including repairing any damage to the Premises or Building caused by such removal, shall be paid by Tenant. On the Expiration Date Tenant shall surrender all keys to the Premises.

#### 19. DESTRUCTION OR DAMAGE.

- a. If the Premises or the portion of the Building necessary for Tenant's occupancy is damaged by fire, earthquake, act of God, the elements, or other casualty, Landlord shall, subject to the provisions of this Article, promptly

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repair the damage, if such repairs can, in Landlord's opinion, be completed within ninety (90) days. If Landlord determines that repairs can be completed within ninety (90) days, this Lease shall remain in full force and effect, except that if such damage is not the result of the negligence or willful misconduct of Tenant or Tenant's agents, employees, contractors, licensees, or invitees, the Base Rent shall be abated to the extent Tenant's use of the Premises is impaired, commencing with the date of damage and continuing until completion of the repairs required of Landlord under Section 19d.

- b. If in Landlord's opinion, such repairs to the Premises or portion of the Building necessary for Tenant's occupancy cannot be completed within ninety (90) days, Landlord may elect, upon notice to Tenant given within thirty (30) days after the date of such fire or other casualty, to repair such damage, in which event this Lease shall continue in full force and effect, but the Base Rent shall be partially abated as provided in Section 19a. If Landlord does not so elect to make such repairs, this Lease shall terminate as of the date of such fire or other casualty.
- c. If any other portion of the Building or Project is totally destroyed or damaged to the extent that in Landlord's opinion repair thereof cannot be completed within ninety (90) days, Landlord may elect upon notice to Tenant given within thirty (30) days after the date of such fire or other casualty, to repair such damage, in which event this Lease shall continue in full force and effect, but the Base Rent shall be partially abated as provided in Section 19a. If Landlord does not so elect to make such repairs, this Lease shall terminate as of the date of such fire or other casualty.
- d. If the Premises are to be repaired under this Article, Landlord shall repair at its cost any injury or damage to the Building and Building Standard Work in the Premises. Tenant shall be responsible at its sole cost and expense for the repair, restoration, and replacement of any other Leasehold Improvements and Tenant's Property. Landlord shall not be liable for any loss of business, inconvenience or annoyance arising from any repair or restoration of any portion of the Premises, Building, or Project as a result of any damage from fire or other casualty.
- e. This Lease shall be considered an express agreement governing any case of damage to or destruction of the Premises, Building, or Project by fire or other casualty, and any present or future law which purports to govern the rights of Landlord and Tenant in such circumstances in the absent of express agreement, shall have no application.

## 20. EMINENT DOMAIN.

- a. If the whole of the Building or Premises is lawfully taken by condemnation or in any other manner for any public or quasi-public purpose, this Lease shall terminate as of the date of such taking, and Rent shall be prorated to such date. If less than the whole of the Building or Premises is so taken, this Lease shall be unaffected by such taking, provided that (i) Tenant shall have the right to terminate this Lease by notice to Landlord given within ninety (90) days after the date of such taking if twenty percent (20%) or more of the Premises is taken and the remaining area of the Premises is not reasonably sufficient for Tenant to continue operation of its business, and (ii) Landlord shall have the right to terminate this Lease by notice to Tenant given within ninety (90) days after the date of such taking. If either Landlord or Tenant so elects to terminate this Lease, the Lease shall terminate on the thirtieth (30th) day after either such notice. The Rent shall be prorated to the date of termination. If this Lease continues in force upon such partial taking, the Base Rent and Tenant's Proportionate Share shall be equitably adjusted according to the remaining Rentable Area of the Premises and Project.
- b. In the event of any taking, partial or whole, all of the proceeds of any award, judgment, or settlement payable by the condemning authority shall be the exclusive property of Landlord, and Tenant hereby assigns to Landlord all of its right, title, and interest in any award, judgment, or settlement from the condemning authority. Tenant, however, shall have the right, to the extent that Landlord's award is not reduced or prejudiced, to claim from the condemning authority (but not from Landlord) such compensation as may be recoverable by Tenant in its own right for relocation expenses and damage to Tenant's personal property.
- c. In the event of a partial taking of the Premises which does not result in a termination of this Lease, Landlord shall restore the remaining portion of the Premises as nearly as practicable to its condition prior to the condemnation or taking, but only to the extent of Building Standard Work. Tenant shall be responsible at its sole cost and expenses for the repair, restoration, and replacement of any other Leasehold improvements and Tenant's Property.

## 21. INDEMNIFICATION.

- a. Tenant shall indemnify and hold Landlord harmless against and from liability and claims of any kind for loss or damage to property of Tenant or any other person, or for any injury to or death of any person, arising out of: (1) Tenant's use and occupancy of the Premises, or any work, activity, or other things allowed or suffered by Tenant to be done in, on, or about the Premises; (2) any breach or default by Tenant of any of the Tenant's obligations under this Lease; or (3) any negligent or otherwise tortious act or omission of Tenant, its agents, employees, invitees, or contractors. Tenant shall at Tenant's expense and by counsel satisfactory to Landlord, defend Landlord in any action or proceeding arising from any such claim and shall indemnify Landlord against all costs, attorneys' fees, expert witness fees, and any other expenses incurred in such action or proceeding. As a

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material part of the consideration for Landlord's execution of this Lease, Tenant hereby assumes all risk of damage or injury to any person or property in, on, or about the Premises from any cause.

- b. Landlord shall not be liable for injury or damage which may be sustained by the person or property of Tenant, its employees, invitees, or customers or any other person in or about the Premises, caused by or resulting from fire, steam, electricity, gas, water, or rain which may leak or flow from or into any part of the Premises, or from the breakage, leakage, obstruction, or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning, or lighting fixtures, whether such damage or injury results from conditions arising upon the Premises or upon other portions of the Building or Project or from other sources. Landlord shall not be liable for any damages arising from any act or omission of any other tenant of the Building or Project.

## 22. TENANT'S INSURANCE.

- a. All insurance required to be carried by Tenant hereunder shall be issued by responsible insurance companies acceptable to Landlord and Landlord's lender and qualified to do business in the State. Each policy shall name Landlord, and at Landlord's request any mortgagee of Landlord, as an additional insured, as their respective interests may appear. Each policy shall contain (i) a cross-liability endorsement, (ii) a provision that such policy and the coverage evidenced thereby shall be primary and non-contributing with respect to any policies carried by Landlord and that any coverage carried by Landlord shall be excess insurance, and (iii) a waiver by the insurer of any right of subrogation against Landlord, its agents, employees, and representatives, which arises or might arise by reason of any payment under such policy or by reason of any act or omission of Landlord, its agents, employees, or representatives. A copy of each paid up policy (authenticated by the insurer) or certificate of the insurer evidencing the existence and amount of each insurance policy required hereunder shall be delivered to Landlord before the date Tenant is first given the right of possession of the Premises, and thereafter within thirty (30) days after any demand by Landlord therefore. Landlord may, at any time and from time to time, inspect and/or copy any insurance policies required to be maintained by Tenant hereunder. No such policy shall be cancelable except after twenty (20) days written notice to Landlord and Landlord's lender. Tenant shall furnish Landlord with renewals or "binders" of any such policy at least ten (10) days prior to the expiration thereof. Tenant agrees that if Tenant does not take out and maintain such insurance, Landlord may (but shall not be required to) procure said insurance on Tenant's behalf and charge the Tenant the premiums together with a twenty-five percent (25%) handling charge, payable upon demand. Tenant shall have the right to provide such insurance coverage pursuant to blanket policies obtained by the Tenant, provided such blanket policies expressly afford coverage to the Premises, Landlord, Landlord's mortgagee, and Tenant as required by this Lease.
- b. Beginning on the date Tenant is given access to the Premises for any purpose and continuing until expiration of the Term, Tenant shall procure, pay for and maintain in effect policies of casualty insurance covering (i) all Leasehold Improvements (including any alterations, additions, or improvements as may be made by Tenant pursuant to the provisions of Article 12 hereof), and (ii) trade fixtures, merchandise, and other personal property from time to time in, on, or about the Premises, in an amount not less than one hundred percent (100%) of their actual replacement cost from time to time, providing protection against any peril included within the classification "Fire and Extended Coverage" together with insurance against sprinkler damage, vandalism, and malicious mischief. The proceeds of such insurance shall be used for the repair or replacement of the property so insured. Upon termination of this Lease following a casualty as set forth herein, the proceeds under (i) above be paid to Landlord, and the proceeds under (ii) above be paid to Tenant.
- c. Beginning on the date Tenant is given access to the Premises for any purpose and continuing until expiration of the Term, Tenant shall procure, pay for, and maintain in effect worker's compensation insurance as required by law and comprehensive public liability and property damage insurance with respect to the construction of improvements on the Premises, the use, operation, or condition of the Premises, and the operations of Tenant in, on, or about the Premises, providing broad form property damage coverage for not less than Five Hundred Thousand Dollars (\$500,000) per person and One Million Dollars (\$1,000,000) each occurrence, and property damage liability insurance with a limit of not less than Two Hundred Fifty Thousand Dollars (\$250,000) each accident.
- d. Not less than every three (3) years during the Term, Landlord and Tenant shall mutually agree to increases in all of Tenant's insurance policy limits for all insurance to be carried by Tenant as set forth in this Article. In the event Landlord and Tenant cannot mutually agree upon the amounts of said increases, then Tenant agrees that all insurance policy limits as set forth in this Article shall be adjusted for increases in the cost of living in the same manner as is set forth in Section 5.2 hereof for the adjustment of the Base Rent.

## 23. WAIVER OF SUBROGATION.

Landlord and Tenant each hereby waive all rights or recovery against the other and against the officers, employees, agents, and representatives of the other, on account of loss by or damage to the waiving party of its property or the property of others under its control, to the extent that such loss or damage is insured against under any fire and extended coverage insurance policy which either may have in force at the time of the loss or damage. Tenant shall, upon obtaining the policies of insurance required under this Lease, give notice to its insurance carrier or carriers that the foregoing mutual waiver of subrogation is contained in this Lease.

## 24. SUBORDINATION AND ATTORNMENT.

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Upon written request of Landlord, or any first mortgagee or first deed of trust beneficiary of Landlord, or ground lessor of Landlord, Tenant shall, in writing, subordinate its rights under this Lease to the lien of any first mortgage or first deed of trust, or to the interest of any lease in which Landlord is lessee, and to all advances made or thereafter to be made thereunder. However, before signing any subordination agreement, Tenant shall have the right to obtain from any lender or lessor or Landlord requesting such subordination, an agreement in writing providing that, as long as Tenant is not in default hereunder, this Lease shall remain in effect for the full Term. The holder of any security interest may, upon written notice to Tenant, elect to have this Lease prior to its security interest regardless of the time of the granting or recording of such security interest.

In the event of any foreclosure sale, transfer in lieu of foreclosure, or termination of the lease in which Landlord is lessee, Tenant shall attorn to the purchaser, transferee, or lessor, as the case may be, and recognize that party as Landlord under this Lease provided such party acquires and accepts the Premises subject to this Lease.

## 25. TENANT ESTOPPEL CERTIFICATE.

Within ten (10) days after written request from Landlord, Tenant shall execute and deliver to Landlord or Landlord's designee, a written statement certifying (a) that this lease is unmodified and in full force and effect, or is in full force and effect as modified and stating the modifications; (b) the amount of Base Rent and the date to which Base Rent and additional rent have been paid in advance; (c) the amount of any security deposited with Landlord; and (d) that Landlord is not in default hereunder or, if Landlord is claimed to be in default, stating the nature of any claimed default. Any such statement may be relied upon by a purchaser, assignee, or lender. Tenant's failure to execute and deliver such statement within the time required shall at Landlord's election be a default under this Lease and shall also be conclusive upon Tenant that: (1) this Lease is in full force and effect and has not been modified except as represented by Landlord; (2) there are no uncured defaults in Landlord's performance and that Tenant has no right of offset, counter-claim, or deduction against Rent; and (3) not more than one month's Rent has been paid in advance.

## 26. TRANSFER OF LANDLORD'S INTEREST.

In the event of any sale or transfer by Landlord of the Premises, Building, or Project, and assignment of this Lease by Landlord, Landlord shall be and is hereby entirely freed and relieved of any and all liability and obligations contained in or derived from this Lease arising out of any act, occurrence, or omission relating to the Premises, Building, Project, or Lease occurring after the consummation of such sale or transfer, providing the purchaser shall expressly assume all of the covenants and obligations of Landlord under this Lease. If any security deposit or prepaid Rent has been paid by Tenant, Landlord may transfer the security deposit or prepaid Rent to Landlord's successor and upon such transfer, Landlord shall be relieved of any and all further liability with respect thereto.

## 27. DEFAULT.

27.1. *Tenant's Default.* The occurrence of any one or more of the following events shall constitute a default and breach of this Lease by Tenant:

- a. If Tenant abandons or vacates the Premises; or
- b. If Tenant fails to pay any Rent or any other charges required to be paid by Tenant under this Lease and such failure continues for five (5) days after such payment is due and payable; or
- c. If Tenant fails to promptly and fully perform any other covenant, condition, or agreement contained in this lease and such failure continues for thirty (30) days after written notice thereof from Landlord to Tenant; or
- d. If a writ of attachment or execution is levied on this Lease or on any of Tenant's Property; or
- e. If Tenant makes a general assignment for the benefit of creditors, or provides for an arrangement, composition, extension or adjustment with its creditors; or
- f. If Tenant files a voluntary petition for relief or if a petition against Tenant in a proceeding under the federal bankruptcy laws or other insolvency laws is filed and not withdrawn or dismissed within forty-five (45) days thereafter, or if under the provisions of any law providing for reorganization or winding up of corporations, any court of competent jurisdiction assumes jurisdiction, custody, or control of Tenant or any substantial part of its property and such jurisdiction, custody, or control remains in force unrelinquished, unstayed, or unterminated for a period of forty-five (45) days; or
- g. If in any proceeding or action in which Tenant is not a party, a trustee, receiver, agent, or custodian is appointed to take charge of the Premises or Tenant's Property (or has the authority to do so) for the purpose of enforcing a lien against the Premises or Tenant's Property; or
- h. If Tenant is a partnership or consists of more than one (1) person or entity, if any partner of the partnership or other person or entity is involved in any of the acts or events described in subparagraphs d through g above.

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27.2. Remedies. In the event of Tenant's default hereunder, then, in addition to any other rights or remedies Landlord may have under any law, Landlord shall have the right, at Landlord's option, without further notice or demand of any kind to do the following:

- a. Terminate this Lease and Tenant's right to possession of the Premises and re-enter the Premises and take possession thereof, and Tenant shall have no further claim to the Premises or under this Lease; or
- b. Continue this Lease in effect, re-enter and occupy the Premises for the account of Tenant, and collect any unpaid Rent or other charges which have or thereafter become due and payable; or
- c. Re-enter the Premises under the provisions of subparagraph b and thereafter elect to terminate this Lease and Tenant's right to possession of the Premises.

If Landlord re-enters the Premises under the provisions of subparagraph b or c above, Landlord shall not be deemed to have terminated this Lease or the obligation of Tenant to pay any Rent or other charges thereafter accruing, unless Landlord notifies Tenant in writing of Landlord's election to terminate this Lease. In the event of any re-entry or retaking of possession by Landlord, Landlord shall have the right, but not the obligation, to remove all or any part of Tenant's Property in the Premises and to place such property in storage at a public warehouse at the expense and risk of Tenant. If Landlord elects to relet the Premises for the account of Tenant, the rent received by Landlord from such reletting shall be applied as follows: first, to the payment of any indebtedness other than Rent due hereunder from Tenant to Landlord; second, to the payment of any costs of such reletting; third, to the payment of the cost of any alterations or repairs to the Premises; fourth, to the payment of Rent due and unpaid hereunder; and the balance, if any, shall be held by Landlord and applied in payment of future Rent as it becomes due. If that portion of rent received from the reletting, which is applied against, the Rent due hereunder is less than the amount of the Rent due, Tenant shall pay the deficiency to Landlord promptly upon demand by Landlord. Such deficiency shall be calculated and paid monthly. Tenant shall also pay to Landlord, as soon as determined, any costs and expenses incurred by Landlord in connection with such reletting or in making alterations and repairs to the Premises, which are not covered by the rent received from the reletting.

