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UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA DIVISION

In re:

2260 EAST MAIN STREET, LLC,

Debtor and Debtor in Possession.

Case No. 8:17-bk-10571-MW

Chapter 11

NOTICE OF MOTION AND MOTION FOR ORDER:

(1) APPROVING THE SALE OF THE ESTATE'S ASSETS FREE AND CLEAR OF LIENS AND OTHER INTERESTS;
(2) AUTHORIZING ASSIGNMENT OF THE ESTATE'S INTEREST IN CERTAIN LEASE AGREEMENT;
(3) FINDING PURCHASER IS A GOOD FAITH PURCHASER;
(4) WAIVING 14-DAY STAYS OF FRBP 6004(h) AND 6006(d); AND
(5) APPROVING COMPROMISES WITH WESTERN ALLIANCE BANK AND FOREST RIVER, INC.

MEMORANDUM OF POINTS AND AUTHORITIES AND DECLARATIONS OF BRENT McMAHON AND HARI SACHANANDANI IN SUPPORT

Hearing:
Date: September 11, 2017
Time: 2:00 p.m.
Place: 411 W. Fourth Street
Courtroom 6C
Santa Ana, CA 902701

PLEASE TAKE NOTICE that, pursuant to Local Bankruptcy Rule 6004-1, a hearing will be held at the above-referenced date, time, and location to consider this motion (the "Motion") by 2260 East Main Street, LLC ("Debtor"), for the entry of an order approving the sale of Debtor's real property located at 2260 East Main Street, Mesa, AZ ("Property") to Hari Sachanandani or assigns ("Buyer")[1] in the amount of $2,750,000 and other relief. Attached in support of the Motion is the following Memorandum of Points and Authorities and the Declarations of Brent McMahon ("McMahon Declaration") and Hari Sachanandani ("Buyer Declaration").

Time is of the essence as Debtor's pre-petition lenders, Western Alliance Bank ("Alliance"), the holder of the first deed of trust has agreed to accept a discounted payoff of $2,550,000 pursuant to the Stipulation and Settlement Between Debtor and Western Alliance Bank ("Alliance Stipulation"). Pursuant to the Alliance Stipulation, Alliance is also entitled to $16,800 of the "Monthly Rent" (as defined in the Alliance Stipulation) for the months of July, August and September 2017. A true and correct copy of the Alliance Stipulation is attached to the McMahon Declaration as **Exhibit "1"**. Further, Forest River, Inc. ("FR"), who holds a $2,000,000 claim, has agreed to accept $175,000 in full and complete satisfaction of its claim pursuant to that certain Release Agreement ("FR Agreement"). A true and correct copy of the FR Agreement is attached to the McMahon Declaration as **Exhibit "2"**.

PLEASE TAKE FURTHER NOTICE that the Debtor and Buyer are in the process of entering into that certain Agreement for Purchase and Sale of Property and Escrow Instructions with Buyer ("Purchase Agreement"). A true and correct copy of the Purchase Agreement being negotiated is attached to the McMahon Declaration as **Exhibit "3"** and a final version will be filed prior to the hearing.

PLEASE TAKE FURTHER NOTICE that the Debtor excluded Buyer in its listing agreement with the broker, COBE Real Estate, Inc. ("COBE"), who never procured any purchasers and is not entitled to any commission. Buyer is not represented by a broker, so no commissions will be paid.

[1] The address for Buyer is in care of its attorney, Vedra Law, LLC, 1435 Larimer Street, Suite 302, Denver, CO 80202.

PLEASE TAKE FURTHER NOTICE that the Debtor requests that the sale be made free and clear of all liens and other interests in the Property, including the first priority deed of trust in favor of Alliance, recorded on June 30, 2011 ("Alliance Lien"), and second priority deed of trust in favor of FR, recorded December 18, 2013 ("FR Lien") (collectively "DOTs"), provided Alliance is paid $2,550,000 and FR $175,000 directly through escrow, pursuant to 11 U.S.C. § 363(f)(2). A true and correct copy of the Buyer's Commitment For Title Insurance ("Title Commitment") is attached to the McMahon Declaration as **Exhibit "4"**. The Title Commitment references a lien to Winnebago Realty Corporation, which has been reconveyed. A true and correct copy of the Release of Deed of trust and Reconveyance is attached to the McMahon Declaration as **Exhibit "5"**.

PLEASE TAKE FURTHER NOTICE that, although not necessary as Debtor is the landlord and not the tenant, Debtor will assign to Buyer the Standard Industrial/Commercial Single-Tenant Lease – Net ("Lease") with Vertigo Investments, LLC dba Desert Auto Plex ("Tenant"), and requests the Court approve the assignment of all of the estate's interest in the Lease to the Buyer upon closing of the Sale pursuant to 11 U.S.C. § 365(f). Pursuant to the Lease, Tenant is required to pay all property taxes, to which Debtor shall have no responsibility. A true and correct copy of the Lease is attached to the McMahon Declaration as **Exhibit "6"**.

PLEASE TAKE FURTHER NOTICE that the Debtor requests the Court make a finding that the Buyer is a good faith purchaser pursuant to 11 U.S.C. § 363(m).

PLEASE TAKE FURTHER NOTICE that the Debtor seeks authorization to compromise with Alliance and FR pursuant to FRBP 9019.

PLEASE TAKE FURTHER NOTICE that Debtor requests that the Court waive the 14-day stays as set forth in Bankruptcy Rules 6004(h) (concerning the Sale of the Property) and 6006(d) (concerning the assignment of the Lease).

PLEASE TAKE FURTHER NOTICE that Local Bankruptcy Rule 9013-1(f) provides each interested party opposing or responding to the Motion must file and serve the response on the Debtor and the Office of the United States Trustee not later than 14 days before the date designated for hearing on the Motion.

DATED: August 18, 2017

GOE & FORSYTHE, LLP
By: /s/Robert P. Goe
Robert P. Goe, Counsel for
2260 East Main Street, LLC

MEMORANDUM OF POINTS AND AUTHORITIES

The Buyer's offer is the best that Debtor has received and, by agreement, will result in full satisfaction of the claims of Alliance and FR, which will provide additional funds for the estate. There is also approximately $38,000 in Debtor's DIP account to pay creditors.

The Debtor's brokers, COBE, marketed the Property and were unable to obtain an acceptable purchaser. Fortunately, one of Debtor's members, Michael Lankford, knew the Buyer and an acceptable Purchase Price was negotiated. The Buyer shall pay all closing costs and be responsible for the property taxes, which are paid by Tenant.

The Debtor intends to sell the Property free and clear of Liens, pursuant to 11 U.S.C. § 363(f)(2) with the consent of Alliance, which will receive $2,550,000 plus the Monthly Rent and consent of FR which will receive $175,000 in full satisfaction of their DOTs. The property taxes are current and are paid by the Tenant. Debtor has no responsibility for paying property taxes, and there will be no pro-rations through escrow.

Upon the closing of the Sale, Debtor intends to assign all of the estate's interest in the Lease to the Buyer of the Property pursuant to 11 U.S.C. § 365(f). As discussed below, the Debtor's contractual obligations under the Lease as lessor are relatively few, as it is a NNN lease.

The Debtor also seeks a determination that the Buyer is a good faith purchaser in accordance with 11 U.S.C. § 363(m), and a waiver of the 14-day stays as set forth in Bankruptcy Rules 6004(h) (concerning the Sale of the Property) and 6006(d) (concerning the assignment of the Lease).

Finally, Debtor seeks approval of the Alliance Stipulation and FR Agreement.

I. STATEMENT OF FACTS

A. The Property and Alliance Loan

On April 14, 2011, the Debtor was incorporated as an Arizona limited liability company. The Debtor's managing member and majority shareholder (75.5%) is Brett McMahon ("McMahon"), who resides in Irvine, California and operates his companies, including the

Debtor, from an office located in Irvine, California. The Debtor's minority shareholder (24.5%) is Michael Lankford, who resides in Riverside, California.

The Debtor was formed for the purpose of acquiring the Property. On June 30, 2011, the Debtor purchased the Property for $3,272,500 from a division of Alliance. The Debtor made a down payment of $465,200.33 and financed the remainder of the purchase price with a loan from Alliance in the principal amount of $2,781,625.00 (the "Alliance Loan").

B. The Lease and FR Loan

Shortly after purchasing the Property, the Debtor leased the Property to Mega RV Corporation ("Mega RV"), which operated a RV dealership thereon. McMahon was the sole shareholder of Mega RV. Mega RV leased the Property for several years until it started experiencing financial difficulties due to the economic conditions of the Great Recession, which hit the RV industry (and other consumer discretionary industries) particularly hard.

In or around December 2013, the Debtor executed and delivered a second priority deed of trust against the Property in favor of FR, securing an indebtedness in the amount of $2,000,000. The loan proceeds from Forest River were used to inject liquidity and improve cash flow for Mega RV, which was struggling financially. Eventually, due to insurmountable economic headwinds and aggressive collection actions by its flooring lender (GE), Mega RV had to shut down its dealership on the Property.

Accordingly, in April 2014, the Debtor agreed to lease the Property to Tenant pursuant to the Lease. The Lease is a triple-net lease with the Tenant paying all insurance, property taxes, and utilities associated with the Property. Initially, the Lease had a two-year term, beginning May 1, 2014 and ending April 30, 2016. Base rent under the Lease was $18,000. The Lease included an option for the Tenant to extend the term of the Lease for an additional five years after expiration of the original term, i.e. beginning May 1, 2016 and ending April 30, 2021, which the Tenant exercised in January 2016 (at which time the monthly rent amount was decidedly below market).

/ / /

C. The Maturation of the Alliance Loan and the Debtor's Efforts to Sell the Property Outside of Bankruptcy Protection

On June 29, 2016, the Alliance Loan fully matured. The Debtor was unable to make the balloon payment and the Alliance Loan went into default. (Prior to this date, the Alliance Loan remained in good standing as the Debtor made all monthly payments timely and in full.)

Notwithstanding the Debtor's good faith efforts to negotiate a reasonable forbearance agreement, on October 14, 2016, Alliance recorded a *Notice of Trustee's Sale*, scheduling a trustee's sale for January 16, 2017.

D. The Debtor Files for Chapter 11 Bankruptcy

After Debtor's negotiations with Alliance broke down, Alliance scheduled a foreclosure sale of the Property for February 17, 2017 and had informed the Debtor that it would not be continuing the sale. Accordingly, on February 16, 2017, the Debtor filed the above-captioned chapter 11 bankruptcy case. The Debtor continues to operate as a debtor in possession and has filed a plan of reorganization. The Debtor intends to reorganize by selling the Property and has negotiated a global settlement with Alliance and FR.

E. The Proposed Sale of the Property

1. <u>The Debtor's Assets and Assets to be Sold</u>

The Debtor's principal assets are the Property, including the rental proceeds therefrom, and its interest in the Lease. As discussed above, soon after the Petition Date, the Debtor employed COBE as its real estate broker to market the Property for sale.

However, COBE was unable to procure an acceptable purchaser and is not entitled to any commission. Buyer is not represented by a broker either, so no commissions are to be paid through the Sale.

The Debtor is negotiating the Purchase Agreement with Buyer as set forth in **<u>Exhibit "3"</u>**.

II. ARGUMENT

By way of this Motion, Debtor requests the entry of an order (1) authorizing the Trustee to sell the Property to Buyer pursuant to 11 U.S.C. § 363(b), (f), and (m); (ii) authorizing the

sale of the Property free and clear of liens and other interests pursuant to 11 U.S.C. § 363(f)(2); (iii) authorizing the assignment of the Estate's interest in the Lease to the Buyer upon closing pursuant to 11 U.S.C. § 365(f), (iv) finding the Purchaser to be a good faith purchaser as described in 11 U.S.C. § 363(m), (v) authorizing payment of commissions owed to real estate brokers, and (vi) waiving the 14-day stays set forth in Bankruptcy Rules 6004(h) and 6006(d).

A. The Property May Be Sold Pursuant to 11 U.S.C. § 363(b)

Section 363(b) of the Bankruptcy Code provides that after a notice and a hearing, a trustee or debtor in possession may sell property of the estate outside the ordinary course of business. 11 U.S.C. §§ 363(b), 1107(a). "The court's obligation in § 363(b) sales is to assure that optimal value is realized by the estate under the circumstances. The requirement of a notice and hearing operates to provide both a means of objecting and a method for attracting interest by potential purchasers." Simantob v. Claims Prosecutor, L.L.C. (In re Lahijani), 325 B.R. 282, 288-289 (B.A.P. 9th Cir. 2005).

In determining whether to approve a proposed sale under section 363, courts generally apply standards that, although stated various ways, represent essentially a business judgment test.

3-363 Collier on Bankruptcy ¶ 363.02[4]. "Ordinarily, the position of the trustee is afforded deference, particularly where business judgment is entailed in the analysis or where there is no objection." In re Lahijani, 325 B.R. at 289. The bankruptcy court reviews the Debtor's business judgment only "to determine independently whether the judgment is a reasonable one. The court should not substitute its judgment for the Debtor's but should determine only whether the Debtor's judgment was reasonable and whether a sound business justification exists supporting the sale and its terms." 3-363 Collier on Bankruptcy ¶ 363.02[4].

As discussed above, by agreement the Sale results in full satisfaction of the two lien holders.

Based on the foregoing, the Debtor submits that his business judgment to proceed with the Sale is reasonable and based upon a sound business justification. Accordingly, the Debtor's

business judgment should be afforded deference and the Sale should be approved pursuant to 11 U.S.C. § 363(b).

B. The Sale May Be Free and Clear of Liens Pursuant to 11 U.S.C. § 363(f)(2)

Section 363(f)(2) provides that the Debtor may sell property of the estate free and clear of any lien on such property if the lien holders consent, which is evidenced by the attached agreements with Alliance and FR.

C. The Estate's Interest in the Lease May Be Assigned Pursuant to 11 U.S.C. § 365(f)

Section 365(f) of the Bankruptcy Code provides that the trustee may assign an executory contract or unexpired lease of the debtor. Here, section 365 technically does not apply, as Debtor is the landlord, but in any event Debtor will assign to Buyer all rights under the Lease.

D. The Buyer is a Good Faith Purchaser Pursuant to 11 U.S.C. § 363(m)

Section 363(m) provides that a purchaser of property of the estate is protected from the effects of a reversal or modification on appeal of the authorization to sell as long as the purchaser acted in good faith and the appellant failed to obtain a stay of the sale. The Code does not defined "good faith." Courts have adopted various definitions. A good faith purchaser is "one who buys property . . . for value, without knowledge or adverse claims." In re Mark Bell Furniture Warehouse, Inc., 992 F.2d 7, 8 (1st Cir. 1993). "Typically, lack of good faith is shown by fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders." In re Ewell, 958 F.2d 276, 279 (9th Cir. 1992).

Here, the Buyer is a third party purchaser brought to the transaction by Debtor's minority member, Michael Lankford, with no known connections to the Debtor, Debtor's creditors, or Debtor's brokers. The Buyer is paying significant value for the Property in an amount that is sufficient to satisfy by consent the lien holders on the Property. Absent any allegations against the Buyer of fraud, collusion, or any attempt to take grossly unfair advantage of other bidders, the Court should find that the Buyer is a good faith purchaser pursuant to 11 U.S.C. § 363(m).

/ / /

E. The Court Should Waive the 14-Day Stays Set Forth in Bankruptcy Rules 6004(h) and 6006(d)

Bankruptcy Rule 6004(h) provides that an order authorizing the sale of property is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise. Likewise, Bankruptcy Rule 6006(d) provides that an order authorizing the assignment of an unexpired lease under § 365(f) is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise. Absent any objection to the Motion, the Debtor requests that the 14-day stays set forth in Bankruptcy Rules 6004(h) and 6006(d) be waived as the Buyer has patiently waited for months and desires to quickly close the Sale.

F. The Court Should Authorize the Debtor to Enter into the Alliance Stipulation and FR Agreement

Finally, the Court should authorize the Debtor to enter into the Alliance Stipulation and FR Agreement pursuant to Bankruptcy Rule 9019. To approve a proposed settlement under Bankruptcy Rule 9019, the Court need only find that the settlement was negotiated in good faith and is reasonable, fair and equitable. To make that determination, courts consider, among other factors: (1) the probability of success in the dispute that is the subject of the compromise; (2) the difficulties, if any, to be encountered in the matter of collection; (3) the complexity of the dispute and the expense, inconvenience, and delay necessarily attending it; and (4) the paramount interest of the creditors and a proper deference to their reasonable views regarding the settlement. In re A&C Props., 784 F.2d 1377, 1380 (9th Cir 1986). Here, both Alliance and FR have agreed to the Sale and accepting discounted payoffs in full satisfaction of their liens and claims, which will allow for the Sale of the Property and provide funds to the estate.

III. CONCLUSION

WHEREFORE, the Debtor respectfully requests that the Court enter an order:

1. Granting the Motion in its entirety,

2. Authorizing the Debtor to sell the Property to the Buyer pursuant to 11 U.S.C. § 363(b),

3. Authorizing the sale of the Property to be free and clear of Liens pursuant to 11 U.S.C. § 363(f)(2),

4. Authorizing the Debtor to assign all of the estate's interest in the Lease, upon closing of the Sale, to the Buyer pursuant to 11 U.S.C. § 365(f),

5. Finding that the Buyer is a good faith purchaser pursuant to 11 U.S.C. § 363(m),

6. Waiving the 14-day stays set forth in Bankruptcy Rules 6004(h) and 6006(d),

7. Approving, pursuant to FRBP 9019, the Alliance Stipulation and FR Agreement, and

8. Affording such other and further relief as is appropriate under the circumstances.

Date: August 18, 2017

GOE & FORSYTHE, LLP

By: /s/Robert P. Goe
Robert P. Goe, Counsel for
2260 East Main Street, LLC

DECLARATION OF BRENT McMAHON

I, Brent McMahon, am the managing member and majority shareholder of 2260 East Main Street, LLC (the "Debtor"), the debtor in possession in the above captioned bankruptcy case. The matters stated herein are true and correct and within my own personal knowledge and belief. I make this declaration in support of the *Motion for Order (1) Approving the Sale of the Estate's Assets Free and Clear of Liens and Other Interests; (2) Authorizing Assignment of the Estate's Interest in Certain Lease Agreement; (3) Finding Purchaser is a Good Faith Purchaser; (4) Waiving 14-Day Stays of FRBP 6004(h) and 6006(d); and (5) Approving Compromise with Forest River, Inc.* ("Motion") to which this declaration is attached. Any terms not otherwise defined herein have the same meaning as in the Motion.

1. On April 14, 2011, the Debtor was incorporated as an Arizona limited liability company. I am the Debtor's managing member and majority shareholder (75.5%), reside in Irvine, California, from which I operate my companies, including the Debtor, from an office located in Irvine, California. The Debtor's minority shareholder (24.5%) is Michael Lankford, who resides in Riverside, California.

2. The Debtor was formed for the purpose of acquiring the Property. On June 30, 2011, the Debtor purchased the Property for $3,272,500 from a division of Alliance. The Debtor made a down payment of $465,200.33 and financed the remainder of the purchase price with a loan from Alliance in the principal amount of $2,781,625.00 (the "Alliance Loan").

3. Shortly after purchasing the Property, the Debtor leased the Property to Mega RV Corporation ("Mega RV"), which operated a RV dealership thereon. I was the sole shareholder of Mega RV. Mega RV leased the Property for several years until it started experiencing financial difficulties due to the economic conditions of the Great Recession, which hit the RV industry (and other consumer discretionary industries) particularly hard.

4. In or around December 2013, the Debtor executed and delivered a second priority deed of trust against the Property in favor of FR, securing an indebtedness in the amount of $2,000,000. The loan proceeds from Forest River were used to inject liquidity and improve cash flow for Mega RV, which was struggling financially. Eventually, due to insurmountable

economic headwinds and aggressive collection actions by its flooring lender (GE), Mega RV had to shut down its dealership on the Property.

5. Accordingly, in April 2014, the Debtor agreed to lease the Property to Tenant pursuant to the Lease. The Lease is a triple-net lease with the Tenant paying all insurance, property taxes, and utilities associated with the Property. Initially, the Lease had a two-year term, beginning May 1, 2014 and ending April 30, 2016. Base rent under the Lease was $18,000. The Lease included an option for the Tenant to extend the term of the Lease for an additional five years after expiration of the original term, i.e. beginning May 1, 2016 and ending April 30, 2021, which the Tenant exercised in January 2016 (at which time the monthly rent amount was decidedly below market).

6. On June 29, 2016, the Alliance Loan fully matured. The Debtor was unable to make the balloon payment and the Alliance Loan went into default. (Prior to this date, the Alliance Loan remained in good standing as the Debtor made all monthly payments timely and in full.)

7. Notwithstanding the Debtor's good faith efforts to negotiate a reasonable forbearance agreement, on October 14, 2016, Alliance recorded a Notice of Trustee's Sale, scheduling a trustee's sale for January 16, 2017.

8. After Debtor's negotiations with Alliance broke down, Alliance scheduled a foreclosure sale of the Property for February 17, 2017 and had informed the Debtor that it would not be continuing the sale. Accordingly, on February 16, 2017, the Debtor filed the above-captioned chapter 11 bankruptcy case. The Debtor continues to operate as a debtor in possession and has filed a plan of reorganization. The Debtor intends to reorganize by selling the Property and has negotiated a global settlement with Alliance and FR.

9. The Debtor's principal assets are the Property, including the rental proceeds therefrom, and its interest in the Lease. As discussed above, soon after the Petition Date, the Debtor employed COBE as its real estate broker to market the Property for sale.

/ / /

10. Debtor excluded Buyer in its listing agreement with the broker, COBE Real Estate, Inc., who never procured any purchasers and is not entitled to any commission, which I have confirmed with COBE in emails and phone calls as has Debtor's attorney. Buyer is not represented by a broker either, so no commissions are to be paid through the Sale.

11. Debtor's pre-petition lenders, Western Alliance Bank ("Alliance"), the holder of the first deed of trust has agreed to accept a discounted payoff of $2,550,000 plus the Monthly Rent pursuant to the Stipulation and Settlement Between Debtor and Western Alliance Bank ("Alliance Stipulation"). A true and correct copy of the Alliance Stipulation is attached hereto as **Exhibit "1"**. Further, Forest River, Inc. ("FR"), who holds a $2,000,000 claim, has agreed to accept $175,000 in full and complete satisfaction of its claim pursuant to that certain Release Agreement ("FR Agreement"). A true and correct copy of the FR Agreement is attached hereto as **Exhibit "2"**.

12. Debtor and Buyer are negotiating that certain Agreement for Purchase and Sale of Property and Escrow Instructions with Buyer ("Purchase Agreement"). A true and correct copy of the draft Purchase Agreement is attached hereto as **Exhibit "3"**.

13. Debtor requests that the sale be made free and clear of all liens and other interests in the Property, including the first priority deed of trust in favor of Alliance, recorded on June 30, 2011 ("Alliance Lien"), and second priority deed of trust in favor of FR, recorded December 18, 2013 ("FR Lien"), provided Alliance is paid $2,550,000 plus the Monthly Rent and FR $175,000 directly through escrow, pursuant to 11 U.S.C. § 363(f)(2). A true and correct copy of the Title Commitment is attached hereto as **Exhibit "4"** and the Winnebago Release of Deed of Trust and Reconveyance is attached hereto as **Exhibit "5"**.

14. Although not necessary, as Debtor is the landlord and not the tenant, Debtor will assign to Buyer the Standard Industrial/Commercial Single-Tenant Lease – Net ("Lease") with Vertigo Investments, LLC dba Desert Auto Plex ("Tenant"), and requests the Court approve the assignment of all of the estate's interest in the Lease to the Buyer upon closing of the Sale pursuant to 11 U.S.C. § 365(f). Pursuant to the Lease, Tenant is required to pay all property taxes, to which Debtor shall have no responsibility. A true and correct copy of the Lease is attached

hereto as **Exhibit "6"**.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: August 18, 2017

By: _____
Brent McMahon

DECLARATION OF HARI SACHANANDANI

I, Hari Sachanandani, declare and state:

I am over 18 years of age. Except where otherwise stated, I have personal knowledge of the facts set forth below and, if called to testify, I could and would testify competently thereto. I make this declaration in support of the *Motion for Order (1) Approving the Sale of the Estate's Assets Free and Clear of Liens and Other Interests; (2) Authorizing Assignment of the Estate's Interest in Certain Lease Agreement; (3) Finding Purchaser is a Good Faith Purchaser; (4) Waiving 14-Day Stays of FRBP 6004(h) and 6006(d); and (5) Approving Compromise with Forest River, Inc.* ("Motion") to which this declaration is attached. Any terms not otherwise defined herein have the same meaning as in the Motion.