Should Landlord elect to terminate this Lease under the provisions of subparagraph a or c above, Landlord may recover as damages from Tenant the following:

- (1.) *Past Rent.* The worth at the time of the award of any unpaid Rent which had been earned at the time of termination; plus
- (2.) *Rent Prior to Award.* The worth at the time of the award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus
- (3.) *Rent After Award.* The worth at the time of the award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of the rental loss that Tenant provides could be reasonably avoided; plus
- (4.) *Proximately Caused Damages.* Any other amount necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom including, but not limited to, any costs or expenses (including attorneys' fees) incurred by Landlord in (a) retaking possession of the Premises, (b) maintaining the Premises after Tenant's default, (c) preparing the Premises for reletting to a new tenant, including any repairs or alterations, and (d) reletting the Premises, including broker's commissions.

"The worth at the time of the award@ as used in subparagraphs 1 and 2 above is to be computed by allowing interest at the rate of ten percent (10%) per annum." The worth at the time of the award@ as used in subparagraph 3 above is to be computed by discounting the amount at the discount rate of the Federal Reserve Bank situated nearest to the Premises at the time of the award plus one percent (1%).

The waiver by Landlord of any breach of any term, covenant, or condition of this Lease shall not be deemed a waiver of such term, covenant, or condition or of any subsequent breach of the same or any other term, covenant, or condition. Acceptance of Rent by Landlord subsequent to any breach hereof shall not be deemed a waiver of any preceding breach other than the failure to pay the particular Rent so accepted, regardless of Landlord's knowledge of any breach at the time of such acceptance of Rent. Landlord shall not be deemed to have waived any term, covenant, or condition unless Landlord gives Tenant written notice of such waiver.

27.3 *Landlord's Default.* If Landlord fails to perform any covenant, condition, or agreement contained in this Lease within thirty (30) days after receipt of written notice from Tenant specifying such default, or if such default cannot reasonably be cured within thirty (30) days, if Landlord fails to commence to cure within that thirty (30) day period, then Landlord shall be liable to Tenant for any damages sustained by Tenant as a result of Landlord's breach; provided, however, it is expressly understood and agreed that if Tenant obtains a money judgment against Landlord resulting from any default or other claim arising under this Lease, that judgment shall be

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satisfied only out of the rents, issues, profits, and other income actually received on account of Landlord's right, title, and interest in the Premises, Building, or Project, and no other real, personal, or mixed property of Landlord (or of any of the partners which comprise Landlord, if any) wherever situated, shall be subject to levy to satisfy such judgment. If, after notice to Landlord of default, Landlord (or any first mortgagee or first deed of trust beneficiary of Landlord) fails to cure the default as provided herein, then Tenant shall have the right to cure that default at Landlord's expense. Tenant shall not have the right to terminate this Lease or to withhold, reduce, or offset any amount against any payments of Rent or any other charges due and payable under this Lease, except as otherwise specifically provided herein.

## 28. BROKERAGE FEES.

Tenant warrants and represents that it has not dealt with any real estate broker or agent in connection with this Lease or its negotiation except those noted in Section 2.c. Tenant shall indemnify and hold Landlord harmless from any cost, expenses, or liability (including costs of suit and reasonable attorneys' fees) for any compensation, commission, or fees claimed by any other real estate broker or agent in connection with this Lease or its negotiation by reason of any act of Tenant.

## 29. NOTICES.

All notices, approvals, and demands permitted or required to be given under this Lease shall be in writing and deemed duly served or given if personally delivered or sent by certified or registered U.S. mail, postage prepaid, and addressed as follows: (a) if to Landlord, to Landlord's Mailing Address and to the Building manager, and (b) if to Tenant, to Tenant's Mailing Address; provided, however, notices to Tenant shall be deemed duly served or given if delivered or mailed to Tenant at the Premises. Landlord and Tenant may from time to time by notice to the other designate another place for receipt of future notices.

## 30. GOVERNMENT ENERGY OR UTILITY CONTROLS.

In the event of imposition of federal, state, or local government controls, rules, regulations, or restrictions on the use or consumption of energy or other utilities during the Term, both Landlord and Tenant shall be bound thereby. In the event of a difference in interpretation by Landlord and Tenant of any such controls, the interpretation of Landlord shall prevail, and Landlord shall have the right to enforce compliance therewith, including the right of entry into the Premises to effect compliance.

## 31. RELOCATION OF PREMISES.

Landlord shall have the right to relocate the Premises to another part of the Building in accordance with the following:

- a. The new premises shall be substantially the same in size, dimension, configuration, decor and nature as the Premises described in this Lease, and if the relocation occurs after the Commencement Date, shall be placed in that condition by Landlord at its cost.
- b. Landlord shall give Tenant at least thirty (30) days written notice of Landlord's intention to relocate the Premises.
- c. As nearly as practicable, the physical relocation of the Premises shall take place on a weekend and shall be completed before the following Monday. If the physical relocation has not been completed in that time, Base Rent shall abate in full from the time the physical relocation commences to the time it is completed. Upon completion of such relocation, the new premises shall become the "Premises" under this Lease.
- d. All reasonable costs incurred by Tenant as a result of the relocation shall be paid by Landlord.
- e. If the new premises are smaller than the Premises as it existed before the relocation, Base Rent shall be reduced proportionately.
- f. The parties hereto shall immediately execute an amendment to this Lease setting forth the relocation of the Premises and the reduction of Base Rent, if any.

## 32. QUIET ENJOYMENT.

Tenant, upon paying the Rent and performing all of its obligations under this Lease, shall peaceably and quietly enjoy the Premises, subject to the terms of this Lease and to any mortgage, lease, or other agreement to which this Lease may be subordinate.

## 33. OBSERVANCE OF LAW.

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Tenant shall not use the Premises or permit anything to be done in or about the Premises which will in any way conflict with any law, statute, ordinance or governmental rule or regulation now in force or which may hereafter be enacted or promulgated. Tenant shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or which may hereafter be in force, and with the requirements of any board of fire insurance underwriters or other similar bodies now or hereafter constituted, relating to, or affecting the condition, use or occupancy of the Premises, excluding structural changes not related to or affected by Tenant's improvements or acts. The judgment of any court of competent jurisdiction or the admission of Tenant in any action against Tenant, whether Landlord is a party thereto or not, that Tenant has violated any law, ordinance or governmental rule, regulation or requirement, shall be conclusive of that fact as between Landlord and Tenant.

#### 34. FORCE MAJEURE.

Any prevention, delay or stoppage of work to be performed by Landlord or Tenant which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefore, acts of God, governmental restrictions or regulations or controls, judicial orders, enemy or hostile government actions, civil commotion, fire or other casualty, or other causes beyond the reasonable control of the party obligated to perform hereunder, shall excuse performance of the work by that party for a period equal to the duration of that prevention, delay or stoppage. Nothing in this Article 34 shall excuse or delay Tenant's obligation to pay Rent or other charges under this Lease.

#### 35. CURING TENANT'S DEFAULTS.

If Tenant defaults in the performance of any of its obligations under this Lease, Landlord may (but shall not be obligated to) without waiving such default, perform the same for the account at the expense of Tenant. Tenant shall pay Landlord all costs of such performance promptly upon receipt of a bill therefore.

#### 36. SIGN CONTROL.

Tenant shall not affix, paint, erect or inscribe any sign, projection, awning, signal or advertisement of any kind to any part of the Premises, Building or Project, including without limitation, the inside or outside of windows or doors, without the written consent of Landlord. Landlord shall have the right to remove any signs or other matter, installed without Landlord's permission, without being liable to Tenant by reason of such removal, and to charge the cost of removal to Tenant as additional rent hereunder, payable within ten (10) days of written demand by Landlord.

#### 37. MISCELLANEOUS.

- a. *Accord and Satisfaction; Allocation of Payments:* No payment by Tenant or receipt by Landlord of a lesser amount than the Rent provided for in this Lease shall be deemed to be other than on account of the earliest due Rent, nor shall any endorsement or statement on any check or letter accompanying any check or payment as Rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of the Rent or pursue any other remedy provided for in this Lease. In connection with the foregoing, Landlord shall have the absolute right in its sole discretion to apply any payment received from Tenant to any account or other payment of Tenant then not current and due or delinquent.
- b. *Addenda:* If any provision contained in an addendum to this Lease is inconsistent with any other provision herein, the provision contained in the addendum shall control, unless otherwise provided in the addendum.
- c. *Attorneys' Fees:* If any action or proceeding is brought by either party against the other pertaining to or arising out of this Lease, the finally prevailing party shall be entitled to recover all costs and expenses, including reasonable attorneys' fees, incurred on account of such action or proceeding.
- d. *Captions, Articles and Section Numbers:* The captions appearing within the body of this Lease have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Lease. All references to Article and Section numbers refer to Articles and Sections in this Lease.
- e. *Changes Requested by Lender:* Neither Landlord or Tenant shall unreasonably withhold its consent to changes or amendments to this Lease requested by the lender on Landlord's interest, so long as these changes do not alter the basic business terms of this Lease or otherwise materially diminish any rights or materially increase any obligations of the party from whom consent to such charge or amendment is requested.
- f. *Choice of Law:* This Lease shall be construed and enforced in accordance with the laws of the State of California.
- g. *Consent:* Notwithstanding anything contained in this Lease to the contrary, Tenant shall have no claim, and hereby waives the right to any claim against Landlord for money damages by reason of any refusal, withholding or delaying by Landlord of any consent, approval or statement of satisfaction, and in such event, Tenant's only remedies therefore shall be an action for specific performance, injunction or declaratory judgment to enforce any right to such consent, etc.

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- h. *Corporate Authority*: If Tenant is a corporation, each individual signing this Lease on behalf of Tenant represents and warrants that he is duly authorized to execute and deliver this lease on behalf of the corporation, and that this Lease is binding on Tenant in accordance with its terms. Tenant shall, at Landlord's request, deliver a certified copy of a resolution of its board of directors authorizing such execution.
- i. *Counterparts*: This Lease may be executed in multiple counterparts, all of which shall constitute one and the same Lease.
- j. *Execution of Lease; No Option*: The submission of this Lease to Tenant shall be for examination purposes only, and does not and shall not constitute a reservation of or option for Tenant to lease, or otherwise create any interest of Tenant in the Premises or any other premises within the Building or Project. Execution of this Lease by Tenant and its return to Landlord shall not be binding on Landlord notwithstanding any time interval, until Landlord has in fact signed and delivered this Lease to Tenant.
- k. *Furnishing of Financial Statements; Tenant's Representations*: In order to induce Landlord to enter into this Lease, Tenant agrees that it shall promptly furnish Landlord, from time to time, upon Landlord's written request, with financial statements reflecting Tenant's current financial condition. Tenant represents and warrants that all financial statements, records and information furnished by Tenant to Landlord in connection with this Lease are true, correct and complete in all respects.
- l. *Further Assurances*: The parties agree to promptly sign all documents reasonably requested to give effect to the provisions of this Lease.
- m. *Mortgagee Protection*: Tenant agrees to send by certified or registered mail to any first mortgagee or first deed of trust beneficiary of Landlord whose address has been furnished to Tenant, a copy of any notice of default served by Tenant on Landlord. If Landlord fails to cure such default within the time provided for in this Lease, such mortgagee or beneficiary shall have an additional thirty (30) days to cure such default; provided that if such default cannot reasonably be cured within that thirty (30) day period, then such mortgagee or beneficiary shall have such additional time to cure the default as is reasonably necessary under the circumstances.
- n. *Prior Agreements; Amendments*: This Lease contains all of the agreements of the parties with respect to any matter covered or mentioned in this Lease, and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose. No provisions of this Lease may be amended or added to except by an agreement in writing signed by the parties or their respective successors in interest.
- o. *Recording*: Tenant shall not record this Lease without the prior written consent of Landlord. Tenant, upon the request of Landlord, shall execute and acknowledge a "short form" memorandum of this Lease for recording purposes.
- p. *Severability*: A final determination by a court of competent jurisdiction that any provision of this Lease is invalid shall not affect the validity of any other provision, and any provision so determined to be invalid shall, to the extent possible, be construed to accomplish its intended effect.
- q. *Successors and Assigns*: This Lease shall apply to and bind the heirs, personal representatives, and permitted successors and assigns of the parties.
- r. *Time of the Essence*: Time is of the essence of this Lease.
- s. *Waiver*: No delay or omission in the exercise of any right or remedy of Landlord upon any default by Tenant shall impair such right or remedy or be construed as a waiver of such default.
- t. *Compliance*: The parties hereto agree to comply with all applicable federal, state and local laws, regulations, codes, ordinances and administrative orders having jurisdiction over the parties, property or the subject matter of this Agreement, including, but not limited to, the 1964 Civil Rights Act and all amendments thereto, the Foreign Investment In Real Property Tax Act, the Comprehensive Environmental Response Compensation and Liability Act, and The Americans With Disabilities Act.

The receipt and acceptance by Landlord of delinquent Rent shall not constitute a waiver of any other default; it shall constitute only a waiver of timely payment for the particular Rent payment involved.

No act or conduct of Landlord, including, without limitation, the acceptance of keys to the Premises, shall constitute an acceptance of the surrender of the Premises by Tenant before the expiration of the Term. Only a written notice from Landlord to Tenant shall constitute acceptance of the surrender of the Premises and accomplish a termination of the Lease.

Landlord's consent to or approval of any act by Tenant requiring Landlord's consent or approval shall not be deemed to waive or render unnecessary Landlord's consent to or approval of any subsequent act by Tenant.

\_\_\_\_\_ District \_\_\_\_\_ Recipient



Any waiver by Landlord of any default must be in writing and shall not be a waiver of any other default concerning the same or other provision of the Lease.

The parties hereto have executed this Lease as of the dates set forth below.

Date:	_____	Date:	_____
Landlord:	<u>Desert Healthcare District</u>	Tenant:	<u>Brad A. Wolfson, M.D.</u>
	<u>dba: Las Palmas Medical Plaza</u>		
By:	<u>Conrado Bárzaga</u>	By:	_____
Signature:	_____	Signature:	_____
Title:	<u>CEO</u>	Title:	_____

CONSULT YOUR ADVISORS This document has been prepared for approval by your attorney. No representation or recommendation is made as to the legal sufficiency or tax consequences of this document or the transaction to which it relates. These are questions for your attorney.

In any real estate transaction, it is recommended that you consult with a professional, such as a civil engineer, industrial hygienist or other person, with experience in evaluating the condition of the property, including the possible presence of asbestos, hazardous materials and underground storage tanks.

DRAFT

EXHIBIT "A"

RULES AND REGULATIONS

1. No sign, placard, pictures, advertisement, name or notice shall be inscribed, displayed or printed or affixed on or to any part of the outside or inside of the Building without the written consent of Landlord first had and obtained and Landlord shall have the right to remove any such sign, placard, picture, advertisement, name or notice without notice to and at the expense of Tenant.

All approved signs or lettering on entry door and directory shall be printed, painted, affixed, or inscribed at the expense of Landlord by a person approved by Landlord outside the Premises; provided, however, that Landlord may furnish and install a Building standard interior window covering at all exterior windows. Tenant shall not, without prior written consent of Landlord, cause or otherwise sunscreen any window.