1. I personally will be the Buyer or through an entity I control ("Buyer").

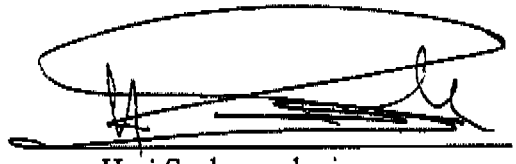
2. Buyer is negotiating a certain *Agreement for Purchase and Sale of Property and Escrow Instructions* ("Purchase Agreement") with 2260 East Main Street, LLC ("Debtor"), for the purchase of the real property located at 2260 East Main Street, Mesa, Arizona ("Property"). I will be responsible for all closing costs and property taxes, which are being paid currently by Tenant pursuant to the terms of the Lease. I was not represented by any broker, so no commissions are owing.

3. To the best of my knowledge, Buyer and I do not have any prior relationship with the Debtor, Debtor's broker, Debtor's creditors or Debtor's principals, except that Michael Lankford (not Debtor's brokers) introduced me to the Property.

4. I have considerable experience in owning and managing commercial real estate investment properties. I have considerable experience with leases, such as the Lease, and am negotiating a new or amended agreement with the Tenant.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: August 18, 2017



Hari Sachanandani

EXHIBIT 1

EXHIBIT 1

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UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA, SANTA ANA DIVISION

In re: 2260 EAST MAIN STREET, LLC Debtor.	Case No. 8:17-bk-10571-MW Chapter 11 **STIPULATION AND SETTLEMENT BETWEEN WESTERN ALLIANCE BANK AND DEBTOR**

This Stipulation is made by and between Western Alliance Bank, an Arizona Corporation ("Alliance"), a secured creditor in the above-captioned bankruptcy case, and the Debtor 2260 East Main Street, LLC (the "Debtor" and with Alliance, the "Parties"). This Stipulation is entered into by the Debtor and Alliance in connection with the proposed sale of the commercial real property located at 2260 E. Main St., Mesa, Arizona pursuant to 11 U.S.C. § 363.

For present and fair consideration, the receipt and sufficiency of which are hereby acknowledged, the Debtor and Alliance stipulate and agree as follows:

I. RECITALS

A. Acknowledgment of the Loan and Security Documents

1. On or about June 30, 2011, Alliance made a loan to the Debtor in the principal amount of $2,781,625 (the "Loan"). In connection with the Loan, the Debtor delivered to Alliance the: (i) the *Secured Promissory Note* dated June 30, 2011 executed by the Debtor in favor of Alliance (the "Note"); and (ii) the *Loan Agreement* dated the same date and executed by the Debtor. True and correct copies of the Note and Loan Agreement are attached to this Stipulation as **Exhibits 1** and **2** respectively.

2. Repayment of the Loan was secured by, among other things, the real property located at 2260 E. Main St., Mesa, Arizona (the "Property") pursuant to the *Deed of Trust and Assignment of Rents with Security Agreement and Financing Statement (Fixture Filing) (First Lien Position)* (the "Deed of Trust") dated June 30, 2011 executed by the Debtor in favor of Alliance and recorded with the Maricopa County Recorder at Document No. 20110550929. A true and correct copy of the Deed of Trust is attached hereto as **Exhibit 3**.

3. In addition to the Deed of Trust, Alliance asserts (but Debtor does not agree) that the Debtor's principal, Brent McMahon, Ramona Mary Sears and Mega RV Corp. signed the Guaranty dated June 30, 2011 (the "Guaranty") attached hereto as **Exhibit 4**.

4. On or about June 30, 2011, the Debtor also executed an *Assignment of Rents and Leases in Favor of Alliance* (the "Assignment of Rents" and with the Note, Loan Agreement and Deed of Trust, collectively, the "Loan and Security Documents"). The Assignment of Rents is recorded with the Maricopa County Recorder at Document No. 20110550930, and includes and assigns to Alliance, among other things, all rents, revenues, issues, profits, proceeds, receipts, income, accounts and other receivables arising out of or from the Property. A true and correct copy of the Assignment of Rents is attached hereto as **Exhibit 5**.

5. On June 30, 2016 (the "Maturity Date"), the Loan matured and the Debtor failed to repay the Loan on or before the Maturity Date.

6. Alliance commenced foreclosure against the Property by recording a *Notice of Trustee's Sale*, which noticed and set an original trustee's sale (the "Trustee's Sale") date for January 16, 2017 (the "Trustee's Sale Date"). The Trustee's Sale Date has been postponed by Alliance to July 24, 2017.

6. Prepetition, in or about September 2016, Alliance exercised its right under the Assignment of Rents to collect all rents (collectively, the "Rents") from the Property directly from the tenant (the "Tenant"). The monthly rent owed under the current lease on the Property is $18,000 (the "Monthly Rent").

8. On February 16, 2017, the Debtor filed its petition for Chapter 11 bankruptcy (the "Petition Date").

B. Prior Stipulation and Agreement Regarding Post-Petition Rents

9. Between November 2016 and the Petition Date, Alliance collected the Monthly Rent directly from the Tenant and applied the Monthly Rent as provided in the Loan and Security Documents.

10. Following the Petition Date, the Debtor consented to Alliance continuing to collect the Monthly Rent directly from the Tenant for deposit and sequestration by Alliance in the Debtor's Debtor-In-Possession account with Alliance (the "DIP Account"). Since the Petition Date, Alliance has collected the Monthly Rent and deposited it in the DIP Account.

11. As of June 23, 2017, the balance of Rent in the DIP Account totals $71,951.34 (the "6/23 DIP Balance").

12. As of May 31, 2017, Alliance asserts (but Debtor does not agree) that the balance owed under the Loan is at least $2,673,156.50 plus accrued and accruing interest at the default rate provided for in the Loan and Security Documents, fees and costs.

Alliance asserts that Postpetition default rate interest, fees and costs continue to accrue under the Loan and Security Documents.

13. Alliance asserts (but Debtor does not agree) that under the Assignment of Rents, the Debtor absolutely assigned all Rents to Alliance prepetition. Additionally, Alliance asserts that as a result of its prepetition exercise of the Assignment of Rents, all prepetition and postpetition Rents, including without limitation the Monthly Rent, are the property of Alliance.

14. On July 5, 2017, the Debtor and Alliance jointly filed the *Stipulation By Western Alliance Bank and Debtor 2260 East Main Street, LLC, for Entry of Stipulated Order Regarding Forbearance, Sale of Property and Disposition of Postpetition Rents* (the "Rent Stipulation") [Dkt. #72].

15. Pursuant to the Rent Stipulation, the Debtor and Alliance stipulated and agreed to, among other things, the following:

a. Alliance may apply 50% of the 6/23 DIP Balance ($35,975.67) to the outstanding amount due under the Loan in accordance with the Loan and Security Documents. The remaining $35,975.67 of the 6/23 DIP Balance will remain sequestered in the DIP Account pending further order of the Court ("Remaining DIP Balance").

b. Alliance will continue to collect and deposit all Monthly Rent into the DIP Account established and maintained at Alliance. Beginning with the Monthly Rent received for the month of July 2017 and continuing thereafter until further order of the Court, Alliance may apply $16,800 of the Monthly Rent to the outstanding amount due under the Loan in accordance with the Loan and Security Documents. The remaining $1,200 of the Monthly Rent will remain sequestered and on deposit in the DIP Account pending further order of the Court ("DIP Rents").

16. The Court entered an order approving the Rent Stipulation (the "Rent Order") [Dkt. #74]. Alliance subsequently applied the $35,975.67 of the sequestered rent to the outstanding interest owed by the Debtor under the Loan in accordance with the Rent

Order.

C. Disputes Between the Parties

17. On May 17, 2017, the Debtor filed its proposed *Disclosure Statement Describing Debtor's Chapter 11 Plan of Reorganization Dated May 17,* 2017 (the "Disclosure Statement") [Dkt. #65] and *Debtor's Chapter 11 Plan of Reorganization Dated May 17, 2017* (the "Plan") [Dkt. #66].

18. The Debtor and Alliance dispute the adequacy of the Disclosure Statement, confirmation of the Plan, value of the Property and whether the interests of Alliance in the Property are adequately protected.

19. The Debtor and Alliance also dispute the allowed amount of Alliance's secured claim and dispute the validity of the Debtor's alleged lender liability claims against Alliance.

D. Offer to Purchase Property

20. Following the entry of the Rent Order, the Debtor received an offer from Hari Sachanandani or his assignee (the "Buyer") to purchase the Property for a final negotiated purchase price of $2.75 million (the "Purchase Price").

21. The Debtor desires to sell the Property to the Buyer for the Purchase Price. The Debtor intends to file a motion with the Court seeking to sell the Property under Bankruptcy Code § 363 and approve this Stipulation pursuant to FRBP 9019 (the "363/9019 Motion") with the Bankruptcy Court.

22. Debtor asserts that COBE Real Estate, Inc. ("COBE"), the court appointed real estate broker in this case, is not (and will not be) entitled to any payment or commission in connection with the proposed Sale of the Property to Buyer.

E. Benefits Of Stipulation

23. The Debtor and Alliance are entering into this Stipulation to avoid further costly and protracted litigation over, among other things, Plan confirmation, stay relief,

claims litigation, and adequate protection. If the 363/9019 Motion and this Stipulation are approved by the Court, it will resolve all issues between Alliance and the Debtor in this Bankruptcy Case, as well as the Guaranty.

24. Alliance is accepting a discount on its allowed claim as provided in this Stipulation solely in order to facilitate and accommodate the Debtor's proposed sale of the Property as set forth herein. By agreeing to the discounted claim amount, as provided in this Stipulation, the Debtor will be able to pay allowed administrative claims and pay $175,000 to Forrest River through the proposed 363/9019 Motion. Alliance is agreeing to the discounted payment solely as an accommodation to the Debtor and its estate in order sell the Property pursuant to Bankruptcy Code § 363 consensually instead of Alliance obtaining relief from the automatic stay to complete a foreclosure of the Property, which may result in no payments to administrative claimants or Forrest River.

F. Bankruptcy Court Approval.

25. The Debtor and Alliance will present this Stipulation for approval by the Bankruptcy Court under Rule 9019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") pursuant to the 363/9019 Motion. If the 363/9019 Motion is approved by the Bankruptcy Court and the Property is sold pursuant to the Sale Motion under Bankruptcy Code § 363, the Stipulation will be binding on and will control all aspects of the debtor/creditor relationship between the Debtor and Alliance in this Bankruptcy Case. This Stipulation will be effective upon the occurrence of (the "**Effective Date**") the following: (i) the entry of an order approving this Stipulation by the Bankruptcy Court; (ii) the closing of the sale of the Property in accordance with the order approving the Sale Motion; and (iii) Alliance receives the $2.55MM Payment (defined below) and $16,800 of Monthly Rent for all months preceding the closing of the sale of the Property.

II. PROVISIONS

1. **Incorporation of Recitals**. The Recitals above are incorporated into these Provisions without any difference or distinction between the two (2) segments of this Stipulation.

2. **363/9019 Motion.** The Debtor shall file with the Bankruptcy Court the 363/9019 Motion within five (5) days of execution of this Stipulation, in a form acceptable to Alliance. The Debtor shall request a hearing on the Sale Motion of the Property to occur within 30 days of this Stipulation. Alliance will support a sale of the Property pursuant to the 363/9019 Motion.

3. **Payment to Alliance**. At the closing of the Sale (which shall occur as promptly as possible), the Debtor shall pay to Alliance directly from the escrow of the sale of the Property the sum of $2,550,000 (the "$2.55MM Payment"). The $2.55MM Payment shall be made to Alliance in cash (via wire transfer) together with the $16,800 of Monthly Rent paid to Alliance pending closing of the Sale in full and final satisfaction of all amounts owed by the Debtor to Alliance under the Loan, the Loan and Security Documents, and the Guaranty.

3. **Releases**. Upon the occurrence of the Effective Date:

a. Except as expressly provided in this Stipulation, the Debtor and all of its affiliates, agents, consultants, employees, attorneys, directors, officers, trustees, representatives, successors, and assigns, including but not limited to, Brent McMahon, Ramona Mary Sears and Mega RV Corp. (collectively, the "Debtor Parties"), shall forever release and discharge Alliance and any and all of its affiliates, agents, consultants, employees, attorneys, directors, officers, representatives, successors, and assigns (collectively, "Alliance Parties"), from any and all causes of action, actions, liabilities, demands, obligations, costs, expenses, or claims (hereinafter collectively "Claims") of any nature whatsoever, whether arising before or after the commencement of the Bankruptcy Case, whether such Claims are known, unknown, suspected, unsuspected, fixed, contingent, liquidated, unliquidated, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, arising from or related to any aspect of the relationship between the Debtor

Parties and the Alliance Parties prior to the Effective Date, including, without limitation, Claims arising from or related to the Loan, Note, Deed of Trust, Alliance's Proof of Claim in this Bankruptcy Case, the Property, or any lender liability claims alleged by the Debtor Parties against the Alliance Parties.

b. Except as expressly provided in this Settlement Agreement or the Plan, the Alliance Parties shall forever release and discharge the Debtor Parties from any and all Claims of any nature whatsoever, whether arising before or after the commencement of the Bankruptcy Case, whether such Claims are known, unknown, suspected, unsuspected, fixed, contingent, liquidated, unliquidated, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, arising from or related to any aspect of the relationship between the Debtor Parties and the Alliance Parties prior to the Effective Date, including, without limitation, Claims arising from or related to the Loan, Note, Deed of Trust, Alliance's Proof of Claim in this Bankruptcy Case, Guaranty, or the Property.

4. Monthly Rent. Pending the occurrence of the Effective Date, Alliance shall continue to collect $16,800 of the Monthly Rent for the Property (including without limitation $16,800 of the Monthly Rent for the months of July, August, and September). Alliance shall apply the Monthly Rent collected to the outstanding balance of the Loan in accordance with the Rent Stipulation. The collection of Monthly Rent by Alliance shall be paid to Alliance in addition to the $2.55MM Payment and shall not be a credit against that amount subject to Paragraph 3 above. Debtor shall be entitled to retain the Remaining DIP Balance and DIP Rents free of any claim or lien of Alliance.

5. Miscellaneous Matters.

The Debtor and Alliance also agree as follows:

(a) This Stipulation constitutes the entire agreement of Alliance and the Debtor.

(b) Time is of the essence of this Stipulation.

(c) Once approved by an order of the Bankruptcy Court, the terms and conditions of this Stipulation will govern and control all aspects of the debtor/creditor

relationship of Alliance and the Debtor with regard to the matters set forth in this Stipulation.

(e) The parties will do such things and execute such documents as are necessary and appropriate to carry out the terms and conditions of this Stipulation.

(f) This Stipulation may be executed in counterparts. Facsimile or electronic signatures by the Parties will be accepted as original signatures.

(g) Except as expressly provided in this Stipulation, and unless and until the $2.55MM Payment and Monthly Rents are paid in full, Alliance retains all of its rights and remedies under the Loan and Security Documents and Guaranty (subject to any defenses thereto) executed in connection with the Loan and the Property. If the Debtor fails to timely file the 363/9019 Motion, Alliance expressly reserves its right to move forward with seeking relief from the automatic stay with regard to the Property in this Bankruptcy Case.

RESPECTFULLY SUBMITTED this ___ day of August, 2017.

WESTERN ALLIANCE BANK, an Arizona corporation

By: */s/*
Robert Simpson
Its: Senior Vice President

2260 EAST MAIN STREET, LLC,

By: */s/*
Brent McMahon
Its: Managing Member

EXHIBIT "1"

EXHIBIT 2

EXHIBIT 2

RELEASE AGREEMENT

This Release Agreement (this "Agreement") executed as of August [____], 2017, by **BRENT MCMAHON**, individually (**"Guarantor"**), **2260 EAST MAIN STREET, LLC**, an Arizona limited liability company (**"Grantor"**) and **FOREST RIVER, INC.**, an Indiana corporation (together with its successors and assigns, **"Lender"**). Guarantor, Grantor and Lender shall be referred to hereto collectively as "Parties" and individually as a "Party."

(a) On June 8, 2011, Mega RV Corp., a California corporation (**"Borrower"**), executed a promissory note to Lender for two million dollars.

(b) On November 3, 2013, Borrower executed a second promissory note to Lender for two million dollars.

(c) Guarantor and Lender are parties to a Guaranty dated June 8, 2013 and a Guaranty dated December 5, 2013 (as amended, restated, modified or extended from time to time, the "**Guaranties**") under which Guarantor agreed to guaranty all of the obligations owed by Borrower to Lender.

(d) Grantor and Lender are parties to a Deed of Trust and Assignment of Rents with Security Agreement and Financing Statement (Fixture Filing) dated December 18, 2013 (as amended, restated, modified or extended from time to time, the "**Deed of Trust**") under which Grantor pledged real property it owns commonly known as 2260 E. Main Street, Mesa, AZ 85213 (the **"Property"**) to secure the obligations of Borrower to Lender.

(e) On June 10, 2014, Lender filed suit against Borrower and Guarantor in Elkhart Superior Court 1, Cause No. 20D01-1406-PL-166 (the "Lawsuit") for failing to pay their obligations under the promissory notes and the Guaranties when due.

(f) On June 15, 2014, Borrower filed for Chapter 11 bankruptcy in the United States Bankruptcy Court for the Central District of California.

(g) On October 22, 2014, Guarantor filed a counterclaim against Lender in the Lawsuit, and subsequently amended it on September 16, 2015.

(h) On February 16, 2017, Grantor filed a Chapter 11 bankruptcy case in the United States Bankruptcy Court for the Central District of California.

(i) Guarantor and Grantor have requested that Lender release Guarantor from the Guaranty and Grantor from the Deed of Trust and Lender has agreed, subject to the provisions of this Agreement.

NOW, THEREFORE, in consideration of these premises and the agreements and undertakings set forth herein, and each act done pursuant thereto, in reliance on the recitals above, each of which is deemed a representation and warranty herein, Guarantor, Grantor and Lender agree as follows:

1. **Payment.** Grantor will pay Lender One Hundred Seventy-Five Thousand and 00/100 Dollars ($175,000.00) (the "**Payment**") from the proceeds of the sale of the Property. In consideration for the Payment, Lender will release the Deed of Trust at a closing of the sale of the Property.

2. **Release by Lender.** Upon receipt of the Payment, Lender releases and discharges Guarantor and Grantor from any and all claims, demands, debts, causes of action, or liabilities, obligations, damages and liabilities of any nature whatsoever at law or in equity, known or unknown, disclosed or undisclosed, anticipated or unanticipated, asserted or unasserted, direct or indirect, contingent or liquidated that Lender had, has, or may claim to have against Guarantor and/or Grantor in connection with the Guaranties or Deed of Trust, including, but not limited to, claims that were or could have been asserted in the Lawsuit.

3. **Release of Lender by Guarantor and Grantor.** Guarantor and Grantor, for and behalf of themselves and their agents, principals, attorneys, successors, and assigns, separately and collectively, release and discharge Lender, and its respective agents, employees, attorneys, accountants, successors, and assigns, separately and collectively, from any and all claims, demands, debts, liens, causes of action, or liabilities, obligations, damages and liabilities of any nature whatsoever at law or in equity, known or unknown, disclosed or undisclosed, anticipated or unanticipated, asserted or unasserted, direct or indirect, contingent or liquidated, that they had or now have, or may claim to have, in contract or in tort, by statute or at common law, including, but not limited to, claims that were or could have been asserted in the Lawsuit.

4. **Dismissal of Lawsuit.** Within five (5) business days of Lender's receipt of the Payment, Lender and Guarantor shall file a stipulation of dismissal of the Lawsuit with prejudice pursuant to Indiana Trial Rule 41(A)(1)(b), in the form attached hereto as Exhibit A.

5. **Representation by Counsel.** Each Party has had the opportunity to be represented by counsel in entering into this Agreement. Each of the Parties affirms to the other that it has consulted and discussed the provisions of this Agreement with its counsel and fully understands the legal effect of each such provision.

6. **Binding Effect/Court Approval.** This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties. This Agreement shall only become effective upon proper approval by the United States Bankruptcy Court for the Central District of California.

7. **Modification.** This Agreement shall not be amended or modified except by a writing signed by each of the Parties affected by such amendment or modification.

8. **Counterparts.** To facilitate execution, this Agreement may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature or acknowledgment of, or on behalf of, each party, or that the signature of all persons required to bind any party, or the acknowledgment of such party, appear on each counterpart. All counterparts shall collectively constitute a single instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than a single counterpart containing the respective

signatures of, or on behalf of, and the respective acknowledgments of, each of the parties hereto. Any signature or acknowledgment page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures or acknowledgments thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature or acknowledgment pages. Signatures by facsimile, portable document format or similar electronic format shall be deemed to be original signatures for all purposes.

9. **Governing Law.** This Agreement shall be governed by, construed and interpreted pursuant to the laws of the State of Indiana without regard to its conflicts of law principals.

10. **Full and Complete Agreement.** This Agreement contains the full and complete agreement of the Parties hereto, and all prior negotiations and agreements pertaining to the subject hereof are merged into the Agreement. Each Party expressly disclaims reliance on any facts, promises, undertakings, or representations made by any other Party or its agents or attorneys prior to the execution of this Agreement.

11. **No Reliance.** Except as expressly set forth herein, neither Party has relied on any representation or warranty made by another Party in entering into this Agreement.

12. **Voluntary Agreement**. Each Party agrees that the Party has reviewed this Agreement and that each fully understands and voluntarily accepts all the provisions contained in this Agreement. The Parties further agree that this Agreement was the product of negotiations between the Parties and that any rule of construction that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement.

13. **Construction**. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning and not strictly for or against any of the Parties.

14. **Severability**. Should any provision of this Agreement be held by any court of competent jurisdiction to be illegal, invalid or unenforceable for any reason, then the remaining portions of this Agreement will nonetheless remain in full force and effect, unless such portion of the Agreement is so material that its deletion would violate the obvious purpose and intent of the Parties.

15. **Waiver**. The Parties agree that no breach of any provision hereof can be waived except in writing. The waiver of a breach of any provision hereof shall not be deemed a waiver of any other breach of any provision hereof.

[Signature page follows]

[Signature page to Release Agreement]

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date first written above.

GUARANTOR:

Brent McMahon, individually

GRANTOR:

2260 EAST MAIN STREET, LLC

By: _____

Printed Name: Brent McMahon

Title: Managing Member

LENDER:

FOREST RIVER, INC.

By: _____

Printed Name: _____

Title: _____

20867496.1

[Signature page to Release Agreement]

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date first written above.

GUARANTOR:

_____
Brent McMahon, individually

GRANTOR:

2260 EAST MAIN STREET, LLC

By:_____

Printed Name:_____

Title:_____

LENDER:

FOREST RIVER, INC.

By: _____

Printed Name: JP GREENLEE

Title: CFO

20867496.1

EXHIBIT 3

EXHIBIT 3

AGREEMENT FOR PURCHASE AND SALE OF PROPERTY

AND ESCROW INSTRUCTIONS

BY AND BETWEEN

2260 EAST MAIN STREET, LLC
(Seller)

AND

HARI SACHANANDANI, or assigns
(Buyer)

AGREEMENT FOR PURCHASE AND SALE OF PROPERTY AND ESCROW INSTRUCTIONS

THIS AGREEMENT FOR PURCHASE AND SALE OF PROPERTY AND ESCROW INSTRUCTIONS (the "**Agreement**") is made as of August ____, 2017, by and between Debtor and Debtor in Possession, 2260 EAST MAIN STREEET, LLC, an Arizona limited liability company ("**Seller**"), and Hari Sachanandani, or assigns ("**Buyer**"), based upon the following facts:

RECITALS

A. Seller is the Debtor in Chapter 11 Case No. 8:17-bk-10571-MW (the "**Case**") pending in the United States Bankruptcy Court, Central District of California, Santa Ana Division (the "**Bankruptcy Court**"). The Seller owns the real property with an RV center, located at 2260 East Main Street, in the city of Mesa, County of Maricopa, State of Arizona, more particularly described in **Exhibit A** attached hereto (the "**Real Property**"). The Real Property and all rights, privileges, easements and appurtenances pertaining thereto, together with all of Debtor's right, title and interest in any fixtures or improvements located on or in the Real Property are hereinafter referred to collectively "**Property**."

B. Seller desires to sell the Property to Buyer, and Buyer desires to purchase the Property from Seller, on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the above-referenced facts, the mutual promises contained below and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Seller and Buyer agree as follows:

ARTICLE I

AGREEMENT AND PURCHASE PRICE

1.1 Purchase Price. Seller hereby agrees to sell, transfer and assign to Buyer all of Seller's right, title and interest in and to the Property, and Buyer hereby agrees to purchase and assume the same, all upon the terms and conditions set forth in this Agreement. The purchase price for the Property to be paid to Seller by Buyer (the "**Purchase Price**") shall be Two Million Seven Hundred Fifty Thousand Dollars ($2,750,000.00).