2. The sidewalks, halls, passages, exits, entrances, elevators and stairways shall not be obstructed by any of the tenants or used by them for any purpose other than for ingress and egress from their respective Premises.
3. Tenant shall not alter any lock or install any new or additional locks or any bolts on any doors or windows of the Premises.
4. The toilet rooms, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed and no foreign substance of any kind whatsoever shall be thrown therein and the expense of any breakage, stoppage or damage resulting from the violation of the rule shall be borne by the Tenant who, or whose employees or invitees, shall have caused it.
5. Tenant shall not overload the floor of the Premises or in any way deface the Premises or any part thereof.
6. No furniture, freight or equipment of any kind shall be brought into the Building without the prior notice to Landlord and all moving of the same into or out of the Building shall be done at such time and in such manner as Landlord shall designate. Landlord shall have the right to prescribe the weight, size and position of all safes and other heavy equipment brought into the Building and also the times and manner of moving the same in and out of the Building. Safes or other heavy objects shall, if considered necessary by Landlord, stand on supports of such thickness as is necessary to properly distribute the weight. Landlord will not be responsible for loss of or damage to any such safe or property from any cause and all damage done to the Building by moving or maintaining any such safe or other property shall be repaired at the expense of Tenant.
7. Tenant shall not use, keep or permit to be used or kept any foul or noxious gas or substances in the Premises, or permit or suffer the Premises to be occupied or used in a manner offensive or objectionable to the Landlord or other occupants of the Building by reason of noise, odors and/or vibrations, or interfere in any way with other tenants or those having business therein, nor shall any animals or birds be brought in or kept in or about the Premises of the Building.
8. No cooking shall be done or permitted by any Tenant on the Premises, nor shall the Premises be used for storage of merchandise, for washing clothes, for lodging or for any improper, objectionable or immoral purposes.
9. Tenant shall not use or keep in the Premises or the Building any kerosene, gasoline or inflammable or combustible fluid or material, or use any method of heating or air conditioning other than that supplied by Landlord.
10. Landlord will direct electricians as to where and how telephone and telegraph wires are to be introduced. No boring or cutting for wires will be allowed without the consent of the Landlord. The location of telephones, call boxes and other office equipment affixed to the Premises shall be subject to the approval of Landlord.
11. On Saturdays, Sundays and legal holidays, and on other days between the hours of 6:00 p.m. and 8:00 a.m. the following day, access to the Building or to the halls, corridors, elevators or stairways in the Building, or to the Premises may be refused unless the person seeking access is known to the person or employee of the Building in charge and has a pass or is properly identified. The Landlord shall in no case be liable for damages for any error with regard to the admission to or exclusion from the Building of any person. In case of invasion, mob, riot, public excitement, or other commotion, the Landlord reserves the right to prevent access to the Building during the continuance of the same by closing of the doors or otherwise, for the safety of the tenants and protection of property in the Building and the Building.
12. Landlord reserves the right to exclude or expel from the Building any person who, in the judgment of Landlord, is intoxicated or under the influence of liquor or drugs, or who shall in any manner do any act in violation of any of the rules and regulations of the Building.
13. No vending machine or machines of any description shall be installed, maintained or operated upon the Premises without the written consent of the Landlord.

\_\_\_\_\_ District \_\_\_\_\_ Recipient

14. Landlord shall have the right, exercisable without notice and without liability to Tenant, to change the name and street address of the Building of which the Premises are a part.
15. Tenant shall not disturb, solicit, or canvass any occupant of the Building and shall cooperate to prevent same.
16. Without the written consent of Landlord, Tenant shall not use the name of the Building in connection with or in promoting or advertising the business of Tenant except as Tenant's address.
17. Landlord shall have the right to control and operate the public portions of the Building, and the public facilities, and heating and air conditioning, as well as facilities furnished for the common use of the tenants, in such manner as it deems best for the benefit of the tenants generally.
18. All entrance doors in the Premises shall be left locked when the Premises are not in use, and all doors opening to public corridors shall be kept closed except for normal ingress and egress from the Premises.

\_\_\_\_\_  
Landlord's Initials

\_\_\_\_\_  
Tenant's Initials

DRAFT

ADDENDUM

Addendum to that certain Office Building Lease dated August 1, 2022 by and between Desert Healthcare District doing business as the Las Palmas Medical Plaza, as Landlord and Brad A. Wolfson, M.D., as Tenant for the property commonly known as Las Palmas Medical Plaza located 555 E. Tachevah Drive, Palm Springs, California 92262.

Page 1

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In the event of any inconsistency between the Addendum language and the body of the Lease, the Addendum language shall prevail.

- 1. Commencement Date: August 1, 2022
- 2. Expiration Date: July 31, 2025
- 3. Rent Schedule:

<u>8/1/2022 – 7/31/2023</u>	<u>\$2,713.60</u>
<u>8/1/2023 – 7/31/2024</u>	<u>\$2,795.01</u>
<u>8/1/2024 – 7/31/2025</u>	<u>\$2,878.86</u>
- 4. CAMs: \$.69 per square foot.
- 5. Security Deposit: Carry over from previous lease in the amount of Zero & 00/100 Dollars (\$0.00).

The foregoing is hereby agreed to and accepted:

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Landlord: Desert Healthcare District

Tenant: Brad A. Wolfson, M.D.

dba: Las Palmas Medical Plaza

By: Conrado Bárzaga

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

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: CEO

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



**DESERT HEALTHCARE**  
DISTRICT & FOUNDATION

Date: June 14, 2022  
To: Finance & Administration Committee  
Subject: Lease Agreement – Dr. Steven R. Gundry dba: The International Heart and Lung Institute - Las Palmas Medical Plaza Suite #3W 103-104

---

**Staff Recommendation:** Consideration to approve the draft lease agreement for Dr. Steven R. Gundry at the Las Palmas Medical Plaza.

**Background:**

- Dr. Gundry has been a long-standing tenant of the Las Palmas Medical Plaza.
- Dr. Gundry's current lease expires on July 31, 2022.
- Dr. Gundry would like to renew a three (3) year lease.
- Dr. Gundry also requests two (2) one (1) year optional terms.
- Annual increases for both the base and optional terms are 3%.
- Staff recommends approval of the lease agreement.
- Draft lease agreement is attached for review.

**Fiscal Impact:**

Estimated Revenue from Rent and CAMs for life of the base lease - \$211,365

Estimated Cost of Tenant Improvement Allowance (\$9/sf) – \$19,881

Net Lease Income (base lease) - \$191,484

**OFFICE BUILDING LEASE**

**Between**

**DESERT HEALTHCARE DISTRICT,  
DOING BUSINESS AS LAS PALMAS MEDICAL PLAZA  
AS LANDLORD**

**And**

**STEVEN R. GUNDRY, DBA: THE INTERNATIONAL HEART AND LUNG INSTITUTE**

**AS TENANT**

**DATED**

**AUGUST 1, 2022**

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OFFICE BUILDING LEASE

This Lease between Desert Healthcare District, doing business as Las Palmas Medical Plaza hereinafter referred to as “Landlord”, and Steven R. Gundry, dba: The International Heart and Lung Institute, hereinafter referred to as “Tenant”, and is dated August 1, 2022.

1. LEASE OF PREMISES.

In consideration of the Rent (as defined at Section 5.4) and the provisions of this Lease, Landlord leases to Tenant and Tenant leases from Landlord the Premises described in Section 2L. The Premises are located within the Building and Project described in Section 2m. Tenant shall have the non-exclusive right (unless otherwise provided herein) in common with Landlord, other tenants, subtenants, and invitees, to use of the Common Areas (as defined at Section 2e).

2. DEFINITIONS.

As used in this Lease, the following terms shall have the following meanings:

- a. *Base Rent (Initial)*: \$ Fifty Thousand, Six Hundred Thirty and 28/100 Dollars (\$50,630.28) per year.
- b. *Base Year*: The calendar year of August 1 to July 31.
- c. *Broker(s)*:  
 Landlord’s: N/A.  
 Tenant’s: N/A.  
 In the event that N/A represents both Landlord and Tenant, Landlord and Tenant hereby confirm that they were timely advised of the dual representation and that they consent to the same, and that they do not expect said broker to disclose to either of them the confidential information of the other party.
- d. *Commencement Date*: August 1<sup>st</sup>, 2022.
- e. *Common Areas*: The building lobbies, common corridors and hallways, restrooms, parking areas, stairways, elevators and other generally understood public or common areas. Landlord shall have the right to regulate or restrict the use of the Common Areas.
- f. *Expiration Date*: July 31<sup>st</sup>, 2025, unless otherwise sooner terminated in accordance with the provisions of this Lease.
- g. *Landlord's Mailing Address*: 1140 N. Indian Canyon Dr., Palm Springs, CA 92262.  
*Tenant's Mailing Address*: 555 E. Tachevah Dr., 3W-103, Palm Springs, CA 92262.
- h. *Monthly Installments of Base Rent (initial)*: \$ Four Thousand, Two Hundred Nineteen & 19/100 Dollars (\$4,219.19) per month.
- i. *Project Operating Costs (CAMS)*: Currently Sixty-Nine Cents (\$.69) per square foot per month.
- j. *Tenant Improvement Allowance (TI)*: Nine Dollars (\$9.00) per square foot or Nineteen Thousand, Eight Hundred Eighty-One & 00/100 Dollars (\$19,881).
- k. *Parking*: Tenant shall be permitted, to park 11 cars on a non-exclusive basis in the area(s) designated by Landlord for parking (for Staff - generally in the back of the parking area, perimeter streets, and Wellness Park parking lot). Tenant shall abide by any and all parking regulations and rules established from time to time by Landlord or Landlord's parking operator.
- l. *Premises*: That portion of the Building containing approximately 2,209 square feet of Rentable Area, located in Building 3W and known as Suite 103-104.



- m. *Project*: The building of which the Premises are a part (the "Building") and any other buildings or improvements on the real property (the "Property") located at 555 E. Tachevah Drive, Palm Springs, California 92262. The Project is known as The Las Palmas Medical Plaza.
- n. *Rentable Area*: As to both the Premises and the Project, the respective measurements of floor area as may from time to time be subject to lease by Tenant and all tenants of the Project, respectively, as determined by Landlord and applied on a consistent basis throughout the Project.
- o. *Security Deposit (Section 7)*: \$ Tenant will carry over from previous lease dated 3/1/2006 in the amount of Three Thousand, Four Hundred Twenty-Three and 95/100 Dollars (\$3,423.95).
- p. *State*: the State of California.
- q. *Tenant's First Adjustment Date (Section 5)*: The first day of the calendar month following the Commencement Date plus 12 months.
- r. *Tenant's Proportionate Share*: 4.48%. Such share is a fraction, the numerator of which is the Rentable Area of the Premises and the denominator of which is the Rentable Area of the Project, as determined by Landlord from time to time. The Project consists of six building(s) containing a total Rentable Area of 49,356 square feet.
- s. *Tenant's Use Clause (Article 8)*: Medically related office use consistent with and use the City may allow under the City of Palm Springs zoning, subject to Landlord's reasonable approval.
- t. *Term*: The period commencing on the Commencement Date and expiring at midnight on the Expiration Date.

3. EXHIBITS AND ADDENDA.

The exhibits and addenda listed below (unless lined out) are incorporated by reference in this Lease:

- a. Exhibit "A" Rules and Regulations.
- b. Addenda\*

\*See Addendum attached hereto and by this reference made a part hereof.

4. DELIVERY OF POSSESSION.

If for any reason Landlord does not deliver possession of the Premises to Tenant on the commencement Date, Landlord shall not be subject to any liability for such failure, the Expiration Date shall not change and the validity of this Lease shall not be impaired, but Rent shall be abated until delivery of possession, "Delivery of possession" shall be deemed to occur on the date Landlord completes Landlord's Work as defined in Addendum. If Landlord permits Tenant to enter into possession of the Premises before the Commencement Date, such possession shall be subject to the provisions of this Lease, including, without limitation, the payment of Rent.

5. RENT.

5.1 *Payment of Base Rent*: Tenant agrees to pay the base rent for the premises. Monthly installments of Base Rent shall be payable in advance on the first day of each calendar month of the term. If the term begins (or ends) on other than the first (or last) day of a calendar month, the Base Rent for the partial month shall be prorated on a per diem basis. Tenant shall pay Landlord the first Monthly Installment of Base Rent when Tenant executes the Lease.

5.2 *Adjusted Base Rent*:

- a. The Base Rent (and the corresponding monthly installments of Base Rent) set forth at Section 2a shall be adjusted annually (the "Adjustment Date"), commencing on Tenant's First Adjustment Date.
- b. Such adjustment shall be the greater of 3% over the preceding year or Consumer Price Index.
- c.

5.3 *Project Operating Costs (CAMs)*:

- a. In order that the Rent payable during the Term reflect Project Operating Costs, Tenant agrees to pay to Landlord as Rent, Tenant's Proportionate Share of all costs, expenses and obligations attributable to the Project and its operation as set forth in 2i, all as provided below.
- b. If, during any calendar year during the Term, Project Operating Costs exceed the Project Operating Costs for the Base Year, Tenant shall pay to Landlord, in addition to the Base Rent and all other payments due under this lease, an amount equal to Tenant's Proportionate Share of such excess Project Operating Costs in accordance with the provisions of this Section 5.3b.

(1.) The term "Project Operating Costs" shall include all those items described in the following subparagraphs (a) and (b).

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(a.) All taxes, assessments, water and sewer charges and other similar governmental charges levied on or attributable to the Building or Project or their operation, including without limitation, (i) real property taxes or assessments levied or assessed against the Building or Project, (ii) assessments or charges levied or assessed against the Building or Project by any redevelopment agency, (iii) any tax measured by gross rentals received from the leasing of the Premises, Building or Project, excluding any net income, franchise, capital stock, estate or inheritance taxes imposed by the State or federal government or their agencies, branches or departments; provided that if at any time during the Term any governmental entity levies, assesses or imposes on Landlord any (1) general or special, ad valorem or specific, excise, capital levy or other tax, assessment, levy or charge directly on the Rent received under this lease or on the rent received under any other leases of space in the Building or Project, or (2) and license fee, excise or franchise tax, assessment, levy or charge measured by or based, in whole or in part, upon such rent, or (3) any transfer, transactions, or similar tax, assessment, levy or charge based directly or indirectly upon the transaction represented by this Lease or such other leases, or (4) any occupancy, use, per capita or other tax, assessment, levy or charge based directly or indirectly upon the use or occupancy of the Premises or other premises within the Building or Project, then any such taxes, assessments, levies and charges shall be deemed to be included in the term Project Operation Costs. If at any time during the Term the assessed valuation of, or taxes on, the Project are not based on a completed Project having at least eighty-five percent (85%) of the Rentable Area occupied, then the "taxes" component of Project Operating Costs shall be adjusted by Landlord to reasonably Approximate the taxes, which would have been payable if the Project were completed and at least eighty-five percent (85%) occupied.

(b.) Operating costs incurred by Landlord in maintaining and operating the Building and Project, including without limitation the following: costs of (1) utilities; (2) supplies; (3) insurance (including public liability, property damage, earthquake, and fire and extended coverage insurance for the full replacement cost of the Building and Project as required by Landlord or its lenders for the Project; (4) services of independent contractors; (5) compensation (including employment taxes and fringe benefits) of all persons who perform duties connected with the operation, maintenance, repair or overhaul of the Building or Project, and equipment, improvements and facilities located within the Project, including without limitation engineers, janitors, painters, floor waxers, window washers, security and parking personnel and gardeners (but excluding persons performing services not uniformly available to or performed for substantially all Building or Project tenant); (6) operation and maintenance of a room for delivery and distribution of mail to tenants of the Building or Project as required by the U.S. Postal Service (including, without limitation, an amount equal to the fair market rental value of the mail room premises); (7) management of the Building or Project, whether managed by Landlord or an independent contractor (including, without limitation, an amount equal to the fair market value of any on-site manager's office); (8) rental expenses for (or a reasonable depreciation allowance on) personal property used in the maintenance, operation or repair of the Building or Project; (9) costs, expenditures or charges (whether capitalized or not) required by any governmental or quasi-governmental authority; (10) amortization of capital expenses (including financing costs) (i) required by a governmental entity for energy conservation or life safety purposes, or (ii) made by landlord to reduce Project Operating Costs; and (11) any other costs or expenses incurred by Landlord under this Lease and not otherwise reimbursed by tenants of the Project. If at any time during the Term, less than eighty-five percent (85%) of the Rentable Area of the Project is occupied, the "operating costs" component of Project Operating Costs shall be adjusted by Landlord to reasonably approximate the operating costs which would have been incurred if the Project had been at least eighty-five percent (85%) occupied.

(2.) Tenant's Proportionate Share of Project Operating Costs shall be payable by Tenant to Landlord as follows:

(a.) Beginning with the calendar year following the Base Year and for each calendar year thereafter ("comparison Year"), Tenant shall pay Landlord an amount equal to Tenant's Proportionate Share of the Project Operating Costs incurred by Landlord in the Comparison Year which exceeds the total amount of Project Operating Costs payable by Landlord for the Base Year. This excess is referred to as the "Excess Expenses."

(b.) To provide for current payments of Excess Expenses, Tenant shall, at Landlord's request, pay as additional rent during each Comparison Year, an amount equal to Tenant's Proportionate Share of the Excess Expenses payable during such Comparison Year, as estimated by Landlord from time to time. Such payments shall be made in monthly installments, commencing on the first day of the month following the month in which Landlord notifies Tenant of the amount it is to pay hereunder and continuing until the first day of the month following the month in which Landlord gives Tenant a new notice of estimated Excess Expenses. It is the intention hereunder to estimate from time to time the amount of the Excess Expense for each Comparison Year and Tenant's Proportionate Share thereof, and then to make an adjustment in the following year based on the actual Excess Expenses incurred for that Comparison Year.

(c.) On or before April 1 of each Comparison Year after the first Comparison Year (or as soon thereafter as is practical), Landlord shall deliver to Tenant a statement setting forth Tenant's Proportionate Share of the Excess Expenses for the preceding Comparison Year. If Tenant's Proportionate Share of the actual Excess Expenses for the previous Comparison Year exceeds the total of the estimated monthly payments made by Tenant for such year, Tenant shall pay Landlord the amount of the deficiency within ten (10)

\_\_\_\_\_ District \_\_\_\_\_ Recipient

days of the receipt of the statement. If such total exceeds Tenant's Proportionate Share of the actual Excess Expenses for such Comparison Year, then Landlord shall credit against Tenant's next ensuing monthly installment(s) of additional rent an amount equal to the difference until the credit is exhausted. If the credit is due from Landlord on the Expiration Date, Landlord shall pay Tenant the amount of the credit. The obligations of Tenant and Landlord to make payments required under this Section 5.3 shall survive the Expiration Date.

- (d.) Tenant's Proportionate Share of Excess Expenses in any Comparison Year having less than 365 days shall be appropriately prorated.
- (e.) If any dispute arises as to the amount of any additional rent due hereunder, Tenant shall have the right after reasonable notice and at reasonable times to inspect Landlord's accounting records at Landlord's accounting office and, if after such inspection Tenant still disputes the amount of additional rent owed, a certification as to the proper amount shall be made by Landlord's certified public accountant, which certification shall be final and conclusive. Tenant agrees to pay the cost of such certification unless it is determined that Landlord's original statement overstated Project Operating Costs by more than five percent (5%).
- (f.) If this Lease sets forth an Expense Stop at Section 2f, then during the Term, Tenant shall be liable for Tenant's Proportionate Share of any actual Project Operating Costs which exceed the amount of the Expense Stop. Tenant shall make current payments of such excess costs during the Term in the same manner as is provided for payment of Excess Expenses under the applicable provisions of Section 5.3(2)(b) and (c) above.

5.4 *Definition of Rent*: The Rent shall be paid to the Building manager (or other person) and at such place, as Landlord may from time to time designate in writing, without any prior demand therefore and without deduction or offset, in lawful money of the United States of America.

5.5 *Rent Control*: If the amount of Rent or any other payment due under this Lease violates the terms of any governmental restrictions on such Rent or payment, then the Rent or payment due during the period of such restrictions shall be the maximum amount allowable under those restrictions. Upon termination of the restrictions, Landlord shall, to the extent it is legally permitted, recover from Tenant the difference between the amounts received during the period of the restrictions and the amounts Landlord would have received had there been no restrictions.

5.6 *Taxes Payable by Tenant*: In addition to the Rent and any other charges to be paid by Tenant hereunder, Tenant shall reimburse Landlord upon demand for any and all taxes payable by Landlord (other than net income taxes) which are not otherwise reimbursable under this Lease, whether or not now customary or within the contemplation of the parties, where such taxes are upon, measured by or reasonably attributable to (a) the cost or value of Tenant's equipment, furniture, fixtures and other personal property located in the Premises, or the cost or value of any leasehold improvements made in or to the Premises by or for Tenant, other than Building Standard Work made by Landlord, regardless of whether title to such improvements is held by Tenant or Landlord; (b) the gross or net Rent payable under this Lease, including, without limitation, any rental or gross receipts tax levied by any taxing authority with respect to the receipt of the Rent hereunder; (c) the possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy by Tenant of the Premises or any portion thereof; or (d) this transaction or any document to which Tenant is a party creating or transferring an interest or an estate in the Premises. If it becomes unlawful for Tenant to reimburse Landlord for any costs as required under this Lease, the Base Rent shall be revised to net Landlord the same net Rent after imposition of any tax or other charge upon Landlord as would have been payable to Landlord but for the reimbursement being unlawful.

5.7 *Tenant Improvement Allowance*: In recognition for Tenant completing all improvements to the premises as mutually agreed by Landlord and Tenant, Landlord shall provide Tenant with a total Tenant improvement allowance not to exceed that set forth in Section 2j upon completion of agreed tenant improvements. This allowance will be reimbursed to tenant upon satisfactory receipt of paid invoices and inspection by Property Management that work has been satisfactorily completed. Any additional tenant improvements will be at the sole expense of the Tenant. Improvements shall conform to a high quality of design approved by Landlord prior to commencement of work and shall be performed by a licensed General Contractor approved by Landlord in advance. Tenant shall submit plans and specifications for any and all improvements to Landlord, and where necessary, the City of Palm Springs and other applicable government agencies for their required approval (if any) prior to commencement of work. Tenant and the General Contractor shall indemnify and hold Landlord and its officers, agents and employees harmless from any liability resulting from the tenant improvement work and shall be named as an additional insured on the insurance policy of both the Tenant and the General Contractor. All costs shall be subject to prevailing wages and if construction costs exceed \$25,000, then the tenant improvements shall also be subject to California competitive bid statutes.

## 6. INTEREST AND LATE CHARGES.

If Tenant fails to pay when due any Rent or other amounts or charges which Tenant is obligated to pay under the terms of this Lease, the unpaid amounts shall bear interest at the maximum rate then allowed by law. Tenant acknowledges that the late payment of any Monthly Installment of Base Rent will cause Landlord to lose the use of that money and incur costs and expenses not contemplated under this Lease, including without limitation, administrative and collection costs

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and processing and accounting expenses, the exact amount of which is extremely difficult to ascertain. Therefore, in addition to interest, if any such installment is not received by Landlord within five (5) days from the date it is due, Tenant shall pay Landlord a late charge equal to ten percent (10%) of such installment. Landlord and Tenant agree that this late charge represents a reasonable estimate of such costs and expenses and is fair compensation to Landlord for the loss suffered from such nonpayment by Tenant. Acceptance of any interest or late charge shall not constitute a waiver of Tenant's default with respect to such nonpayment by Tenant nor prevent Landlord from exercising any other rights or remedies available to Landlord under this Lease.

## 7. SECURITY DEPOSIT.

Tenant agrees to deposit with Landlord the Security Deposit set forth at Section 2.0 upon execution of this Lease, as security for Tenant's faithful performance of its obligations under this Lease. Landlord and Tenant agree that the Security Deposit may be commingled with funds of Landlord and Landlord shall have no obligation or liability for payment of interest on such deposit. Tenant shall not mortgage, assign, transfer, or encumber the Security Deposit without the prior written consent of Landlord and any attempt by Tenant to do so shall be void, without force or effect and shall not be binding upon Landlord.

If Tenant fails to pay Rent or other amount when due and payable under this Lease, or fails to perform any of the terms hereof, Landlord may appropriate and apply or use all or any portion of the Security Deposit for Rent payments or any other amount then due and unpaid, for payment of any amount for which Landlord has become obligated as a result of Tenant's default or breach, and for any loss or damage sustained by Landlord as a result of Tenant's default or breach, and Landlord may so apply or use this deposit without prejudice to any other remedy Landlord may have by reason of Tenant's default or breach. If Landlord so uses any of the Security Deposit, Tenant shall, within ten (10) days after written demand, therefore, restore the Security Deposit to the full amount originally deposited; Tenant's failure to do so shall constitute an act of default hereunder and Landlord shall have the right to exercise any remedy provided for at Article 27 hereof. Within fifteen (15) days after the Term (or any extension thereof) has expired or Tenant has vacated the Premises, whichever shall last occur, and provided Tenant is not then in default on any of its obligations hereunder, Landlord shall return the Security Deposit to Tenant, or, if Tenant has assigned its interest under this Lease, to the last assignee of Tenant. If Landlord sells its interest in the Premises, Landlord may deliver this deposit to the purchaser of Landlord's interest and thereupon be relieved of any further liability or obligation with respect to the Security Deposit.

## 8. TENANT'S USE OF THE PREMISES

Tenant shall use the Premises solely for the purposes set forth in Tenant's Use Clause. Tenant shall not use or occupy the Premises in violation of law or any covenant, condition or restriction affecting the Building or Project, or the certificate of occupancy issued for the Building or Project, and shall, upon notice from Landlord, immediately discontinue any use of the Premises which is declared by any governmental authority having jurisdiction to be a violation of law or the certificate of occupancy. Tenant, at Tenant's own cost and expense, shall comply with all laws, ordinances, regulations, rules and/or any directions of any governmental agencies or authorities having jurisdiction which shall, by reason of the nature of Tenant's use or occupancy of the Premises, impose any duty upon Tenant or Landlord with respect to the Premises or its use or occupation. A judgment of any court of competent jurisdiction or the admission by Tenant in any action or proceeding against Tenant that Tenant has violated any such laws, ordinances, regulations, rules and/or directions in the use of the Premises shall be deemed to be a conclusive determination of that fact as between Landlord and Tenant. Tenant shall not do or permit to be done anything, which will invalidate or increase the cost of any fire, extended coverage or other insurance policy covering the Building or Project and/or property located therein, and shall comply with all rules, orders, regulations, requirements and recommendations of the Insurance Services Office or any other organization performing a similar function. Tenant shall promptly upon demand reimburse Landlord for any additional premium charged for such policy by reason of Tenant's failure to comply with the provisions of this Article. Tenant shall not do or permit anything to be done in or about the Premises which will in any way obstruct or interfere with the rights of other tenants or occupants of the Building or Project, or injure or annoy them, or use or allow the Premises to be used for any improper, immoral, unlawful, or objectionable purpose, nor shall Tenant cause, maintain or permit any nuisance in, on or about the Premises. Tenant shall not commit or suffer to be committed any waste in or upon the Premises.

## 9. SERVICES AND UTILITIES.

Provided that Tenant is not in default hereunder, Landlord agrees to furnish to the Premises during generally recognized business days, and during hours determined by Landlord in its sole discretion, and subject to the Rules and Regulations of the Building or Project, electricity for normal desk top office equipment and normal copying equipment, and heating, ventilation and air conditioning ("HVAC") as required in Landlord's judgment for the comfortable use and occupancy of the Premises. If Tenant desires HVAC at any other time, Landlord shall use reasonable efforts to furnish such service upon reasonable notice from Tenant and Tenant shall pay Landlord's charges therefore on demand. Landlord shall also maintain and keep lighted the common stairs, common entries and restrooms in the Building. Landlord shall not be in default hereunder or be liable for any damages directly or indirectly resulting from, nor shall the Rent be abated by reason of (i) the installation, use or interruption of use of any equipment in connection with the furnishing of any of the foregoing services, (ii) failure to furnish or delay in furnishing any such services where such failure or delay is caused by accident or any condition or event beyond the reasonable control of Landlord, or by the making of necessary repairs or improvements to the Premises, Building or Project, or (iii) the limitation, curtailment or rationing of, or restrictions on,

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use of water, electricity, gas or any other form of energy serving the Premises, Building or Project. Landlord shall not be liable under any circumstances for a loss of or injury to property or business, however occurring, through or in connection with or incidental to failure to furnish any such services. If Tenant uses heat generating machines or equipment in the Premises which affect the temperature otherwise maintained by the HVAC system, Landlord reserves the right to install supplementary air conditioning units in the Premises and the cost thereof, including the cost of installation, operation and maintenance thereof, shall be paid by Tenant to Landlord upon demand by Landlord.

Tenant shall not, without the written consent of Landlord, use any apparatus or device in the Premises, including without limitation, electronic data processing machines, punch card machines or machines using in excess of 120 volts, which consumes more electricity than is usually furnished or supplied for the use of premises as general office space, as determined by Landlord. Tenant shall not connect any apparatus with electric current except through existing electrical outlets in the Premises. Tenant shall not consume water or electric current in excess of that usually furnished or supplied for the use of premises as general office space (as determined by Landlord), without first procuring the written consent of Landlord, which Landlord may refuse, and in the event of consent, Landlord may have installed a water meter or electrical current meter in the Premises to measure the amount of water or electric current consumed. The cost of any such meter and of its installation, maintenance and repair shall be paid for by the Tenant and Tenant agrees to pay to Landlord Promptly upon demand for all such water and electric current consumed as shown by said meters, at the rates charged for such services by the local public utility plus any additional expense incurred in keeping account of the water and electric current so consumed. If a separate meter is not installed, the excess cost for such water and electric current shall be established by an estimate made by a utility company or electrical engineer hired by Landlord at Tenant's expense.

Nothing contained in this Article shall restrict Landlord's right to require at any time separate metering of utilities furnished to the Premises. In the event utilities are separately metered, Tenant shall pay promptly upon demand for all utilities consumed at utility rates charged by the local public utility plus any additional expense incurred by Landlord in keeping account of the utilities so consumed. Tenant shall be responsible for the maintenance and repair of any such meters at its sole cost.

Landlord shall furnish elevator service, lighting replacement for building standard lights, restroom supplies, window washing and janitor services of common area in a manner that such services are customarily furnished to comparable office buildings in the area.

## 10. CONDITION OF THE PREMISES.

Tenant's taking possession of the Premises shall be deemed conclusive evidence that as of the date of taking possession of the Premises are in good order and satisfactory condition, except for such matters as to which Tenant gave Landlord notice on or before the Commencement Date. No promise of Landlord to alter, remodel, repair or improve the Premises, the Building or the Project and no representation, express or implied, respecting any matter or thing relating to the Premises, Building, Project or this Lease (including, without limitation, the condition of the Premises, the Building or the Project) have been made to Tenant by Landlord or its Broker or Sales Agent, other than as may be contained herein or in a separate exhibit or addendum signed by Landlord and Tenant.

## II. CONSTRUCTION, REPAIRS AND MAINTENANCE.

- a. *Landlord's Obligations:* Landlord shall maintain in good order, condition and repair the Building and all other portions of the Premises not the obligation of Tenant or of any other tenant in the Building.
- b. *Tenant's Obligations:*
  - (1.) Tenant shall perform Tenant's Work to the Premises as described in an exhibit specific to Tenant Improvements, if applicable."
  - (2.) Tenant at Tenant's sole expense shall, except for services furnished by Landlord pursuant to Article 9 hereof, maintain the Premises in good order, condition and repair, including the interior surfaces of the ceilings, walls and floors, all doors, all interior windows, all plumbing, pipes and fixtures, electrical wiring, switches and fixtures, Building Standard furnishings and special items and equipment installed by or at the expense of Tenant.
  - (3.) Tenant shall be responsible for all repairs and alterations in and to the Premises, Building and Project and the facilities and systems thereof, the need for which arises out of (i) Tenant's use or occupancy of the Premises, (ii) the installation, removal, use or operation of Tenant's Property (as defined in Article 13) in the Premises, (iii) the moving of Tenant's Property into or out of the Building, or (iv) the act, omission, misuse or negligence of Tenant, its agents, contractors, employees or invitees.
  - (4.) If Tenant fails to maintain the Premises in good order, condition and repair, Landlord shall give Tenant notice to do such acts as are reasonably required to so maintain the Premises. If Tenant fails to promptly commence such work and diligently prosecute it to completion, then Landlord shall have the right to do such acts and expend such funds at the expense of Tenant as are reasonably required to perform such work. Any amount so expended by Landlord shall be paid by Tenant promptly after demand with interest at the prime commercial rate then being charged by Bank of America NT & SA plus two percent (2%) per annum, from the date of such work, but not to exceed the maximum rate then allowed by law. Landlord shall have no

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liability to Tenant for any damage, inconvenience, or interference with the use of the Premises by Tenant as a result of performing any such work.