1.2 Terms of Payment. Buyer's payment of the Purchase Price shall be accomplished as follows:

(a) Deposit. Within two (2) business days after the opening of the Escrow (as defined in Section 4.1), Buyer shall deposit into Escrow cash in the amount of Two Hundred Fifty Thousand Dollars ($250,000.00) (the "**Deposit**"). Escrow Holder (as defined in Section 4.1) shall hold the Deposit in a non-interest-bearing account. The Deposit shall be non-refundable unless the Closing (as defined in Section 4.2) thereafter fails to occur due to the failure of the contingency for issuance of the Approval Order pursuant to Section 1.3, due to a default by Seller under this Agreement. The Deposit shall be paid to Seller as liquidated damages in full as provided in Section 6.3, if the Closing fails to occur due to Buyer's default under this Agreement. The Deposit shall be applied against the Purchase Price if the Closing occurs.

(b) Balance. The balance of the Purchase Price, (the "**Closing Payment**") shall be deposited by Buyer in to Escrow, by cash or by wire transfer, at least one (1) business day prior to the Closing.

1.3 Contingency for Bankruptcy Court Approval.

(a) Contingency. Seller and Buyer acknowledge and agree that each party's obligation to consummate the transactions contemplated by this Agreement is contingent upon the Bankruptcy Court having entered the Approval Order (as defined below). Seller shall file a motion with the Bankruptcy Court (the "**Sale Motion**") seeking authorization of, among other things, (1) the designation of Buyer as the proposed purchaser of the Property (2) the assignment of the Lease (as hereinafter defined), and (3) the sale of the Property pursuant to this Agreement. Seller shall request that the Bankruptcy Court issue a final order on the Sale Motion, in form and content reasonably acceptable to Seller and Buyer and not subject to any stay (the "**Approval Order**") that, among other things, (A) authorizes Seller to enter into such documents and agreements as may be necessary to implement such transaction; (B) approves and authorizes, pursuant to Sections 105, 363 and/or 365 and any other applicable provisions of the Bankruptcy Code, the sale and transfer of the Property to Buyer free and clear of liens, liabilities and other interests of any kind and nature (other than the Permitted Exceptions in the Title Report (as defined below), with such liens, liabilities, adverse claims and other interests, if any, to attach to the proceeds of the sale; (C) contains a finding that Buyer's purchase of the Property constitutes a purchase in good faith within the meaning of Section 363(m) of the Bankruptcy Code and that Buyer is entitled to have the protections afforded by that section; (D) contains a finding that reasonable and adequate notice of the sale and transfer of the Property to Buyer has been provided to all parties required to be given notice under the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules for the Central District of California; and (E) contains a finding that neither Seller nor Buyer has engaged in any conduct that would cause or permit the sale of the Property to be avoided under Section 363(n) of the Bankruptcy Code.

1.4 Grant Deed. Seller's conveyance of the Property shall be made by a grant deed substantially in the form attached hereto as **Exhibit B** (the "**Grant Deed**").

1.5 Assignment of Lease. At Closing, and pursuant to the Approval Order and 11 U.S.C. § 365, Seller shall assign all of Debtor's and the bankruptcy estate's rights, obligations and remedies under the tenant lease described in **Exhibit C** attached hereto (the "Lease") to Buyer pursuant to a written assignment of lease in the form of **Exhibit D** attached hereto (the "**Assignment of Lease**"). Pursuant to the Assignment of Lease, Buyer shall assume in writing all of Debtor's and Seller's rights, obligations and remedies under the Lease as of the Closing Date. Prior to closing, Buyer acknowledges and agrees that Seller shall have the right to terminate the Lease under its terms and applicable laws in the event of default of the tenant under such Lease. The conditions precedent to Buyer's obligations under this Agreement shall include provision to Buyer, on or prior to the Closing Date, of an order of the Bankruptcy Court authorizing the assignment to Buyer of the Lease. Upon Closing, Seller shall provide a written notice to the tenant under the Lease notifying such tenant of the transfer of the Property (the "Tenant Notice").

ARTICLE II

BUYER'S INVESTIGATION OF THE PROPERTY

2.1 Preliminary Title Report. Buyer acknowledges receipt of a preliminary report or title commitment attached hereto as **Exhibit E** (the "**Title Report**") issued by First American Title Company (the "**Title Company**"), disclosing the condition of title to the Property, together with complete and legible copies of all documents of record referenced therein as exceptions or referred to in any exception or reservation in the legal description of the Property. The liens of Western Alliance Bank and Forest River, Inc. shall be removed and Seller shall have no responsibility to pay any property taxes. Buyer acknowledges and agrees that nothing in this Agreement shall be construed as a warranty or representation by Seller concerning Seller's title to the Property, Seller makes no such representations or warranties, and Buyer will be relying solely upon the Title Report, the Grant Deed and Buyer's own investigations respecting the condition of title to the Property.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

3.1 Seller's Representations and Warranties. Seller makes the representations and warranties set forth in this Section as of the date of this Agreement. Seller's allowing the Closing to occur shall constitute additional representations and warranties that the representations and warranties set forth in this Section remain true and correct as of the Closing, except as may be disclosed in writing by Seller to Buyer prior to the Closing. The truth and accuracy of the representations and warranties made in this Section shall constitute a condition to the Closing solely for Buyer's benefit. For the purposes of this Agreement, "to Seller's knowledge" shall mean the current, actual, knowledge of Seller without any duty to investigate or inquire as to any matter and without any duty to review any prior communication or information regarding any matter.

(a) Authority. Seller has the power and authority to enter into this Agreement and, subject to approval of the Bankruptcy Court: (i) Seller has the power and authority to consummate the transactions contemplated by this Agreement, (ii) this Agreement and all instruments, documents and agreements to be executed by Seller in connection therewith are, or when delivered will be, duly authorized, executed and delivered by Seller and will be valid, binding and enforceable obligations of Seller, and (iii) to Seller's knowledge, no other action by Seller is requisite to the valid and binding execution, delivery and performance by Seller of its obligations under this Agreement, except as expressly set forth in this Agreement.

(b) FIRPTA. Seller is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended.

3.2 Buyer's Representations and Warranties. In addition to any other representations, warranties and covenants of Buyer contained in this Agreement, Buyer makes the representations and warranties set forth in this Section as of the date of this Agreement. Buyer's allowing the Closing to occur shall constitute additional representations and warranties that the representations and warranties set forth in this Section remain true and correct as of the Closing, except as may be disclosed in writing by Buyer to Seller prior to the Closing. The truth and accuracy of the representations and warranties made in this Section shall constitute a condition to the Closing solely for Seller's benefit.

(a) Authority. Buyer has the power and authority to enter into this Agreement and consummate the transactions contemplated by this Agreement. This Agreement and all instruments, documents and agreements to be executed by Buyer in connection therewith are, or when delivered will be, duly authorized, executed and delivered by Buyer and will be valid, binding and enforceable obligations of Buyer. To Buyer's knowledge, no other action by Buyer is requisite to the valid and binding execution, delivery and performance by Buyer of its obligations under this Agreement, except as expressly set forth in this Agreement.

(b) Available Funds. Buyer has the necessary liquid funds to pay the Purchase Price and to consummate the transactions contemplated by this Agreement.

(c) Reliance. Having been given the full opportunity to inspect the Property and review information and documentation concerning the Property as set forth in this Agreement, Buyer is relying solely upon its own inspections, investigations and analyses of the Property in purchasing the Property and is not relying in any way upon any other representations, statements, agreements, warranties, studies, reports, descriptions, guidelines or other information or material furnished by Seller or its representatives, whether oral or written, express or implied, of any nature whatsoever regarding any of the foregoing matters. Accordingly, it is the express intention of Buyer and Seller that Seller has made no representations, warranties or guarantees, express or implied, written or oral, concerning the Property or its condition, physical or environmental. Buyer is further aware that due to the unique nature of bankruptcy estates, Seller has not personally audited,

investigated or inspected the Property and has not personally used the Property. Buyer agrees that it is not economical or reasonable for Seller to audit, investigate or inspect the Property under these circumstances because the trustee was not appointed for the purpose of using the Property on an extended basis. Buyer wishes to acquire the Property and Buyer is in a much better position to properly audit, investigate and inspect the Property for Buyer's particular use. Buyer has greater assets and facilities than Seller, the bankruptcy estate for which Seller was appointed or the Debtor's bankruptcy estate to make a diligent audit, investigation and inspection of the Property. Buyer further agrees that, to the maximum extent permitted by law, Seller will be exempt from all disclosure requirements under non-bankruptcy law.

3.3 "As-Is" Purchase; Environmental Matters; Waiver and Release.

(a) As-Is. Buyer represents, warrants, acknowledges and agrees that Seller has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning or with respect to (i) value of the Property; (ii) the suitability of the Property for any and all activities and uses which Buyer may conduct therefrom or thereon, (iii) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the Property; (iv) the manner, quality, state of repair or lack of repair of the Property; (v) the nature, quality or condition of the Property, including, without limitation, the water, soil and geology; (vi) the compliance of or by the Property or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body; (vii) the manner or quality of the construction or materials, if any, incorporated into the Property; (viii) the resources to be derived from the Property or the availability of water or other resources to the Property; (ix) compliance with any environmental protection, pollution or Property use laws, rules, regulations, orders or requirements, including but not limited to, the Federal Water Pollution Control Act, the Federal Resource Conservation and Recovery Act, the U.S. Environmental Protection Agency Regulations at 40 C.F.R., Part 261, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, the Resources Conservation and Recovery Act of 1976, the Clean Water Act, the Safe Drinking Water Act, the Hazardous Materials Transportation Act, the Toxic Substance Control Act, and regulations promulgated under any of the foregoing (collectively, "**Environmental Laws**"); (x) the presence or absence of any hazardous or toxic waste, substance or constituent as defined in any applicable federal, state or local law, ordinance or regulation, or any other substance (including, without limitation, any asbestos, asbestos containing materials, polychlorinated biphenyls, oils, petroleum or any fraction thereof, or crude oil or any fraction thereof) (collectively, "**Hazardous Materials**") or any underground storage tanks at, on, under, or adjacent to the Property; (xi) the content, completeness or accuracy of any materials, documents, title reports or other documents or reports regarding the Property; (xii) the conformity of any improvements to any plans or specifications for the Property, including any plans and specifications that may have been or may be provided to Buyer; (xiii) the conformity of the Property to past, current or future applicable zoning or other requirements; (xiv) deficiency of any undershoring; (xv) the fact that all or any part of the Property is or may be in located in flood plain or flood area or floodplain special study area that is subject to restricted to limited or no development; (xvi) deficiency of any drainage; (xvii) the fact that all or a portion of the Property may not be developable on reasonable term or at all, or may be located on or near an earthquake fault line or special geological zone; (xviii) the non-existence of vested land use, zoning or building entitlements affecting the Property and the requirements of laws, regulations and policies governing, constraining or preventing development of all or a portion of the Property; (xix) any claims, causes of action or demands by adjoining land owners or other third parties; (xx) the impact of, or ability to amend, any easements or other documents referenced in the Title Report or other title reports for the Property; (xxi) the availability of any insurance coverage for any aspect of the Property or any improvement thereon; (xxii) the impact of any condemnation or similar proceedings or projects that may be pending or contemplated with respect to the Property, or (xxiii**)** with respect to any other matter, including any and all such matters referenced, discussed or disclosed in any documents delivered by Seller to Buyer, in any public records of any governmental agency or entity or utility company, or in any other documents available to Buyer. Buyer further acknowledges and agrees that the sale of

the Property as provided for herein is made on an "AS-IS" "WHERE IS" condition and basis "WITH ALL FAULTS," and that Seller has no obligation to make repairs, replacements or improvements thereto. Buyer further acknowledges and agrees that any information made available to Buyer or provided or to be provided by or on behalf of Seller with respect to the Property was obtained from a variety of sources and that Seller has not made any investigation or verification of such information and makes no representations as to the accuracy or completeness of such information. Buyer fully and irrevocably releases all such sources of information and preparers of information and documentation to the extent such sources or preparers are Existing Lender, Debtor or Seller, or any of their respective affiliates, subsidiaries, successors or assigns or any employees, officers, directors, members, partners, agents, attorneys, brokers or other representatives of any of the foregoing (collectively, the "**Seller Parties**") from any and all claims that they may now have or hereafter acquire against such sources and preparers of information for any cost, loss, liability, damage, expense, demand, action or cause of action arising from such information or documentation. Seller shall not be liable or bound in any manner by any oral or written statements, representations or information pertaining to the Property, or the operation thereof, furnished by any of the foregoing entities and individuals or any other individual or entity. Seller and Buyer have each initialed this Section 3.3(a) to further indicate their awareness and acceptance of each and every provision of this Section 3.3(a).

_____ _____

Initials of Seller Initials of Buyer

(b) Indemnity. Buyer expressly assumes and shall indemnify, protect, defend (with counsel acceptable to Seller) and hold harmless Seller and the Seller Parties from, against and in respect of any and all actual or alleged claims, demands, losses, liabilities, obligations, damages, costs and expenses (including, without limitation, attorneys' fees, fines, penalties, consequential damages and remedial costs), known or unknown, suspected or unsuspected, now or hereafter existing or discovered, which are in any manner or way arising out of, related to or incurred in connection with: (i) the physical condition of the Property (including, without limitation, seismic, mechanical and/or structural condition) after the Closing; (ii) Buyer's operation, use or, development, construction, marketing or sale of the Property or any other activities on or about or relating to the Property after the Closing; (iii) any violation of laws and/or any and all legal and other matters affecting the Property after the Closing, including, without limitation, the environmental condition of the Property and the surrounding property, including, without limitation, all facilities, improvements, structures and equipment thereon and soil and groundwater and any release or migration of any Hazardous Materials into, onto or from the Property at any time or the presence, discharge, treatment, recycling, storage, use, transportation, generation, migration or disposal by any person or entity of any Hazardous Materials which are now or hereafter present on or about the Property, or have been or may deposited at, disposed on, or released or migrated onto or from the Property; and (iv) demolition, clean-up or other response or remedial measures with regard to environmental conditions on or around the Property resulting from the ownership, development or use of the Property after the Closing. Seller and Buyer have each initialed this Section 3.3(b) to further indicate their awareness and acceptance of each and every provision of this Section 3.3(b).

_____ _____

Initials of Seller Initials of Buyer

(c) Waiver and Release. Buyer and anyone claiming by, through or under Buyer hereby fully and irrevocably releases Seller and the other Seller Parties from any and all claims that it may now have or hereafter acquire against Seller or the other Seller Parties, and all persons, firms, corporations and organizations acting in its or their behalf for any costs, loss, liability, damage, expenses, demand, action or cause of action arising from, caused by or relating to, or alleged to have arisen from or have been caused by (i) those matters described in Section 3.3(a); (ii) any use of the Property, or any act or omission of any person or

entity before or after the Closing; (iii) any defect in the design or construction of, or material incorporated into, any grading, structure or other improvement on the Property, including, but not limited to, defects in the soils or in the preparation of soils; (iv) the physical condition or state of repair of the Property; (v) the legal condition or status of the Property; (vi) the presence or existence of any Hazardous Materials or storage tanks at, on, in, under, adjacent to or in the vicinity of the Property (including ground water) whether caused or existing prior to or after the Closing or the impairment or damage caused hereby to the Property or any other property, including, but not limited to, any right Buyer may have under Environmental Laws or otherwise to seek indemnity, contribution or other sharing of liability from any Seller Party; unless the presence of the Hazardous Material was caused by the act of Seller, its agents or contractors, (vii) any violation or alleged violation by any person or entity of any law now or hereafter enacted to the extent relating to the Property before or after the Closing; (viii) slope erosion, sluffing or failure of subservice geological ground water condition on or adjacent to the Property, including the effect of such failures or conditions on adjacent properties; and (ix) the application of the principles of strict liability with respect to any act or omission of any person or entity concerning the Property. This release includes claims of which Buyer is presently unaware or which Buyer does not presently suspect to exist which, if known by Buyer, would materially affect Buyer's release to Seller and Seller Parties. Buyer specifically waives the provisions of California Civil Code Section 1542, which provides as follows:

> "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

In this connection and to the extent permitted by law, Buyer hereby agrees, represents and warrants (to and for the benefit of Seller and the other Seller Parties) that Buyer realizes and acknowledges that factual matters now unknown to Buyer may have given or may hereafter give rise to causes of action, claims, demands, liabilities, debts, controversies, damages, costs, losses and expenses which are presently unknown, unanticipated and unsuspected, and Buyer further agrees, represents and warrants that the waivers and releases herein have been negotiated and agreed upon in light of that realization and that Buyer nevertheless hereby intends to release, discharge and acquit Seller and the other Seller Parties from any such unknown causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses which might in any way be included as a material portion of the consideration given to Seller by Buyer in exchange for Seller's performance under this Agreement. Seller and Buyer have each initialed this Section 3.3(c) to further indicate their awareness and acceptance of each and every provision of this Section 3.3(c).

_____ _____

Initials of Seller Initials of Buyer

(d) Exceptions from Release and Indemnity. Notwithstanding the foregoing provisions of this Section 3.3, Buyer is not agreeing to waive any claims it may have against Seller or to indemnify Seller for any loss or liability to Buyer against claims by third parties to the extent the claims are caused by Seller's acts of fraud or breach of its covenants, representations or warranties set forth in this Agreement.

3.4 Survival; Limitation on Enforcement of Rights. The representations and warranties of Seller set forth in Section 3.1 and the representations and warranties of Buyer set forth in Sections 3.2 and 3.3 shall survive the Closing for a period of one (1) year, after which neither Seller nor Buyer shall have any right to, and hereby agree not to, file any action or proceeding to enforce such representations or warranties. In the event either party has actual knowledge of any breach of any representation or warranty of the other party prior

to the Closing and nonetheless proceeds to Closing, the party with knowledge of such breach shall be deemed to have waived any such breach and shall thereafter be estopped from bringing any action with respect to such breach.

ARTICLE IV

ESCROW

4.1 Opening of Escrow. Within two (2) business days of the execution of this Agreement by Seller and Buyer, Seller and Buyer are opening an escrow (the "**Escrow**") with First American Title Insurance Company (the "**Escrow Holder**") by delivering a fully executed copy of this Agreement to Escrow Holder. Escrow Holder will execute copies of this Agreement and return fully executed copies hereof to Buyer and Seller when Escrow has opened. Escrow shall be deemed open upon Escrow Holder's execution hereof. In addition, the parties agree to be bound by the standard escrow general provisions attached hereto as **Exhibit H.** In the event of any discrepancy between this Agreement and such general provisions, the provisions of this Agreement shall prevail.

4.2 Closing of Escrow. Provided all conditions to the Closing have been satisfied or waived in writing by the benefitted party, the delivery of funds and recordation of documents to be completed by Escrow Holder pursuant to Section 4.5 (the "**Closing**") shall occur on the date (the "**Closing Date**") which is on or before the date which is fifteen (15) days after the Bankruptcy Court issues the Approval Order. Seller and Buyer specifically acknowledge and agree that, if the Escrow is not in position to close pursuant to the terms of this Agreement on or before the Closing Date (as it may be extended under the provisions of this Section) due to a failure of a condition to Closing that is neither the responsibility of Seller nor Buyer under this Agreement, this Agreement shall terminate and Buyer shall be entitled to the return of the Deposit to the extent provided under this Agreement, but only upon Buyer's delivery to Seller of all Materials and all other originals and copies of any studies, reports or other documents supplied by Seller to Buyer. If the Escrow is not in a condition to close by the Closing Date (as it may be extended under the provisions of this Section), Escrow Holder shall continue to comply with the instructions contained herein until a written demand for cancellation of the Escrow has been made by the non-defaulting party or, if neither party is in default, the party for whose benefit any unfulfilled and unwaived condition to the Closing has been created. Escrow Holder shall notify the other party of any such demand and shall immediately cancel the Escrow without any further instructions from any party.

4.3 Closing Deliveries.

(a) Deliveries by Buyer. As a condition to the Closing for Seller's benefit, prior to the Closing Buyer shall deposit or cause to be deposited with Escrow Holder all of the following:

(i) In immediately available funds, the Closing Payment specified in Section 1.2(b), and the amount of costs and prorations, payable by Buyer pursuant to Section 4.4;

(ii) Two (2) counterparts of the Assignment of Lease, as described in Section 1.5, properly executed by Buyer;

(iii) One (1) counterpart of the 1099 Designation, as described in Section 4.8, properly executed by Buyer;

(iv) One (1) counterpart of a Preliminary Change in Ownership Form, properly executed by Buyer;

(v) One (1) counterpart of a one-party Closing Statement or two (2) counterparts of a two-party Closing Statement (as hereinafter defined), as applicable, properly executed by Buyer; and

(vi) All such other funds, documents and instruments as may be reasonably required of Buyer by Escrow Holder to allow the Closing to occur.

(b) Deliveries by Seller. As a condition to the Closing for Buyer's benefit, prior to the Closing Seller shall deposit or cause to be deposited with Escrow Holder all of the following:

(i) The Grant Deed, as described in Section 1.3, properly executed and acknowledged by Seller and in recordable form;

(ii) Two (2) counterparts of the Assignment of Lease, together with the Tenant Notice, as described in Section 1.5, properly executed by Seller;

(iii) One (1) counterpart of the Certificate of Non-Foreign Status and Seller's State Tax Withholding Certificate in the forms attached hereto as **Exhibit G,** properly executed by Seller;

(iv) One (1) counterpart of the 1099 Designation, as described in Section 4.8, properly executed by Seller attached hereto as **Exhibit H**;

(v) If required by Escrow Agent, an Internal Revenue Service Form W-9, property executed by Seller;

(vi) One (1) counterpart of a one-party Closing Statement or two (2) counterparts of a two-party Closing Statement (as hereinafter defined), as applicable, properly executed by Seller; and

(vii) All such other documents and instruments as may be reasonably required of Seller by Escrow Holder to allow the Closing to occur.

In addition, upon the Closing, Seller shall also deliver directly to Buyer, outside of the Escrow, all of the other Materials, to the extent not previously delivered to Buyer.

4.4 Costs and Prorations.

(a) Escrow and Title Fees. Buyer shall pay: (i) all of the Escrow Holder's fees (or termination charges, if applicable); (ii) the cost of the Title Policy (as defined in Section 4.6) to the extent of a standard coverage CLTA owner's policy and the cost of any extended coverage and endorsements; (iii) the cost of any documentary transfer taxes payable in connection with recordation of the Deed; (iv) recording fees for the Grant Deed; and (v) the cost of performing any of Seller's other obligations pursuant to this Agreement.

(b) Prorations. There will be prorated by Escrow Holder between Seller and Buyer, as of the Closing, in accordance with customary practice in the County, based upon a 365-day year and actual days elapsed current rent under the Lease, when and as collected by Seller (provided that Seller shall have the right, but not the obligation, to recover rent arrears or assign rent arrears to Buyer on the Closing Date, whereupon Buyer shall pay rent arrears to or as directed by Seller when and as collected), as purposes of proration of the foregoing, Buyer shall be deemed to be the owner of the Property on the Closing Date.

4.5 Recordation of Documents and Delivery of Purchase Price and Documents. When all required funds and instruments have been deposited into Escrow by the appropriate parties and when all other conditions to Closing have been fulfilled, Escrow Holder shall cause the Grant Deed (with documentary transfer tax information to be filed separately) to be recorded in the Official Records of the County and deliver by check or wire transfer, (i) $2,550,000 to Alliance and $175,000 to Forest River (defined above), from funds due to Seller in clause (ii) below, an amount sufficient to fully pay-off and satisfy the debt(s) secured by the Deeds of Trust ("DOTs") and obtain the release and reconveyance of the DOTst and related security instruments, (ii) to Seller, the balance of the cash portion of the Purchase Price to which Seller will be entitled, and (iii) to Buyer, any excess funds delivered to Escrow Agent, by Buyer. A closing statement for the Escrow (the "**Closing Statement**") consistent with this Agreement and the foregoing shall be approved and executed by Buyer and Seller at least one (1) business day prior to the Closing (such approval shall not be unreasonably withheld, conditioned or delayed). Subject to the rights of the tenant under the Lease, Buyer shall be entitled to possession of the Property immediately upon the Closing. Upon the Closing, Escrow Holder shall deliver (a) to Seller, the Closing Payment, a counterpart of the 1099 Designation, a conformed copy of the recorded Grant Deed, a counterpart of the Closing Statement and a counterpart of the Assignment of Lease and (b) to Buyer, a counterpart of 1099 Designation, a conformed copy of the recorded Grant Deed, a counterpart of the Closing Statement, a counterpart of the Assignment of Lease, the certificates described in Section 4.3(b)(iii) and the Title Policy.

4.6 Title Policy. It shall be a condition to the Closing for Buyer's benefit that the Title Company be irrevocably prepared or committed to deliver to Buyer a Standard Coverage from CLTA Owner's Policy of Title Insurance dated as of Closing, insuring Buyer in an amount equal to the Purchase Price and showing title vested in Buyer subject only to the Title Company's standard printed exclusions and exceptions and the Permitted Exceptions (the "**Title Policy**"). Buyer may at its sole cost and expense arrange with the Title Company to have the Title Policy issued in such modified form (such as ALTA Extended Coverage) and with such endorsements as Buyer may desire, provided that such arrangements shall not constitute a condition to, or impede or delay, the Closing. In this regard, Buyer shall be responsible for all (additional) surveying of the Property beyond any survey delivered by Seller as may be necessary to obtain an ALTA Extended Coverage Policy.