- c. *Compliance with Law*: Landlord and Tenant shall each do all acts required to comply with all applicable laws, ordinances, and rules of any public authority relating to their respective maintenance obligations as set forth herein.
- d. *Waiver by Tenant*: Tenant expressly waives the benefits of any statute now or hereafter in effect which would otherwise afford the Tenant the right to make repairs at Landlord's expense or to terminate this Lease because of Landlord's failure to keep the Premises in good order, condition and repair.
- e. *Load and Equipment Limits*: Tenant shall not place a load upon any floor of the Premises which exceeds the load per square foot which such floor was designed to carry, as determined by Landlord or Landlord's structural engineer. The cost of any such determination made by Landlord's structural engineer shall be paid for by Tenant upon demand. Tenant shall not install business machines or mechanical equipment which cause noise or vibration to such a degree as to be objectionable to Landlord or other Building tenants.
- f. Except as otherwise expressly provided in this Lease, Landlord shall have no liability to Tenant nor shall Tenant's obligations under this Lease be reduced or abated in any manner whatsoever by reason of any inconvenience, annoyance, interruption or injury to business arising from Landlord's making any repairs or changes which Landlord is required or permitted by this Lease or by any other tenant's lease or required by law to make in or to any portion of the Project, Building or the Premises. Landlord shall nevertheless use reasonable efforts to minimize any interference with Tenant's business in the Premises.
- g. Tenant shall give Landlord prompt notice of any damage to or defective condition in any part or appurtenance of the Building's mechanical, electrical, plumbing, HVAC or other systems serving, located in, or passing through the Premises.
- h. Upon the expiration or earlier termination of this Lease, Tenant shall return the Premises to Landlord clean and in the same condition as on the date Tenant took possession, except for normal wear and tear. Any damage to the Premises, including any structural damage, resulting from Tenant's use or from the removal of Tenant's fixtures, furnishings and equipment pursuant to Section 13b shall be repaired by Tenant at Tenant's expense.

## 12. ALTERATIONS AND ADDITIONS.

- a. Tenant shall not make any additions, alterations or improvements to the Premises without obtaining the prior written consent of Landlord. Landlord's consent may be conditioned on Tenant's removing any such additions, alterations or improvements upon the expiration of the term and restoring the Premises to the same condition as on the date Tenant took possession. All work with respect to any addition, alteration or improvement shall be done in a good and workmanlike manner by properly qualified and licensed personnel approved by Landlord, and such work shall be diligently prosecuted to completion. Landlord may, at Landlord's option, require that any such work be performed by Landlord's contractor in which case the cost of such work shall be paid for before commencement of the work. Tenant shall pay to Landlord upon completion of any such work by Landlord's contractor, an administrative fee of fifteen percent (15%) of the cost of the work.
- b. Tenant shall pay the costs of any work done on the Premises pursuant to Section 12a, and shall keep the Premises, Building and Project free and clear of liens of any kind. Tenant shall indemnify, defend against and keep Landlord free and harmless from all liability, loss, damage, costs, attorneys' fees and any other expense incurred on account of claims by any person performing work or furnishing materials or supplies for Tenant or any person claiming under Tenant.

Tenant shall keep Tenant's leasehold interest, and any additions or improvements which are or become the property of Landlord under this Lease, free and clear of all attachment or judgment liens. Before the actual commencement of any work for which a claim or lien may be filed, Tenant shall give Landlord notice of the intended commencement date a sufficient time before that date to enable Landlord to post notices of non-responsibility or any other notices which Landlord deems necessary for the proper protection of Landlord's interest in the Premises, Building or the Project, and Landlord shall have the right to enter the Premises and post such notice at any reasonable time.

- c. Landlord may require, at Landlord's sole option, that Tenant provide to Landlord, at Tenant's expense, a lien and completion bond in an amount equal to at least one and one-half (1.5) times the total estimated cost of any additions, alterations or improvements to be made in or to the Premises, to protect Landlord against any liability for mechanic's and material men's liens and to insure timely completion of the work. Nothing contained in this Section 12c shall relieve Tenant of its obligations under Section 12b to keep the Premises, Building and Project free of all liens.
- d. Unless their removal is required by Landlord as provided in Section 12a, all additions, alterations and improvements made to the Premises shall become the property of Landlord and be surrendered with the Premises upon the expiration of the Term; provided, however, Tenant's equipment, machinery and trade fixtures which

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can be removed without damage to the Premises shall remain the property of Tenant and may be removed, subject to the provisions of Section 13b.

### 13. LEASEHOLD IMPROVEMENTS; TENANT'S PROPERTY.

- a. All fixtures, equipment, improvements and appurtenances attached to or built into the Premises at the commencement of or during the Term, whether or not by or at the expense of Tenant ("Leasehold Improvements"), shall be and remain a part of the Premises, shall be the property of Landlord and shall not be removed by Tenant, except as expressly provided in Section 13b.
- b. All movable partitions, business and trade fixtures, machinery and equipment, communications equipment and office equipment located in the Premises and acquired by or for the account of Tenant, without expense to Landlord, which can be removed without structural damage to the Building, and all furniture, furnishings and other articles of movable personal property owned by Tenant and located in the Premises (collectively "Tenant's Property") shall be and shall remain the property of Tenant and may be removed by Tenant at any time during the Term; provided that if any of Tenant's Property is removed, Tenant shall promptly repair any damage to the Premises or to the Building resulting from such removal.

### 14. RULES AND REGULATIONS.

Tenant agrees to comply with (and cause its agents, contractors, employees and invitees to comply with) the rules and regulations attached hereto as Exhibit "D" and with such reasonable modifications thereof and additions thereto as Landlord may from time to time make. Landlord shall not be responsible for any violation of said rules and regulations by other tenants or occupants of the Building of Project.

### 15. CERTAIN RIGHTS RESERVED BY LANDLORD.

Landlord reserves the following rights, exercisable without liability to Tenant for (a) damage or injury to property, person or business, (b) causing an actual or constructive eviction from the Premises, or (c) disturbing Tenant's use or possession of the Premises:

- a. To name the Building and Project and to change the name or street address of the Building or Project;
- b. To install and maintain all signs on the exterior and interior of the Building and Project;
- c. To have pass keys to the Premises and all doors within the Premises, eluding Tenant's vaults and safes;
- d. At any time during the Term, and on reasonable prior notice to Tenant, to inspect the Premises, and to show the Premises to any prospective purchaser or mortgagee of the Project, or to any assignee of any mortgage on the Project, or to others having an interest in the Project or Landlord, and during the last six months of the Term, to show the Premises to prospective tenants thereof; and
- e. To enter the Premises for the purpose of making inspections, repairs, alterations, additions or improvements to the Premises or the Building (including, without limitation, checking, calibrating, adjusting or balancing controls and other parts of the HVAC system), and to take all steps as may be necessary or desirable for the safety, protection, maintenance or preservation of the Premises or the Building or Landlord's interest therein, or as may be necessary or desirable for the operation or improvement of the Building or in order to comply with laws, orders or requirements of governmental or other authority. Landlord agrees to use its best efforts (except in an emergency) to minimize interference with Tenant's business in the Premises in the course of any such entry.

### 16. ASSIGNMENT AND SUBLETTING.

No assignment of this Lease or sublease of all or any part of the Premises shall be permitted, except as provided in this Article 16.

- a. Tenant shall not, without the prior written consent of Landlord, assign or hypothecate this Lease or any interest herein or sublet the Premises or any part thereof, or permit the use of the Premises by any party other than Tenant. Any of the foregoing acts without such consent shall be void and shall, at the option of Landlord, terminate this Lease. This Lease shall not, nor shall any interest of Tenant herein, be assignable by operation of law without the written consent of Landlord.
- b. If at any time or from time to time during the Term Tenant desires to assign this Lease or sublet all or any part of the Premises, Tenant shall give notice to Landlord setting forth the terms and provisions of the proposed assignment or sublease, and the identity of the proposed assignee or subtenant. Tenant shall promptly supply Landlord with such information concerning the business background and financial condition of such proposed assignee or subtenant as Landlord may reasonably request. Landlord shall have the option, exercisable by notice given to Tenant within twenty (20) days after Tenant's notice is given, either to sublet such space from Tenant at the rental and on the other terms set forth in this Lease for the term set forth in Tenant's notice, or, in the case of an assignment, to terminate this Lease. If Landlord does not exercise such option, Tenant may assign the Lease or sublet such space to such proposed assignee or subtenant on the following further conditions:

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- (1.) Landlord shall have the right to approve such proposed assignee or subtenant, which approval shall not be unreasonably withheld;
  - (2.) The assignment or sublease shall be on the same terms set forth in the notice given to Landlord;
  - (3.) No assignment or sublease shall be valid and no assignee or sub lessee shall take possession of the Premises until an executed counterpart of such assignment or sublease has been delivered to Landlord;
  - (4.) No assignee or sub lessee shall have a further right to assign or sublet except on the terms herein contained; and
  - (5.) Any sums or other economic consideration received by Tenant as a result of such assignment or subletting, however denominated under the assignment or sublease, which exceed, in the aggregate, (i) the total sums which Tenant is obligated to pay Landlord under this Lease (prorated to reflect obligations allocable to any portion of the Premises subleased), plus (ii) any real estate brokerage commissions or fees payable in connection with such assignment or subletting, shall be paid to Landlord as additional rent under this Lease without affecting or reducing any other obligations of Tenant hereunder.
- c. Notwithstanding the provisions of paragraphs a and b above, Tenant may assign this Lease or sublet the Premises or any portion thereof, without Landlord's consent and without extending any recapture or termination option to Landlord, to any corporation which controls, is controlled by or is under common control with Tenant, or to any corporation resulting from a merger or consolidation with Tenant, or to any person or entity which acquires all the assets of Tenant's business as a going concern, provided that (i) the assignee or sub lessee assumes, in full, the obligations of Tenant under this Lease, (ii) Tenant remains fully liable under this Lease, and (iii) the use of the Premises under Article 8 remains unchanged.
  - d. No subletting or assignment shall release Tenant of Tenant's obligations under this Lease or alter the primary liability of Tenant to pay the Rent and to perform all other obligations to be performed by Tenant hereunder. The acceptance of Rent by landlord from any other person shall not be deemed to be a waiver by Landlord of any provision hereof. Consent to one assignment or subletting shall not be deemed consent to any subsequent assignment or subletting. In the event of default by an assignee or subtenant or any successor of Tenant in the performance of any of the terms hereof, Landlord may proceed directly against Tenant without the necessity of exhausting remedies against such assignee, subtenant or successor. Landlord may consent to subsequent assignments of the Lease or sub lettings or amendments or modifications to the Lease with assignees of tenant, without notifying Tenant, or any successor of Tenant, and without obtaining its or their consent thereof and any such actions shall not relieve Tenant of liability under this Lease.
  - e. If Tenant assigns the Lease or sublets the Premises or requests the consent of Landlord to any assignment or subletting or if Tenant requests the consent of Landlord for any act that Tenant proposes to do, then Tenant shall, upon demand, pay Landlord an administrative fee of One Hundred Fifty and No/100 Dollars (\$150.00) plus any attorney's fees reasonably incurred by Landlord in connection with such act or request.

#### 17. HOLDING OVER.

If after expiration of the Term, Tenant remains in possession of the Premises with Landlord's permission (express or implied), Tenant shall become a tenant from month to month only, upon all the provisions of this Lease (except as to term and Base Rent), but the "Monthly Installments of Base Rent" payable by Tenant shall be increased to one hundred fifty percent (150%) of the Monthly Installments of Base Rent payable by Tenant at the expiration of the Term. Such monthly rent shall be payable in advance on or before the first day of each month. If either party desires to terminate such month-to-month tenancy, it shall give the other party not less than thirty (30) days advance written notice of the date of termination.

#### 18. SURRENDER OF PREMISES.

- a. Tenant shall peaceably surrender the Premises to Landlord on the Expiration Date, in broom-clean condition and in as good condition as when Tenant took possession, except for (i) reasonable wear and tear, (ii) loss by fire or other casualty, and (iii) loss by condemnation. Tenant shall, on Landlord's request, remove Tenant's Property on or before the Expiration Date and promptly repair all damage to the Premises or Building caused by such removal.
- b. If Tenant abandons or surrenders the Premises, or is dispossessed by process of law or otherwise, any of Tenant's Property left on the Premises shall be deemed to be abandoned, and, at Landlord's option, title shall pass to Landlord under this Lease as by a bill of sale. If Landlord elects to remove all or any part of such Tenant's Property, the cost of removal, including repairing any damage to the Premises or Building caused by such removal, shall be paid by Tenant. On the Expiration Date Tenant shall surrender all keys to the Premises.

#### 19. DESTRUCTION OR DAMAGE.

- a. If the Premises or the portion of the Building necessary for Tenant's occupancy is damaged by fire, earthquake, act of God, the elements, or other casualty, Landlord shall, subject to the provisions of this Article, promptly

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repair the damage, if such repairs can, in Landlord's opinion, be completed within ninety (90) days. If Landlord determines that repairs can be completed within ninety (90) days, this Lease shall remain in full force and effect, except that if such damage is not the result of the negligence or willful misconduct of Tenant or Tenant's agents, employees, contractors, licensees, or invitees, the Base Rent shall be abated to the extent Tenant's use of the Premises is impaired, commencing with the date of damage and continuing until completion of the repairs required of Landlord under Section 19d.

- b. If in Landlord's opinion, such repairs to the Premises or portion of the Building necessary for Tenant's occupancy cannot be completed within ninety (90) days, Landlord may elect, upon notice to Tenant given within thirty (30) days after the date of such fire or other casualty, to repair such damage, in which event this Lease shall continue in full force and effect, but the Base Rent shall be partially abated as provided in Section 19a. If Landlord does not so elect to make such repairs, this Lease shall terminate as of the date of such fire or other casualty.
- c. If any other portion of the Building or Project is totally destroyed or damaged to the extent that in Landlord's opinion repair thereof cannot be completed within ninety (90) days, Landlord may elect upon notice to Tenant given within thirty (30) days after the date of such fire or other casualty, to repair such damage, in which event this Lease shall continue in full force and effect, but the Base Rent shall be partially abated as provided in Section 19a. If Landlord does not so elect to make such repairs, this Lease shall terminate as of the date of such fire or other casualty.
- d. If the Premises are to be repaired under this Article, Landlord shall repair at its cost any injury or damage to the Building and Building Standard Work in the Premises. Tenant shall be responsible at its sole cost and expense for the repair, restoration, and replacement of any other Leasehold Improvements and Tenant's Property. Landlord shall not be liable for any loss of business, inconvenience or annoyance arising from any repair or restoration of any portion of the Premises, Building, or Project as a result of any damage from fire or other casualty.
- e. This Lease shall be considered an express agreement governing any case of damage to or destruction of the Premises, Building, or Project by fire or other casualty, and any present or future law which purports to govern the rights of Landlord and Tenant in such circumstances in the absent of express agreement, shall have no application.

## 20. EMINENT DOMAIN.

- a. If the whole of the Building or Premises is lawfully taken by condemnation or in any other manner for any public or quasi-public purpose, this Lease shall terminate as of the date of such taking, and Rent shall be prorated to such date. If less than the whole of the Building or Premises is so taken, this Lease shall be unaffected by such taking, provided that (i) Tenant shall have the right to terminate this Lease by notice to Landlord given within ninety (90) days after the date of such taking if twenty percent (20%) or more of the Premises is taken and the remaining area of the Premises is not reasonably sufficient for Tenant to continue operation of its business, and (ii) Landlord shall have the right to terminate this Lease by notice to Tenant given within ninety (90) days after the date of such taking. If either Landlord or Tenant so elects to terminate this Lease, the Lease shall terminate on the thirtieth (30th) day after either such notice. The Rent shall be prorated to the date of termination. If this Lease continues in force upon such partial taking, the Base Rent and Tenant's Proportionate Share shall be equitably adjusted according to the remaining Rentable Area of the Premises and Project.
- b. In the event of any taking, partial or whole, all of the proceeds of any award, judgment, or settlement payable by the condemning authority shall be the exclusive property of Landlord, and Tenant hereby assigns to Landlord all of its right, title, and interest in any award, judgment, or settlement from the condemning authority. Tenant, however, shall have the right, to the extent that Landlord's award is not reduced or prejudiced, to claim from the condemning authority (but not from Landlord) such compensation as may be recoverable by Tenant in its own right for relocation expenses and damage to Tenant's personal property.
- c. In the event of a partial taking of the Premises which does not result in a termination of this Lease, Landlord shall restore the remaining portion of the Premises as nearly as practicable to its condition prior to the condemnation or taking, but only to the extent of Building Standard Work. Tenant shall be responsible at its sole cost and expenses for the repair, restoration, and replacement of any other Leasehold improvements and Tenant's Property.

## 21. INDEMNIFICATION.

- a. Tenant shall indemnify and hold Landlord harmless against and from liability and claims of any kind for loss or damage to property of Tenant or any other person, or for any injury to or death of any person, arising out of: (1) Tenant's use and occupancy of the Premises, or any work, activity, or other things allowed or suffered by Tenant to be done in, on, or about the Premises; (2) any breach or default by Tenant of any of the Tenant's obligations under this Lease; or (3) any negligent or otherwise tortious act or omission of Tenant, its agents, employees, invitees, or contractors. Tenant shall at Tenant's expense and by counsel satisfactory to Landlord, defend Landlord in any action or proceeding arising from any such claim and shall indemnify Landlord against all costs, attorneys' fees, expert witness fees, and any other expenses incurred in such action or proceeding. As a

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material part of the consideration for Landlord's execution of this Lease, Tenant hereby assumes all risk of damage or injury to any person or property in, on, or about the Premises from any cause.

- b. Landlord shall not be liable for injury or damage which may be sustained by the person or property of Tenant, its employees, invitees, or customers or any other person in or about the Premises, caused by or resulting from fire, steam, electricity, gas, water, or rain which may leak or flow from or into any part of the Premises, or from the breakage, leakage, obstruction, or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning, or lighting fixtures, whether such damage or injury results from conditions arising upon the Premises or upon other portions of the Building or Project or from other sources. Landlord shall not be liable for any damages arising from any act or omission of any other tenant of the Building or Project.

## 22. TENANT'S INSURANCE.

- a. All insurance required to be carried by Tenant hereunder shall be issued by responsible insurance companies acceptable to Landlord and Landlord's lender and qualified to do business in the State. Each policy shall name Landlord, and at Landlord's request any mortgagee of Landlord, as an additional insured, as their respective interests may appear. Each policy shall contain (i) a cross-liability endorsement, (ii) a provision that such policy and the coverage evidenced thereby shall be primary and non-contributing with respect to any policies carried by Landlord and that any coverage carried by Landlord shall be excess insurance, and (iii) a waiver by the insurer of any right of subrogation against Landlord, its agents, employees, and representatives, which arises or might arise by reason of any payment under such policy or by reason of any act or omission of Landlord, its agents, employees, or representatives. A copy of each paid up policy (authenticated by the insurer) or certificate of the insurer evidencing the existence and amount of each insurance policy required hereunder shall be delivered to Landlord before the date Tenant is first given the right of possession of the Premises, and thereafter within thirty (30) days after any demand by Landlord therefore. Landlord may, at any time and from time to time, inspect and/or copy any insurance policies required to be maintained by Tenant hereunder. No such policy shall be cancelable except after twenty (20) days written notice to Landlord and Landlord's lender. Tenant shall furnish Landlord with renewals or "binders" of any such policy at least ten (10) days prior to the expiration thereof. Tenant agrees that if Tenant does not take out and maintain such insurance, Landlord may (but shall not be required to) procure said insurance on Tenant's behalf and charge the Tenant the premiums together with a twenty-five percent (25%) handling charge, payable upon demand. Tenant shall have the right to provide such insurance coverage pursuant to blanket policies obtained by the Tenant, provided such blanket policies expressly afford coverage to the Premises, Landlord, Landlord's mortgagee, and Tenant as required by this Lease.
- b. Beginning on the date Tenant is given access to the Premises for any purpose and continuing until expiration of the Term, Tenant shall procure, pay for and maintain in effect policies of casualty insurance covering (i) all Leasehold Improvements (including any alterations, additions, or improvements as may be made by Tenant pursuant to the provisions of Article 12 hereof), and (ii) trade fixtures, merchandise, and other personal property from time to time in, on, or about the Premises, in an amount not less than one hundred percent (100%) of their actual replacement cost from time to time, providing protection against any peril included within the classification "Fire and Extended Coverage" together with insurance against sprinkler damage, vandalism, and malicious mischief. The proceeds of such insurance shall be used for the repair or replacement of the property so insured. Upon termination of this Lease following a casualty as set forth herein, the proceeds under (i) above be paid to Landlord, and the proceeds under (ii) above be paid to Tenant.
- c. Beginning on the date Tenant is given access to the Premises for any purpose and continuing until expiration of the Term, Tenant shall procure, pay for, and maintain in effect worker's compensation insurance as required by law and comprehensive public liability and property damage insurance with respect to the construction of improvements on the Premises, the use, operation, or condition of the Premises, and the operations of Tenant in, on, or about the Premises, providing broad form property damage coverage for not less than Five Hundred Thousand Dollars (\$500,000) per person and One Million Dollars (\$1,000,000) each occurrence, and property damage liability insurance with a limit of not less than Two Hundred Fifty Thousand Dollars (\$250,000) each accident.
- d. Not less than every three (3) years during the Term, Landlord and Tenant shall mutually agree to increases in all of Tenant's insurance policy limits for all insurance to be carried by Tenant as set forth in this Article. In the event Landlord and Tenant cannot mutually agree upon the amounts of said increases, then Tenant agrees that all insurance policy limits as set forth in this Article shall be adjusted for increases in the cost of living in the same manner as is set forth in Section 5.2 hereof for the adjustment of the Base Rent.

## 23. WAIVER OF SUBROGATION.

Landlord and Tenant each hereby waive all rights or recovery against the other and against the officers, employees, agents, and representatives of the other, on account of loss by or damage to the waiving party of its property or the property of others under its control, to the extent that such loss or damage is insured against under any fire and extended coverage insurance policy which either may have in force at the time of the loss or damage. Tenant shall, upon obtaining the policies of insurance required under this Lease, give notice to its insurance carrier or carriers that the foregoing mutual waiver of subrogation is contained in this Lease.

## 24. SUBORDINATION AND ATTORNMENT.

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Upon written request of Landlord, or any first mortgagee or first deed of trust beneficiary of Landlord, or ground lessor of Landlord, Tenant shall, in writing, subordinate its rights under this Lease to the lien of any first mortgage or first deed of trust, or to the interest of any lease in which Landlord is lessee, and to all advances made or thereafter to be made thereunder. However, before signing any subordination agreement, Tenant shall have the right to obtain from any lender or lessor or Landlord requesting such subordination, an agreement in writing providing that, as long as Tenant is not in default hereunder, this Lease shall remain in effect for the full Term. The holder of any security interest may, upon written notice to Tenant, elect to have this Lease prior to its security interest regardless of the time of the granting or recording of such security interest.

In the event of any foreclosure sale, transfer in lieu of foreclosure, or termination of the lease in which Landlord is lessee, Tenant shall attorn to the purchaser, transferee, or lessor, as the case may be, and recognize that party as Landlord under this Lease provided such party acquires and accepts the Premises subject to this Lease.

## 25. TENANT ESTOPPEL CERTIFICATE.

Within ten (10) days after written request from Landlord, Tenant shall execute and deliver to Landlord or Landlord's designee, a written statement certifying (a) that this lease is unmodified and in full force and effect, or is in full force and effect as modified and stating the modifications; (b) the amount of Base Rent and the date to which Base Rent and additional rent have been paid in advance; (c) the amount of any security deposited with Landlord; and (d) that Landlord is not in default hereunder or, if Landlord is claimed to be in default, stating the nature of any claimed default. Any such statement may be relied upon by a purchaser, assignee, or lender. Tenant's failure to execute and deliver such statement within the time required shall at Landlord's election be a default under this Lease and shall also be conclusive upon Tenant that: (1) this Lease is in full force and effect and has not been modified except as represented by Landlord; (2) there are no uncured defaults in Landlord's performance and that Tenant has no right of offset, counter-claim, or deduction against Rent; and (3) not more than one month's Rent has been paid in advance.

## 26. TRANSFER OF LANDLORD'S INTEREST.

In the event of any sale or transfer by Landlord of the Premises, Building, or Project, and assignment of this Lease by Landlord, Landlord shall be and is hereby entirely freed and relieved of any and all liability and obligations contained in or derived from this Lease arising out of any act, occurrence, or omission relating to the Premises, Building, Project, or Lease occurring after the consummation of such sale or transfer, providing the purchaser shall expressly assume all of the covenants and obligations of Landlord under this Lease. If any security deposit or prepaid Rent has been paid by Tenant, Landlord may transfer the security deposit or prepaid Rent to Landlord's successor and upon such transfer, Landlord shall be relieved of any and all further liability with respect thereto.

## 27. DEFAULT.

27.1. *Tenant's Default.* The occurrence of any one or more of the following events shall constitute a default and breach of this Lease by Tenant:

- a. If Tenant abandons or vacates the Premises; or
- b. If Tenant fails to pay any Rent or any other charges required to be paid by Tenant under this Lease and such failure continues for five (5) days after such payment is due and payable; or
- c. If Tenant fails to promptly and fully perform any other covenant, condition, or agreement contained in this lease and such failure continues for thirty (30) days after written notice thereof from Landlord to Tenant; or
- d. If a writ of attachment or execution is levied on this Lease or on any of Tenant's Property; or
- e. If Tenant makes a general assignment for the benefit of creditors, or provides for an arrangement, composition, extension or adjustment with its creditors; or
- f. If Tenant files a voluntary petition for relief or if a petition against Tenant in a proceeding under the federal bankruptcy laws or other insolvency laws is filed and not withdrawn or dismissed within forty-five (45) days thereafter, or if under the provisions of any law providing for reorganization or winding up of corporations, any court of competent jurisdiction assumes jurisdiction, custody, or control of Tenant or any substantial part of its property and such jurisdiction, custody, or control remains in force unrelinquished, unstayed, or unterminated for a period of forty-five (45) days; or
- g. If in any proceeding or action in which Tenant is not a party, a trustee, receiver, agent, or custodian is appointed to take charge of the Premises or Tenant's Property (or has the authority to do so) for the purpose of enforcing a lien against the Premises or Tenant's Property; or
- h. If Tenant is a partnership or consists of more than one (1) person or entity, if any partner of the partnership or other person or entity is involved in any of the acts or events described in subparagraphs d through g above.

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27.2. Remedies. In the event of Tenant's default hereunder, then, in addition to any other rights or remedies Landlord may have under any law, Landlord shall have the right, at Landlord's option, without further notice or demand of any kind to do the following:

- a. Terminate this Lease and Tenant's right to possession of the Premises and re-enter the Premises and take possession thereof, and Tenant shall have no further claim to the Premises or under this Lease; or
- b. Continue this Lease in effect, re-enter and occupy the Premises for the account of Tenant, and collect any unpaid Rent or other charges which have or thereafter become due and payable; or
- c. Re-enter the Premises under the provisions of subparagraph b and thereafter elect to terminate this Lease and Tenant's right to possession of the Premises.

If Landlord re-enters the Premises under the provisions of subparagraph b or c above, Landlord shall not be deemed to have terminated this Lease or the obligation of Tenant to pay any Rent or other charges thereafter accruing, unless Landlord notifies Tenant in writing of Landlord's election to terminate this Lease. In the event of any re-entry or retaking of possession by Landlord, Landlord shall have the right, but not the obligation, to remove all or any part of Tenant's Property in the Premises and to place such property in storage at a public warehouse at the expense and risk of Tenant. If Landlord elects to relet the Premises for the account of Tenant, the rent received by Landlord from such reletting shall be applied as follows: first, to the payment of any indebtedness other than Rent due hereunder from Tenant to Landlord; second, to the payment of any costs of such reletting; third, to the payment of the cost of any alterations or repairs to the Premises; fourth, to the payment of Rent due and unpaid hereunder; and the balance, if any, shall be held by Landlord and applied in payment of future Rent as it becomes due. If that portion of rent received from the reletting, which is applied against, the Rent due hereunder is less than the amount of the Rent due, Tenant shall pay the deficiency to Landlord promptly upon demand by Landlord. Such deficiency shall be calculated and paid monthly. Tenant shall also pay to Landlord, as soon as determined, any costs and expenses incurred by Landlord in connection with such reletting or in making alterations and repairs to the Premises, which are not covered by the rent received from the reletting.

Should Landlord elect to terminate this Lease under the provisions of subparagraph a or c above, Landlord may recover as damages from Tenant the following:

- (1.) *Past Rent.* The worth at the time of the award of any unpaid Rent which had been earned at the time of termination; plus
- (2.) *Rent Prior to Award.* The worth at the time of the award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus
- (3.) *Rent After Award.* The worth at the time of the award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of the rental loss that Tenant provides could be reasonably avoided; plus
- (4.) *Proximately Caused Damages.* Any other amount necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom including, but not limited to, any costs or expenses (including attorneys' fees) incurred by Landlord in (a) retaking possession of the Premises, (b) maintaining the Premises after Tenant's default, (c) preparing the Premises for reletting to a new tenant, including any repairs or alterations, and (d) reletting the Premises, including broker's commissions.

"The worth at the time of the award@ as used in subparagraphs 1 and 2 above is to be computed by allowing interest at the rate of ten percent (10%) per annum." The worth at the time of the award@ as used in subparagraph 3 above is to be computed by discounting the amount at the discount rate of the Federal Reserve Bank situated nearest to the Premises at the time of the award plus one percent (1%).

The waiver by Landlord of any breach of any term, covenant, or condition of this Lease shall not be deemed a waiver of such term, covenant, or condition or of any subsequent breach of the same or any other term, covenant, or condition. Acceptance of Rent by Landlord subsequent to any breach hereof shall not be deemed a waiver of any preceding breach other than the failure to pay the particular Rent so accepted, regardless of Landlord's knowledge of any breach at the time of such acceptance of Rent. Landlord shall not be deemed to have waived any term, covenant, or condition unless Landlord gives Tenant written notice of such waiver.

27.3 *Landlord's Default.* If Landlord fails to perform any covenant, condition, or agreement contained in this Lease within thirty (30) days after receipt of written notice from Tenant specifying such default, or if such default cannot reasonably be cured within thirty (30) days, if Landlord fails to commence to cure within that thirty (30) day period, then Landlord shall be liable to Tenant for any damages sustained by Tenant as a result of Landlord's breach; provided, however, it is expressly understood and agreed that if Tenant obtains a money judgment against Landlord resulting from any default or other claim arising under this Lease, that judgment shall be

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satisfied only out of the rents, issues, profits, and other income actually received on account of Landlord's right, title, and interest in the Premises, Building, or Project, and no other real, personal, or mixed property of Landlord (or of any of the partners which comprise Landlord, if any) wherever situated, shall be subject to levy to satisfy such judgment. If, after notice to Landlord of default, Landlord (or any first mortgagee or first deed of trust beneficiary of Landlord) fails to cure the default as provided herein, then Tenant shall have the right to cure that default at Landlord's expense. Tenant shall not have the right to terminate this Lease or to withhold, reduce, or offset any amount against any payments of Rent or any other charges due and payable under this Lease, except as otherwise specifically provided herein.

## 28. BROKERAGE FEES.

Tenant warrants and represents that it has not dealt with any real estate broker or agent in connection with this Lease or its negotiation except those noted in Section 2.c. Tenant shall indemnify and hold Landlord harmless from any cost, expenses, or liability (including costs of suit and reasonable attorneys' fees) for any compensation, commission, or fees claimed by any other real estate broker or agent in connection with this Lease or its negotiation by reason of any act of Tenant.

## 29. NOTICES.

All notices, approvals, and demands permitted or required to be given under this Lease shall be in writing and deemed duly served or given if personally delivered or sent by certified or registered U.S. mail, postage prepaid, and addressed as follows: (a) if to Landlord, to Landlord's Mailing Address and to the Building manager, and (b) if to Tenant, to Tenant's Mailing Address; provided, however, notices to Tenant shall be deemed duly served or given if delivered or mailed to Tenant at the Premises. Landlord and Tenant may from time to time by notice to the other designate another place for receipt of future notices.

## 30. GOVERNMENT ENERGY OR UTILITY CONTROLS.

In the event of imposition of federal, state, or local government controls, rules, regulations, or restrictions on the use or consumption of energy or other utilities during the Term, both Landlord and Tenant shall be bound thereby. In the event of a difference in interpretation by Landlord and Tenant of any such controls, the interpretation of Landlord shall prevail, and Landlord shall have the right to enforce compliance therewith, including the right of entry into the Premises to effect compliance.