4.7 IRS Form 1099-B. For purposes of complying with Section 6045 of the Code, as amended by Section 1521 of the Code, Escrow Holder shall be deemed the "person responsible for closing the transaction," and shall be responsible for obtaining the information necessary to file with the Internal Revenue Service Form 1099-B, "Statement for Recipients of Proceeds From Real Estate, Broker and Barter Exchange Transactions." In connection therewith, Seller, Buyer and Escrow Holder shall execute a written designation in the form attached hereto as **Exhibit H** (the "**1099 Designation**").

ARTICLE V

OTHER AGREEMENTS OF SELLER AND BUYER

5.1 Further Documents and Acts. Each of the parties hereto agrees to cooperate in good faith with each other, and to execute and deliver such further documents and perform such other acts as may be reasonably necessary or appropriate to consummate and carry into effect the transactions contemplated under this Agreement. The provisions of this Section shall survive the termination of this Agreement.

ARTICLE VI

REMEDIES

6.1 Time of Essence. Time is of the essence of every provision of this Agreement of which time is an element. If a date for performance of any obligations under this Agreement, or the expiration of any time period, falls on a Saturday, Sunday or a holiday on which national banks are closed, the date for performance of such obligation, or the expiration of such time periods shall be adjusted to be the next occurring calendar day for which is not a Saturday, Sunday or bank holiday.

6.2 Remedies for Seller's Defaults. If the sale of the Property does not occur due to Seller's default under this Agreement which is not cured within five (5) business days after notice of such default from Buyer to Seller, Buyer may, as its sole remedy, receive the return of the Deposit and all other funds delivered by or on behalf of Buyer to Seller or Escrow Holder, which return shall operate to terminate this Agreement and release Seller from any and all liability hereunder. Buyer expressly waives any right to recover lost profits or other consequential damages or punitive damages in connection with any default or wrongful conduct by Seller under this Agreement or in connection with the Property or the transactions contemplated by this Agreement.

6.3 Buyer's Failure. SELLER AND BUYER ACKNOWLEDGE THAT SUBSTANTIAL DAMAGES WILL BE SUFFERED BY SELLER IN THE EVENT THAT THE CLOSING SHOULD FAIL TO OCCUR DUE TO A DEFAULT BY BUYER UNDER THIS AGREEMENT. WITH THE UNPREDICTABLE STATE OF THE ECONOMY AND OF GOVERNMENTAL REGULATIONS, THE FLUCTUATING MARKET FOR REAL ESTATE AND REAL ESTATE LOANS OF ALL TYPES, AND OTHER FACTORS WHICH DIRECTLY AFFECT THE VALUE AND MARKETABILITY OF THE PROPERTY, THE PARTIES REALIZE THAT IT WOULD BE EXTREMELY DIFFICULT AND IMPRACTICABLE, IF NOT IMPOSSIBLE, AS OF THE SIGNING OF THIS AGREEMENT, TO ASCERTAIN WITH ANY DEGREE OF CERTAINTY THE EXTENT OF DAMAGES TO SELLER IN THE EVENT THE CLOSING FAILS TO OCCUR DUE TO BUYER'S DEFAULT. THE PARTIES HEREBY AGREE THAT A REASONABLE ESTIMATE OF SUCH DAMAGES IS THE AMOUNT OF THE DEPOSIT. ACCORDINGLY, IF THE CLOSING FAILS TO OCCUR DUE TO ANY DEFAULT BY BUYER, SELLER SHALL BE ENTITLED TO RETAIN THE DEPOSIT AS SELLER'S SOLE AND EXCLUSIVE REMEDY FOR SUCH DEFAULT. NOTHING CONTAINED IN THIS SECTION SHALL LIMIT IN ANY MANNER SELLER'S RIGHT TO RECOVERY OF ANY AMOUNT AVAILABLE UNDER APPLICABLE LAW UNDER ANY INDEMNIFICATION PROVISION IN THIS AGREEMENT OR FOR BREACH OF ANY PROVISION OF THIS AGREEMENT WHICH SURVIVES THE TERMINATION OF THIS AGREEMENT OR FOR RECOVERY OF ATTORNEYS' FEES OR OTHER COSTS UNDER THIS AGREEMENT.

_____ _____

Buyer's Initials Seller's Initials

ARTICLE VII

MISCELLANEOUS PROVISIONS

7.1 Waiver and Consent. Each provision of this Agreement to be performed by either party shall be deemed both a covenant and a condition and shall be a material consideration for the other party's performance hereunder, and any breach thereof by either party shall be deemed a material default hereunder. Either party may specifically and expressly waive in writing any portion of this Agreement or any breach thereof, but no such waiver shall constitute a further or continuing waiver of any preceding or succeeding

breach of the same or any other provision. No waiver or consent shall be implied from silence or any failure of a party to act, except as otherwise specified in this Agreement.

7.2 Attorneys' Fees. In the event any action or proceeding is instituted between Seller, Buyer or Escrow Holder in connection with this Agreement, then as between Buyer and Seller the prevailing party shall be entitled to recover from the losing party all of its costs and expenses, including, without limitation, court costs, costs of appeals, attorneys' fees and disbursements actually and reasonably incurred.

7.3 No Broker's Commissions. Seller represents and warrants to Buyer, and Buyer represents and warrants to Seller, that no broker's commissions are owing by either Buyer or Seller.

7.4 Notices. Any notice, demand, approval, consent, or other communication required or permitted hereunder or by law shall be validly given or made only if in writing, properly sent by mail, courier or telecopy, and addressed to the party for whom intended, as follows:

If to Seller:	2260 East Main Street, LLC Attn: Brent McMahon 7545 Irvine Center Drive, Suite 200 Irvine, CA 92618 Telephone: (949) 279-4493 Facsimile: (…..) …….
With a copy to:	Goe & Forsythe LLP 18101 Von Karman Avenue, Suite 1200 Irvine, CA 92612 Attn: Robert P. Goe, Esq. Telephone: (949) 798-2461 Facsimile: (949) 955-9437
If to Buyer:	Hari Sachanandani, or assigns c/o Vedra Law, LLC Attn: Daniel J. Vedra 1435 Larimer Street, Suite 302 Denver, CO 80202 Telephone: (303) 937-6540 Facsimile: (303) 937-6547
If to Escrow Holder:	First American Title Insurance Company 1125 17th Street, Suite 500 Denver, CO 80202 Telephone: ( ) …….. Facsimile: ( ) ……..

Any party may from time to time, by written notice to the other, designate a different address which shall be substituted for that specified above. Each such notice, demand, approval, consent, or other communication shall be deemed effective and given (i) two (2) business days after deposit in the United States mail, if sent by certified mail with postage prepaid, return receipt requested, (ii) one (1) business day after deposit with a nationally recognized overnight courier service, or (iii) upon receipt if delivered or sent in any other way. Buyer and Seller hereby agree that notices may be given hereunder by the parties' respective counsel and that,

if any communication is to be given hereunder by Buyer's or Seller's counsel, such counsel may communicate directly with all principals as required to comply with the provisions of this Section.

7.5 Gender and Number. In this Agreement (unless the context requires otherwise), the masculine, feminine and neuter genders and the singular and the plural shall be deemed to include one another, as appropriate.

7.6 Entire Agreement. This Agreement and its exhibits constitute the entire agreement between the parties hereto pertaining to the subject matter hereof, and the final, complete and exclusive expression of the terms and conditions thereof. All prior agreements, representations, negotiations and understandings of the parties hereto, oral or written, express or implied, are hereby superseded by and merged into this Agreement.

7.7 Captions. The captions used herein are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions hereof. All uses of the words "Article(s)" and "Section(s)" in this Agreement are references to articles and sections of this Agreement, unless otherwise specified.

7.8 Governing Law. This Agreement shall be governed by and construed under the laws of the State of California.

7.9 Invalidity of Provision. If any provision of this Agreement as applied to either party or to any circumstance shall be adjudged by a court of competent jurisdiction to be void or unenforceable for any reason, the same shall in no way affect (to the maximum extent permissible by law) any other provision of this Agreement, the application of any such provision under circumstances different from those adjudicated by the court, or the validity or enforceability of this Agreement as a whole.

7.10 Amendments. No addition to or modification of any provision contained in this Agreement shall be effective unless fully set forth in a writing signed by both Buyer and Seller.

7.11 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

7.12 Survival of Covenants. All covenants set forth in this Agreement and not required by this Agreement to be performed prior to the Closing shall survive the Closing.

7.13 Successors and Assigns. This Agreement shall be binding upon, and shall inure to the benefit of, the successors (by merger or dissolution) and permitted assigns of the parties. Except for the permitted successors and assigns described in the immediately preceding sentence, there are no third party beneficiaries to this Agreement.

7.14 Objective Construction. This Agreement reflects the negotiated agreement of the parties. Accordingly, this Agreement shall be construed as if both parties jointly prepared this Agreement and no presumption against one party or the other shall govern the interpretation or construction of any of the terms of this Agreement.

[remainder of page intentionally left blank; signature pages follow]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above, and such date shall be considered for all purposes to be the date of this Agreement.

SELLER:
2260 EAST MAIN STREET, LLC

_____
By Brent McMahon, Its Managing Member

BUYER:
HARI SACHANDANI, or assigns

_____
By: Hari Sachandani

EXHIBIT "3"

The undersigned Escrow Holder hereby certifies that Escrow opened as of _____, 2017 as Escrow No. _____. The undersigned Escrow Holder agrees to act as Escrow Holder pursuant to the terms of this Agreement.

FIRST AMERICAN TITLE INSURANCE COMPANY

By: _____
Escrow Officer

EXHIBIT "A"

DESCRIPTION OF PROPERTY

For APN/Parcel ID(s): 140-24-002D 5:

THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 1 NORTH, RANGE 6 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THE NORTH 755.82 FEET; AND

EXCEPT THE SOUTH 50 FEET; AND

EXCEPT ANY PORTION THEREOF LYING WEST OF THE EAST LINE OF THE WEST 60 FEET OF THE EAST 895.87 FEET THEREOF AND

EXCEPT THAT PORTION OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER DEEDED TO THE CITY OF MESA IN INSTRUMENT NO. 99-0082808, DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 19;

THENCE SOUTH 89 DEGREES 07 MINUTES 48 SECONDS WEST, 895.93 FEET;

THENCE NORTH 00 DEGREES 12 MINUTES 40 SECONDS WEST, 50.00 FEET;

THENCE NORTH 89 DEGREES 07 MINUTES 48 SECONDS EAST, 60.00 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 00 DEGREES 12 MINUTES 40 SECONDS WEST, 15.00 FEET;

THENCE NORTH 89 DEGREES 07 MINUTES 48 SECONDS EAST, 835.93 FEET;

THENCE SOUTH 00 DEGREES 12 MINUTES 40 SECONDS EAST, 15.00 FEET;

THENCE SOUTH 89 DEGREES 07 MINUTES 48 SECONDS WEST, 835.93 FEET TO THE POINT OF BEGINNING.

EXHIBIT B

FORM OF GRANT DEED

WHEN RECORDED RETURN AND MAIL
TAX STATEMENTS TO:

_____
_____
_____
Attention: _____

Documentary Transfer Tax not shown pursuant to
Section 11932 of the Revenue and Taxation Code, as amended

GRANT DEED

The undersigned grantor declares that, FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, and pursuant to an Order of the U.S. Bankruptcy Court, Central District of California, Santa Ana Division, Case No. 8:17-bk-10571-MW, 2260 EAST MAIN STREET, LLC ("**Grantor**"), hereby GRANTS to HARI SACHANANDANI, or assigns ("**Grantee**"), that certain real property in the City of Mesa, County of Maricopa, State of Arizona, which is more particularly described on Exhibit A attached hereto and incorporated herein by this reference ("**Property**"), subject to:

All liens, encumbrances, easements, covenants, conditions and restrictions and other matters of record, all of which matters are specifically incorporated herein by this reference and shall be a burden upon and inure to the benefit of the Property;

A lien not yet delinquent for taxes for real property and all general or special assessments against the Property; and

All liens and encumbrances not of record created by Grantee or resulting from Grantee's actions on the Property.

IN WITNESS WHEREOF, Grantor has caused this Grant Deed to be executed as of the _____ day of _____, 2017.