## 31. RELOCATION OF PREMISES.

Landlord shall have the right to relocate the Premises to another part of the Building in accordance with the following:

- a. The new premises shall be substantially the same in size, dimension, configuration, decor and nature as the Premises described in this Lease, and if the relocation occurs after the Commencement Date, shall be placed in that condition by Landlord at its cost.
- b. Landlord shall give Tenant at least thirty (30) days written notice of Landlord's intention to relocate the Premises.
- c. As nearly as practicable, the physical relocation of the Premises shall take place on a weekend and shall be completed before the following Monday. If the physical relocation has not been completed in that time, Base Rent shall abate in full from the time the physical relocation commences to the time it is completed. Upon completion of such relocation, the new premises shall become the "Premises" under this Lease.
- d. All reasonable costs incurred by Tenant as a result of the relocation shall be paid by Landlord.
- e. If the new premises are smaller than the Premises as it existed before the relocation, Base Rent shall be reduced proportionately.
- f. The parties hereto shall immediately execute an amendment to this Lease setting forth the relocation of the Premises and the reduction of Base Rent, if any.

## 32. QUIET ENJOYMENT.

Tenant, upon paying the Rent and performing all of its obligations under this Lease, shall peaceably and quietly enjoy the Premises, subject to the terms of this Lease and to any mortgage, lease, or other agreement to which this Lease may be subordinate.

## 33. OBSERVANCE OF LAW.

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Tenant shall not use the Premises or permit anything to be done in or about the Premises which will in any way conflict with any law, statute, ordinance or governmental rule or regulation now in force or which may hereafter be enacted or promulgated. Tenant shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or which may hereafter be in force, and with the requirements of any board of fire insurance underwriters or other similar bodies now or hereafter constituted, relating to, or affecting the condition, use or occupancy of the Premises, excluding structural changes not related to or affected by Tenant's improvements or acts. The judgment of any court of competent jurisdiction or the admission of Tenant in any action against Tenant, whether Landlord is a party thereto or not, that Tenant has violated any law, ordinance or governmental rule, regulation or requirement, shall be conclusive of that fact as between Landlord and Tenant.

#### 34. FORCE MAJEURE.

Any prevention, delay or stoppage of work to be performed by Landlord or Tenant which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefore, acts of God, governmental restrictions or regulations or controls, judicial orders, enemy or hostile government actions, civil commotion, fire or other casualty, or other causes beyond the reasonable control of the party obligated to perform hereunder, shall excuse performance of the work by that party for a period equal to the duration of that prevention, delay or stoppage. Nothing in this Article 34 shall excuse or delay Tenant's obligation to pay Rent or other charges under this Lease.

#### 35. CURING TENANT'S DEFAULTS.

If Tenant defaults in the performance of any of its obligations under this Lease, Landlord may (but shall not be obligated to) without waiving such default, perform the same for the account at the expense of Tenant. Tenant shall pay Landlord all costs of such performance promptly upon receipt of a bill therefore.

#### 36. SIGN CONTROL.

Tenant shall not affix, paint, erect or inscribe any sign, projection, awning, signal or advertisement of any kind to any part of the Premises, Building or Project, including without limitation, the inside or outside of windows or doors, without the written consent of Landlord. Landlord shall have the right to remove any signs or other matter, installed without Landlord's permission, without being liable to Tenant by reason of such removal, and to charge the cost of removal to Tenant as additional rent hereunder, payable within ten (10) days of written demand by Landlord.

#### 37. MISCELLANEOUS.

- a. *Accord and Satisfaction; Allocation of Payments:* No payment by Tenant or receipt by Landlord of a lesser amount than the Rent provided for in this Lease shall be deemed to be other than on account of the earliest due Rent, nor shall any endorsement or statement on any check or letter accompanying any check or payment as Rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of the Rent or pursue any other remedy provided for in this Lease. In connection with the foregoing, Landlord shall have the absolute right in its sole discretion to apply any payment received from Tenant to any account or other payment of Tenant then not current and due or delinquent.
- b. *Addenda:* If any provision contained in an addendum to this Lease is inconsistent with any other provision herein, the provision contained in the addendum shall control, unless otherwise provided in the addendum.
- c. *Attorneys' Fees:* If any action or proceeding is brought by either party against the other pertaining to or arising out of this Lease, the finally prevailing party shall be entitled to recover all costs and expenses, including reasonable attorneys' fees, incurred on account of such action or proceeding.
- d. *Captions, Articles and Section Numbers:* The captions appearing within the body of this Lease have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Lease. All references to Article and Section numbers refer to Articles and Sections in this Lease.
- e. *Changes Requested by Lender:* Neither Landlord or Tenant shall unreasonably withhold its consent to changes or amendments to this Lease requested by the lender on Landlord's interest, so long as these changes do not alter the basic business terms of this Lease or otherwise materially diminish any rights or materially increase any obligations of the party from whom consent to such charge or amendment is requested.
- f. *Choice of Law:* This Lease shall be construed and enforced in accordance with the laws of the State of California.
- g. *Consent:* Notwithstanding anything contained in this Lease to the contrary, Tenant shall have no claim, and hereby waives the right to any claim against Landlord for money damages by reason of any refusal, withholding or delaying by Landlord of any consent, approval or statement of satisfaction, and in such event, Tenant's only remedies therefore shall be an action for specific performance, injunction or declaratory judgment to enforce any right to such consent, etc.

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- h. *Corporate Authority*: If Tenant is a corporation, each individual signing this Lease on behalf of Tenant represents and warrants that he is duly authorized to execute and deliver this lease on behalf of the corporation, and that this Lease is binding on Tenant in accordance with its terms. Tenant shall, at Landlord's request, deliver a certified copy of a resolution of its board of directors authorizing such execution.
- i. *Counterparts*: This Lease may be executed in multiple counterparts, all of which shall constitute one and the same Lease.
- j. *Execution of Lease; No Option*: The submission of this Lease to Tenant shall be for examination purposes only, and does not and shall not constitute a reservation of or option for Tenant to lease, or otherwise create any interest of Tenant in the Premises or any other premises within the Building or Project. Execution of this Lease by Tenant and its return to Landlord shall not be binding on Landlord notwithstanding any time interval, until Landlord has in fact signed and delivered this Lease to Tenant.
- k. *Furnishing of Financial Statements; Tenant's Representations*: In order to induce Landlord to enter into this Lease, Tenant agrees that it shall promptly furnish Landlord, from time to time, upon Landlord's written request, with financial statements reflecting Tenant's current financial condition. Tenant represents and warrants that all financial statements, records and information furnished by Tenant to Landlord in connection with this Lease are true, correct and complete in all respects.
- l. *Further Assurances*: The parties agree to promptly sign all documents reasonably requested to give effect to the provisions of this Lease.
- m. *Mortgagee Protection*: Tenant agrees to send by certified or registered mail to any first mortgagee or first deed of trust beneficiary of Landlord whose address has been furnished to Tenant, a copy of any notice of default served by Tenant on Landlord. If Landlord fails to cure such default within the time provided for in this Lease, such mortgagee or beneficiary shall have an additional thirty (30) days to cure such default; provided that if such default cannot reasonably be cured within that thirty (30) day period, then such mortgagee or beneficiary shall have such additional time to cure the default as is reasonably necessary under the circumstances.
- n. *Prior Agreements; Amendments*: This Lease contains all of the agreements of the parties with respect to any matter covered or mentioned in this Lease, and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose. No provisions of this Lease may be amended or added to except by an agreement in writing signed by the parties or their respective successors in interest.
- o. *Recording*: Tenant shall not record this Lease without the prior written consent of Landlord. Tenant, upon the request of Landlord, shall execute and acknowledge a "short form" memorandum of this Lease for recording purposes.
- p. *Severability*: A final determination by a court of competent jurisdiction that any provision of this Lease is invalid shall not affect the validity of any other provision, and any provision so determined to be invalid shall, to the extent possible, be construed to accomplish its intended effect.
- q. *Successors and Assigns*: This Lease shall apply to and bind the heirs, personal representatives, and permitted successors and assigns of the parties.
- r. *Time of the Essence*: Time is of the essence of this Lease.
- s. *Waiver*: No delay or omission in the exercise of any right or remedy of Landlord upon any default by Tenant shall impair such right or remedy or be construed as a waiver of such default.
- t. *Compliance*: The parties hereto agree to comply with all applicable federal, state and local laws, regulations, codes, ordinances and administrative orders having jurisdiction over the parties, property or the subject matter of this Agreement, including, but not limited to, the 1964 Civil Rights Act and all amendments thereto, the Foreign Investment In Real Property Tax Act, the Comprehensive Environmental Response Compensation and Liability Act, and The Americans With Disabilities Act.

The receipt and acceptance by Landlord of delinquent Rent shall not constitute a waiver of any other default; it shall constitute only a waiver of timely payment for the particular Rent payment involved.

No act or conduct of Landlord, including, without limitation, the acceptance of keys to the Premises, shall constitute an acceptance of the surrender of the Premises by Tenant before the expiration of the Term. Only a written notice from Landlord to Tenant shall constitute acceptance of the surrender of the Premises and accomplish a termination of the Lease.

Landlord's consent to or approval of any act by Tenant requiring Landlord's consent or approval shall not be deemed to waive or render unnecessary Landlord's consent to or approval of any subsequent act by Tenant.

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Any waiver by Landlord of any default must be in writing and shall not be a waiver of any other default concerning the same or other provision of the Lease.

The parties hereto have executed this Lease as of the dates set forth below.

Date:	_____	Date:	_____
Landlord:	<u>Desert Healthcare District</u>	Tenant:	<u>Steven R. Gundry, M.D.</u>
	<u>dba: Las Palmas Medical Plaza</u>		
By:	<u>Conrado Bárzaga</u>	By:	_____
Signature:	_____	Signature:	_____
Title:	<u>CEO</u>	Title:	_____

CONSULT YOUR ADVISORS This document has been prepared for approval by your attorney. No representation or recommendation is made as to the legal sufficiency or tax consequences of this document or the transaction to which it relates. These are questions for your attorney.

In any real estate transaction, it is recommended that you consult with a professional, such as a civil engineer, industrial hygienist or other person, with experience in evaluating the condition of the property, including the possible presence of asbestos, hazardous materials and underground storage tanks.

DRAFT



EXHIBIT "A"

RULES AND REGULATIONS

1. No sign, placard, pictures, advertisement, name or notice shall be inscribed, displayed or printed or affixed on or to any part of the outside or inside of the Building without the written consent of Landlord first had and obtained and Landlord shall have the right to remove any such sign, placard, picture, advertisement, name or notice without notice to and at the expense of Tenant.

All approved signs or lettering on entry door and directory shall be printed, painted, affixed, or inscribed at the expense of Landlord by a person approved by Landlord outside the Premises; provided, however, that Landlord may furnish and install a Building standard interior window covering at all exterior windows. Tenant shall not, without prior written consent of Landlord, cause or otherwise sunscreen any window.

2. The sidewalks, halls, passages, exits, entrances, elevators and stairways shall not be obstructed by any of the tenants or used by them for any purpose other than for ingress and egress from their respective Premises.
3. Tenant shall not alter any lock or install any new or additional locks or any bolts on any doors or windows of the Premises.
4. The toilet rooms, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed and no foreign substance of any kind whatsoever shall be thrown therein and the expense of any breakage, stoppage or damage resulting from the violation of the rule shall be borne by the Tenant who, or whose employees or invitees, shall have caused it.
5. Tenant shall not overload the floor of the Premises or in any way deface the Premises or any part thereof.
6. No furniture, freight or equipment of any kind shall be brought into the Building without the prior notice to Landlord and all moving of the same into or out of the Building shall be done at such time and in such manner as Landlord shall designate. Landlord shall have the right to prescribe the weight, size and position of all safes and other heavy equipment brought into the Building and also the times and manner of moving the same in and out of the Building. Safes or other heavy objects shall, if considered necessary by Landlord, stand on supports of such thickness as is necessary to properly distribute the weight. Landlord will not be responsible for loss of or damage to any such safe or property from any cause and all damage done to the Building by moving or maintaining any such safe or other property shall be repaired at the expense of Tenant.
7. Tenant shall not use, keep or permit to be used or kept any foul or noxious gas or substances in the Premises, or permit or suffer the Premises to be occupied or used in a manner offensive or objectionable to the Landlord or other occupants of the Building by reason of noise, odors and/or vibrations, or interfere in any way with other tenants or those having business therein, nor shall any animals or birds be brought in or kept in or about the Premises of the Building.
8. No cooking shall be done or permitted by any Tenant on the Premises, nor shall the Premises be used for storage of merchandise, for washing clothes, for lodging or for any improper, objectionable or immoral purposes.
9. Tenant shall not use or keep in the Premises or the Building any kerosene, gasoline or inflammable or combustible fluid or material, or use any method of heating or air conditioning other than that supplied by Landlord.
10. Landlord will direct electricians as to where and how telephone and telegraph wires are to be introduced. No boring or cutting for wires will be allowed without the consent of the Landlord. The location of telephones, call boxes and other office equipment affixed to the Premises shall be subject to the approval of Landlord.
11. On Saturdays, Sundays and legal holidays, and on other days between the hours of 6:00 p.m. and 8:00 a.m. the following day, access to the Building or to the halls, corridors, elevators or stairways in the Building, or to the Premises may be refused unless the person seeking access is known to the person or employee of the Building in charge and has a pass or is properly identified. The Landlord shall in no case be liable for damages for any error with regard to the admission to or exclusion from the Building of any person. In case of invasion, mob, riot, public excitement, or other commotion, the Landlord reserves the right to prevent access to the Building during the continuance of the same by closing of the doors or otherwise, for the safety of the tenants and protection of property in the Building and the Building.
12. Landlord reserves the right to exclude or expel from the Building any person who, in the judgment of Landlord, is intoxicated or under the influence of liquor or drugs, or who shall in any manner do any act in violation of any of the rules and regulations of the Building.
13. No vending machine or machines of any description shall be installed, maintained or operated upon the Premises without the written consent of the Landlord.

\_\_\_\_\_ District \_\_\_\_\_ Recipient

14. Landlord shall have the right, exercisable without notice and without liability to Tenant, to change the name and street address of the Building of which the Premises are a part.
15. Tenant shall not disturb, solicit, or canvass any occupant of the Building and shall cooperate to prevent same.
16. Without the written consent of Landlord, Tenant shall not use the name of the Building in connection with or in promoting or advertising the business of Tenant except as Tenant's address.
17. Landlord shall have the right to control and operate the public portions of the Building, and the public facilities, and heating and air conditioning, as well as facilities furnished for the common use of the tenants, in such manner as it deems best for the benefit of the tenants generally.
18. All entrance doors in the Premises shall be left locked when the Premises are not in use, and all doors opening to public corridors shall be kept closed except for normal ingress and egress from the Premises.

\_\_\_\_\_  
Landlord's Initials

\_\_\_\_\_  
Tenant's Initials

DRAFT

ADDENDUM

Addendum to that certain Office Building Lease dated August 1, 2022 by and between Desert Healthcare District doing business as the Las Palmas Medical Plaza, as Landlord and Steven R. Gundry, dba: The International Heart and Lung Institute, as Tenant for the property commonly known as Las Palmas Medical Plaza located 555 E. Tachevah Drive, Palm Springs, California 92262.

Page 1

In the event of any inconsistency between the Addendum language and the body of the Lease, the Addendum language shall prevail.

- 1. Commencement Date: August 1, 2022
- 2. Expiration Date: July 31, 2025
- 3. Rent Schedule:

<u>8/1/2022 – 7/31/2023</u>	<u>\$4,219.19</u>
<u>8/1/2023 – 7/31/2024</u>	<u>\$4,345.77</u>
<u>8/1/2024 – 7/31/2025</u>	<u>\$4,476.14</u>
- 4. CAMs: \$.69 per square foot.
- 5. Security Deposit: Carry over from previous lease dated 3/1/2006 in the amount of \$3,423.95.
- ~~5.6.~~ Option Term: Two (2) one (1) year Option Term. Base Rent for the first year of the Option Term shall be at “Market Rate”, which shall not be less than the last month of the Initial Term plus a three percent (3%) increase, with three percent (3%) annual increases thereafter.

The foregoing is hereby agreed to and accepted:

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Landlord: Desert Healthcare District  
dba: Las Palmas Medical Plaza

Tenant: Steven R. Gundry, M.D.

By: Conrado Bárzaga

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

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: CEO

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



**DESERT HEALTHCARE**  
DISTRICT & FOUNDATION

Date: June 14, 2022  
To: Finance & Administration Committee  
Subject: Consideration to Approve Policies

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**Staff Recommendation:** Consideration to approve updated policies

**Background:**

- Policy #FIN-02 – Authorized Check Signers, Signers, Dollar Limits, and Transfer of Funds - Minor revisions
- Policy #FIN-03 – Investment Policy - Minor revisions
- Resolution FY22-23 Statement of Investment Policy
- Policy #FIN-05 – Credit Card Usage - Minor revisions

**Fiscal Impact:**

None



**POLICY TITLE:** AUTHORIZED CHECK SIGNERS, NUMBER OF SIGNERS, DOLLAR LIMIT FOR SIGNERS, TRANSFER OF FUNDS

**POLICY NUMBER:** FIN-02

**COMMITTEE APPROVAL:** [06-15-2022](#)~~06-17-2020~~

**BOARD APPROVAL:** [06-28-2022](#)~~06-23-2020~~

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**POLICY #FIN-02:** It is the policy of the Desert Healthcare District's Board of Directors (["Board"](#)) to prudently disburse funds of the Desert Healthcare District ("District") in order to maintain Board-level oversight. It is intended that this policy covers all accounts and disbursement activities of the District and the Desert Healthcare Foundation ("Foundation").

**GUIDELINES:**

1. Authorized signers on District and Foundation bank accounts are to be ~~all~~ a minimum of four (4) Board Members, including the Chairperson of the Finance & Administration Committee and the Chief Executive Officer (CEO).
2. Checks under \$5,000.00 only require one signature. The CEO may be the one signer for any budgeted or Board approved item.
3. Checks ~~over~~ \$5,000.00 and over require two signatures. (The CEO and one Bboard member or two Bboard members).
4. Checks payable to a check signer (or associated with the check signer) are to be signed by other authorized signers.
5. External Transfer ~~transfer~~ of funds are to be authorized by the District/Foundation Treasurer, ~~or Board President,~~ or any other authorized Director. Transfer of funds between internal operating accounts (District, Foundation, & Las Palmas Medical Plaza) is permitted by the Chief Administration Officer.



**DESERT HEALTHCARE**  
DISTRICT & FOUNDATION

**AUTHORITY**

Desert Healthcare District Bylaws Article V, section 5.6 & Article VII

**DOCUMENT HISTORY**

<u>Revised</u>	<u>06-28-2022</u>
Revised	06-23-2020
Approved	03-22-2016

DRAFT



**DESERT HEALTHCARE**  
DISTRICT & FOUNDATION

**POLICY TITLE:** AUTHORIZED CHECK SIGNERS, NUMBER OF SIGNERS, DOLLAR LIMIT FOR SIGNERS, TRANSFER OF FUNDS

**POLICY NUMBER:** FIN-02

**COMMITTEE APPROVAL:** 06-15-2022

**BOARD APPROVAL:** 06-28-2022

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**POLICY #FIN-02:** It is the policy of the Desert Healthcare District's Board of Directors ("Board") to prudently disburse funds of the Desert Healthcare District ("District") in order to maintain Board-level oversight. It is intended that this policy covers all accounts and disbursement activities of the District and the Desert Healthcare Foundation ("Foundation").

**GUIDELINES:**

1. Authorized signers on District and Foundation bank accounts are to be a minimum of four (4) Board Members, including the Chairperson of the Finance & Administration Committee and the Chief Executive Officer (CEO).
2. Checks under \$5,000.00 only require one signature. The CEO may be the one signer for any budgeted or Board approved item.
3. Checks \$5,000.00 and over require two signatures. (The CEO and one Board member or two Board members).
4. Checks payable to a check signer (or associated with the check signer) are to be signed by other authorized signers.
5. External transfer of funds are to be authorized by the District/Foundation Treasurer or any other authorized Director. Transfer of funds between internal operating accounts (District, Foundation, & Las Palmas Medical Plaza) is permitted by the Chief Administration Officer.

**AUTHORITY**



**DESERT HEALTHCARE**  
DISTRICT & FOUNDATION

Desert Healthcare District Bylaws Article V, section 5.6 & Article VII

**DOCUMENT HISTORY**

Revised	06-28-2022
Revised	06-23-2020
Approved	03-22-2016

DRAFT





**POLICY TITLE:** STATEMENT OF INVESTMENT POLICY

**POLICY NUMBER:** FIN-03

**COMMITTEE APPROVAL:** ~~06-15-2022~~06-17-2020

**BOARD APPROVAL:** ~~06-28-2022~~06-23-2020  
Resolution 20-04

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**POLICY #FIN-03:** It is the policy of the Desert Healthcare District (“District”) Board of Directors pursuant to Government Code Section 53646 to annually approve a Statement of Investment Policy.

1. District funds not required for immediate expenditures will be invested in compliance with the provisions of Government Code section 53600-53683.
  - 1.a Criteria for selecting investments and the absolute order of priority are safety, liquidity, and yield.
  - 1.b Investments will be made in a range of instruments and maturity dates to ensure diversification and liquidity of assets in an emergency or when a large cash outlay is necessary.
2. The instruments of investment to be used are Certificates of Deposit, Local Agency Investment Fund, Treasury Bills and Notes, U.S. Governmental Agency Obligations, Repurchase Agreements, and Savings Accounts.
  - 2.a. Deposits will be fully collateralized as required by Government Code Section 53652 or insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, and the Contract for Deposit of Monies will indicate the type and amount of collateral.
  - 2.b. Investments in repurchased agreements or reverse purchase agreements shall not be made without the prior approval of the Board of Directors and shall be subjected to the provisions of Government Code Section 53601.



**DESERT HEALTHCARE**  
DISTRICT & FOUNDATION

- 2.c. All Certificates of Deposit shall mature no later than one (1) year from the date of investment and Governmental Instruments shall mature no later than five (5) years from the date of investment.
3. No investment shall be made pursuant to the provisions of Government Code Section 53601.1. in financial futures or financial option contracts without the prior approval of the Board of Directors. Only a Primary Government Securities Dealer shall be used for the purchase of Agency Obligations.
- 3.a. No Investments shall be made in stocks or holdings of companies which manufacture or sell tobacco products and firearms, or securities of companies in the soft drink ~~or~~ restaurant, alcohol, or cannabis industries.
- 3.b. A list of investments will be submitted to the Board of Directors on a quarterly basis indicating type, purchase and maturity dates, rate, amount, fund, and percentages.
- 3.c. A committee of the Board of Directors shall meet no less than on a quarterly basis with staff and District consultants to review District investments, to appraise market conditions, and report to the Board of Directors.

**AUTHORITY**

State of California Government Code Section 53646  
Desert Healthcare District Resolution No. 20-04

**DOCUMENT HISTORY**

<u>Reviewed</u>	<u>06-28-2022</u>
Revised	06-23-2020
Approved	06-28-2016



**DESERT HEALTHCARE**  
DISTRICT & FOUNDATION

**POLICY TITLE:** STATEMENT OF INVESTMENT POLICY  
**POLICY NUMBER:** FIN-03  
**COMMITTEE APPROVAL:** 06-15-2022  
**BOARD APPROVAL:** 06-28-2022  
Resolution 20-04

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**POLICY #FIN-03:** It is the policy of the Desert Healthcare District (“District”) Board of Directors pursuant to Government Code Section 53646 to annually approve a Statement of Investment Policy.

1. District funds not required for immediate expenditures will be invested in compliance with the provisions of Government Code section 53600-53683.
  - 1.a Criteria for selecting investments and the absolute order of priority are safety, liquidity, and yield.
  - 1.b Investments will be made in a range of instruments and maturity dates to ensure diversification and liquidity of assets in an emergency or when a large cash outlay is necessary.
2. The instruments of investment to be used are Certificates of Deposit, Local Agency Investment Fund, Treasury Bills and Notes, U.S. Governmental Agency Obligations, Repurchase Agreements, and Savings Accounts.
  - 2.a. Deposits will be fully collateralized as required by Government Code Section 53652 or insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, and the Contract for Deposit of Monies will indicate the type and amount of collateral.
  - 2.b. Investments in repurchased agreements or reverse purchase agreements shall not be made without the prior approval of the Board of Directors and shall be subjected to the provisions of Government Code Section 53601.



**DESERT HEALTHCARE**  
DISTRICT & FOUNDATION

- 2.c. All Certificates of Deposit shall mature no later than one (1) year from the date of investment and Governmental Instruments shall mature no later than five (5) years from the date of investment.
3. No investment shall be made pursuant to the provisions of Government Code Section 53601.1. in financial futures or financial option contracts without the prior approval of the Board of Directors. Only a Primary Government Securities Dealer shall be used for the purchase of Agency Obligations.
- 3.a. No Investments shall be made in stocks or holdings of companies which manufacture or sell tobacco products and firearms, or securities of companies in the soft drink, restaurant, alcohol, or cannabis industries.
- 3.b. A list of investments will be submitted to the Board of Directors on a quarterly basis indicating type, purchase and maturity dates, rate, amount, fund, and percentages.
- 3.c. A committee of the Board of Directors shall meet no less than on a quarterly basis with staff and District consultants to review District investments, to appraise market conditions, and report to the Board of Directors.

**AUTHORITY**

State of California Government Code Section 53646  
Desert Healthcare District Resolution No. 20-04

**DOCUMENT HISTORY**

Reviewed	06-28-2022
Revised	06-23-2020
Approved	06-28-2016

**RESOLUTION NO. 22-13**

**RESOLUTION OF THE BOARD OF DIRECTORS OF  
THE DESERT HEALTHCARE DISTRICT  
APPROVING STATEMENT OF INVESTMENT POLICY  
FOR FISCAL YEAR 2022/2023**

WHEREAS, pursuant to Government Code section 53646, the Board of Directors of the Desert Healthcare District shall annually approve a Statement of Investment Policy; and

WHEREAS, the annual Statement of Investment Policy of the Desert Healthcare District is as follows:

Desert Healthcare District (“District”) funds not required for immediate expenditure will be invested in compliance with the provisions of Government Code sections 53600-53683. Criteria for selecting investments and the absolute order of priority are safety, liquidity, and yield. Investments will be made in a range of instruments and maturity dates to insure diversification and liquidity of assets in an emergency or when a large cash outlay is necessary.

The instruments of investment to be used are Certificates of Deposit, Local Agency Investment Fund, Treasury Bills and Notes, U.S. governmental Agency Obligations, Repurchase Agreements, and Savings Accounts. Deposits will be fully collateralized as required by government Code section 53652 or insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, and the Contract for Deposit of Monies will indicate the type and amount of collateral.

Investments in repurchase agreements or reverse purchase agreements shall not be made without the prior approval of the Board of Directors and shall be subject to the provisions of Government Code section 53601.

All Certificates of Deposit shall mature not later than one (1) year from the date of investment and Governmental Instruments shall mature not later than five (5) years from the date of investment.

No investment shall be made pursuant to the provisions of Government Code section 53601.1 in financial futures or financial option contracts without the prior approval of the Board of Directors. Only a Primary Government Securities Dealer shall be used for the purchase of Agency Obligations.

No Investments shall be made in stocks or holdings of companies which manufacture or sell tobacco products and firearms, or securities of companies in the soft drink, restaurant, alcohol, and cannabis industries.

Adhering to the provisions of this Statement of Investment Policy, the Chief Executive Officer with District consultants shall coordinate the investment of surplus funds with guidance and approval from the Treasurer and the Board of Directors.

A list of investments will be submitted to the Board of Directors on a quarterly basis indicating type, purchase and maturity dates, rate, amount, fund, and percentages.

A committee of the Board of Directors shall meet no less than on a quarterly basis with staff and District consultants to review District investments, to appraise market conditions, and report to the Board of Directors.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Desert Healthcare District as follows:

Section 1: The Annual Statement of Investment Policy for fiscal year 2022/2023 is hereby approved and the District Treasurer is directed to follow this Statement of Investment Policy in investing District funds.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Board of Directors of the Desert Healthcare District held on June 28, 2022 by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

\_\_\_\_\_  
Karen Borja, President  
Board of Directors

ATTEST:

\_\_\_\_\_  
Carmina Zavala, Secretary  
Board of Directors



**POLICY TITLE:** CREDIT CARD USAGE

**POLICY NUMBER:** FIN-05

**COMMITTEE APPROVAL:** 06-15-2022~~06-17-2020~~

**BOARD APPROVAL:** 06-28-2022~~06-23-2020~~

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**POLICY #FIN-05:** It is the policy of the Desert Healthcare District (“District”) Board of Directors to prescribe the internal controls for management of the District & Foundation credit card(s).

1. Scope. –In general, it is the policy of the District to establish accounts with vendors for invoicing. –Credit cards are to be used only for one-time purchases making account establishment impractical, or only for situations where payment by check is not possible (e.g., on-line trainings, etc.).
2. A District credit card will be issued to the Chief Executive Officer (CEO) and/or the Chief Administration Officer (CAO). A Foundation credit card will be issued to the CEO, CAO, and Chief of Community Engagement (CCE). The credit card will not be issued to or used by members of the Board of Directors.
  - 2.a All credit card bills will be paid in a timely manner to avoid late fees and finance charges, whenever possible.
  - 2.b All credit card expenses will be reasonable and necessary to the furtherance of District/Foundation business. No personal expenses will be charged on a District/Foundation credit card. If there is an overlap on a transaction between personal and District/Foundation business, the employee will pay for the transaction personally and then request reimbursement by the District/Foundation. In the event of a charge which includes both personal and District/Foundation business, reimbursement shall be made to the District/Foundation immediately.
  - 2.c All credit card transactions will have third-party documents (receipts) attached and the District/Foundation purpose annotated by the cardholder.



**DESERT HEALTHCARE**  
DISTRICT & FOUNDATION

2.d The Chief Administration Officer will review and approve credit card transactions by all cardholders. The Chief Executive Officer will review and approve credit card transactions by the Chief Administration Officer. The credit card [expenditure report](#) with [amounts receipts](#) and purpose will be reviewed by the Finance, Legal, Administration, and Real Estate Committee each month.

**AUTHORITY**

Desert Healthcare District Bylaw Article IV, section 4.1

**DOCUMENT HISTORY**

<a href="#">Revised</a>	<a href="#">06-28-2022</a>
Revised	06-23-2020
Approved	06-28-2016

DRAFT





**POLICY TITLE:** CREDIT CARD USAGE  
**POLICY NUMBER:** FIN-05  
**COMMITTEE APPROVAL:** 06-15-2022  
**BOARD APPROVAL:** 06-28-2022

---

**POLICY #FIN-05:** It is the policy of the Desert Healthcare District (“District”) Board of Directors to prescribe the internal controls for management of the District & Foundation credit card(s).

1. Scope. In general, it is the policy of the District to establish accounts with vendors for invoicing. Credit cards are to be used only for one-time purchases making account establishment impractical, or only for situations where payment by check is not possible (e.g., on-line trainings, etc.).
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  - 2.a All credit card bills will be paid in a timely manner to avoid late fees and finance charges, whenever possible.
  - 2.b All credit card expenses will be reasonable and necessary to the furtherance of District/Foundation business. No personal expenses will be charged on a District/Foundation credit card. If there is an overlap on a transaction between personal and District/Foundation business, the employee will pay for the transaction personally and then request reimbursement by the District/Foundation. In the event of a charge which includes both personal and District/Foundation business, reimbursement shall be made to the District/Foundation immediately.
  - 2.c All credit card transactions will have third-party documents (receipts) attached and the District/Foundation purpose annotated by the cardholder.



**DESERT HEALTHCARE**  
DISTRICT & FOUNDATION

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**AUTHORITY**

Desert Healthcare District Bylaw Article IV, section 4.1

**DOCUMENT HISTORY**

Revised	06-28-2022
Revised	06-23-2020
Approved	06-28-2016

DRAFT