GRANTOR:

2260 EAST MAIN STREET, LLC, an
Arizona limited liability company,

By:_____
Name: Brent McMahon, Managing Member

ACKNOWLEDGEMENT

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

State of California)
)
County of _____)

On _____ before me, _____, Notary Public,

personally appeared _____,

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

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

WITNESS my hand and official seal.

Signature_____

(S E A L)

Document No. _____

Recorded _____, ____

STATEMENT OF TAX DUE AND REQUEST THAT TAX DECLARATION NOT BE MADE A PART OF THE PERMANENT RECORD IN THE OFFICE OF THE COUNTY RECORDER (PURSUANT TO SECTION 11932 OF THE CALIFORNIA REVENUE AND TAXATION CODE)

TO: Recorder, County of Maricopa, State of Arizona

Request is hereby made in accordance with the provisions of the Documentary Transfer Tax Act that the amount of the tax due not be shown on the original document which names:

Seller: 2260 EAST MAIN STREET, LLC, an Arizona limited liability company

Buyer: HARI SACHANANDANI, or assigns

The property described in the accompanying document is located in the County of Maricopa, State of Arizona.

The amount of tax due on the accompanying document is $_____.

_____ Computed on full value of property conveyed; OR

_____ Computed on full value, less liens and encumbrances remaining at the time of sale.

_____
(Signature of Declarant or Agent)

_____
(Firm Name)

Note: After the permanent record is made, this form will be affixed to the conveying document and returned with it.

EXHIBIT A to GRANT DEED

DESCRIPTION OF PROPERTY

For APN/Parcel ID(s): 140-24-002D 5:

THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 1 NORTH, RANGE 6 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THE NORTH 755.82 FEET; AND

EXCEPT THE SOUTH 50 FEET; AND

EXCEPT ANY PORTION THEREOF LYING WEST OF THE EAST LINE OF THE WEST 60 FEET OF THE EAST 895.87 FEET THEREOF AND

EXCEPT THAT PORTION OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER DEEDED TO THE CITY OF MESA IN INSTRUMENT NO. 99-0082808, DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 19;

THENCE SOUTH 89 DEGREES 07 MINUTES 48 SECONDS WEST, 895.93 FEET;

THENCE NORTH 00 DEGREES 12 MINUTES 40 SECONDS WEST, 50.00 FEET;

THENCE NORTH 89 DEGREES 07 MINUTES 48 SECONDS EAST, 60.00 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 00 DEGREES 12 MINUTES 40 SECONDS WEST, 15.00 FEET;

THENCE NORTH 89 DEGREES 07 MINUTES 48 SECONDS EAST, 835.93 FEET;

THENCE SOUTH 00 DEGREES 12 MINUTES 40 SECONDS EAST, 15.00 FEET;

THENCE SOUTH 89 DEGREES 07 MINUTES 48 SECONDS WEST, 835.93 FEET TO THE POINT OF BEGINNING.

EXHIBIT C

DESCRIPTION OF LEASE

Lease dated May 1, 2014 between 2260 EAST MAIN STREET, LLC, an Arizona limited liability company, as landlord, and Vertigo Investments, LLC dba Desert Auto Plex, an Arizona limited liability company, as tenant, as amended by that certain Amendment No. 1 to Lease dated April 30, 2014.

EXHIBIT D

FORM OF ASSIGNMENT OF LEASES

ASSIGNMENT AND ASSUMPTION OF LEASE

This Assignment and Assumption of Lease is made and entered into as of _____, 2017, by and between 2260 EAST MAIN STREET, LLC, an Arizona limited liability company ("**Assignor**"), and HARI SACHANANDANI, or assigns ("**Assignee**").

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, Assignor does hereby assign, transfer and set over unto Assignee, all of Assignor's right, title, interest, claim and estate as landlord in and to the lease agreement for the tenant described in Exhibit B attached hereto and incorporated herein by this reference regarding that certain real property situated in the City of Mesa, County of Maricopa, State of Arizona, and more particularly described in Exhibit A attached hereto (the "**Real Property**") together with all amendments, modifications, extensions and renewals thereof, any unapplied security deposits relating thereto, and any and all guarantees of any of the foregoing (collectively, the "**Lease**").

Assignee hereby assumes all of the obligations on the Assignor's part to be observed and performed from and after the date hereof by the landlord under the Lease. Additionally, Assignee hereby agrees to indemnify and hold harmless Assignor from and against any and all claims, demands, losses, liabilities, damages, costs and expenses (including without limitation reasonable attorneys' fees and costs, and court costs) directly or indirectly arising out of, resulting from or related to any breach or default in Assignee's obligations under the Lease from and after the date of this Assignment.

This Assignment and Assumption of Lease shall be construed under and enforced in accordance with the laws of the State of Arizona.

This Assignment and Assumption of Lease may be relied upon as conclusive proof that the Lease has been transferred to Assignee.

This Assignment and Assumption of Lease shall be binding upon Assignor, Assignee and their respective legal representatives, successors and assigns.

In the event any action or suit is brought by a party hereto against another party hereto by reason of any breach of any of the covenants, conditions, agreements or provisions on the part of such other party arising out of this Assignment and Assumption of Lease, the prevailing party shall be entitled to have and recover of and from the other party all costs and expenses of the action or suit, including reasonable attorneys' fees.

This Assignment and Assumption of Lease may be executed in counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

[remainder of page intentionally left blank; signature page follows]

IN WITNESS WHEREOF, this Assignment and Assumption of Lease has been executed as of the date first set forth above.

ASSIGNOR:	**ASSIGNEE**:
2260 EAST MAIN STREET, LLC, an Arizona limited liability company	HARI SACHANANDANI, or assigns
By:_____ Name: Brent McMahon, Managing Member	By:_____ Name: Hari Sachanandani

EXHIBIT A

Legal Description

For APN/Parcel ID(s): 140-24-002D 5:

THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 1 NORTH, RANGE 6 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THE NORTH 755.82 FEET; AND

EXCEPT THE SOUTH 50 FEET; AND

EXCEPT ANY PORTION THEREOF LYING WEST OF THE EAST LINE OF THE WEST 60 FEET OF THE EAST 895.87 FEET THEREOF AND

EXCEPT THAT PORTION OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER DEEDED TO THE CITY OF MESA IN INSTRUMENT NO. 99-0082808, DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 19;

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EXHIBIT E

TITLE REPORT

(attached)

EXHIBIT F

ESCROW GENERAL PROVISIONS

(attached)

EXHIBIT G

CERTIFICATE OF NON-FOREIGN STATUS

Section 1445 of the Internal Revenue Code of 1986, as amended, provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform HARI SACHANANDANI, or assigns ("**Transferee**") that withholding tax is not required upon the disposition of title to the property described on Exhibit 1 attached hereto and by this reference incorporated herein, the undersigned hereby certifies the following on behalf of 2260 EAST MAIN STREET, LLC, an Arizona limited liability company ("**Transferor**"), under penalty of perjury:

1. Transferor is not a "foreign person, foreign corporation, foreign partnership, foreign trust or foreign estate" as those terms are defined in the Internal Revenue Code of 1986, as amended, and the Income Tax Regulations.

2. The U.S. employer identification number of Transferor is_____.

3. Transferor's office address is 7545 Irvine Center Drive, Suite 200, Irvine, CA 92618.

4. The undersigned has full knowledge of the facts and circumstances set forth herein.

Transferor understands that Transferee intends to rely on the foregoing representations in connection with the United States Foreign Investment in Property Tax Act.

Transferor understands that this certification may be disclosed by Transferee to the Internal Revenue Service and that any false statement made by Transferor contained herein could be punished by fine, imprisonment, or both.

Transferor understands that Transferee may face federal income tax liabilities and penalties if any statement in this certificate is false. Transferor hereby agrees to hold Transferee harmless from any liability or cost which Transferee may incur as a result of (i) Transferor's failure to pay any U.S. federal income tax which Transferor is required to pay, or (ii) any false or misleading statement contained herein.

Under penalty of perjury, the undersigned hereby declares that Transferor has examined this certification and, to the best of its knowledge and belief, it is true, correct and complete.

DATED: _____, 2017

_____

BRENT McMAHON, Managing Member of 2260 EAST MAIN STREET, LLC

EXHIBIT 1 TO CERTIFICATE OF NON-FOREIGN STATUS

Legal Description of Property

For APN/Parcel ID(s): 140-24-002D 5:

THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 1 NORTH, RANGE 6 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THE NORTH 755.82 FEET; AND

EXCEPT THE SOUTH 50 FEET; AND

EXCEPT ANY PORTION THEREOF LYING WEST OF THE EAST LINE OF THE WEST 60 FEET OF THE EAST 895.87 FEET THEREOF AND

EXCEPT THAT PORTION OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER DEEDED TO THE CITY OF MESA IN INSTRUMENT NO. 99-0082808, DESCRIBED AS FOLLOWS:

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THENCE SOUTH 89 DEGREES 07 MINUTES 48 SECONDS WEST, 835.93 FEET TO THE POINT OF BEGINNING.

SELLER'S STATE TAX WITHHOLDING CERTIFICATE

TAXABLE YEAR

2014 Real Estate Withholding Tax Statement

CALIFORNIA FORM **593**

AMENDED: ● ☐

Part I Withholding Agent

Business name			☐SSN or ITIN ☐FEIN ☐CA Corp no. ☐CA SOS file no.
First name	Initial	Last name	
Address (apt./ste., room, PO Box, or PMB no.)			
City (If you have a foreign address, see instructions.)		State	ZIP Code

Part II Seller or Transferor

First name	Initial	Last name	SSN or ITIN
Spouse's/RDP's first name	Initial	Last name	Spouse's/RDP's SSN or ITIN
Business name (If applicable)			☐FEIN ☐CA Corp no. ☐CA SOS file no.
Address (apt./ste., room, PO Box, or PMB no.)			
City (If you have a foreign address, see instructions.)		State	ZIP Code
Property address (If no street address, provide parcel number and county.)			

Part III Escrow or Exchange Information

1. Escrow or Exchange Number ..... ● 1 _____
2. Date of Transfer, Exchange Completion, Failed Exchange, or Installment Payment ..... ● 2 _____ (mm/dd/yyyy)
3. Type of Transaction (Check One Only): ●
   - A ☐ Conventional Sale or Transfer
   - B ☐ Installment Sale Payment
   - C ☐ Boot
   - D ☐ Failed Exchange
4. Withholding Calculation (Check One Only): ●

   Total Sales Price Method

   A ☐ 3⅓% (.0333) x Total Sales Price (Seller or Transferor signature not required below. See instructions.)

   Optional Gain on Sale Election (Seller or Transferor signature required below. See instructions.)

   - B ☐ Individual 12.3% x Gain on Sale
   - C ☐ Non-California Partnership 12.3% x Gain on Sale
   - D ☐ Corporation 8.84% x Gain on Sale
   - E ☐ Bank and Financial Corp. 10.84% x Gain on Sale
   - F ☐ S Corporation 13.8% x Gain on Sale
   - G ☐ Financial S Corporation 15.8% x Gain on Sale

5. Amount Withheld from this Seller or Transferor ..... ■ 5 _____

Seller or Transferor Signature – Signature is required only when the Optional Gain on Sale is elected above.

Title and escrow persons, and exchange accommodators are not authorized to provide legal or accounting advice for purposes of determining withholding amounts. Transferors are strongly encouraged to consult with a competent tax professional for this purpose.

Under penalties of perjury, I hereby certify that the information provided above is, to the best of my knowledge, true and correct. I understand that the Franchise Tax Board may review relevant escrow documents to ensure withholding compliance. Except as to an installment sale, if the seller or transferor did not check any box in Part II or Part III of Form 593-C, Real Estate Withholding Certificate, the withholding will be 3⅓% (.0333) of the total sales price or the optional gain on sale withholding amount from line 5 of the certified Form 593. If the seller or transferor does not return the completed Form 593 and Form 593-C by the close of escrow, the withholding will be 3⅓% (.0333) of the total sales price, unless the type of transaction is an installment sale. If the transaction is an installment sale, the withholding will be 3⅓% (.0333) of the first installment payment.

	Your signature	Spouse's/RDP's signature	
Sign Here	X _____	X _____	Date _____

It is unlawful to forge a spouse's/RDP's signature.

Preparer's name and Title/Escrow business name **Telephone Number**

_____ ( )

■ For Privacy Notice, get FTB 1131 ENG/SP. 7111143 Form 593 c2 2013 ■

EXHIBIT H

FORM OF 1099 DESIGNATION

In order to insure compliance with the information reporting requirements of Section 6045 of the Internal Revenue Code and the regulations promulgated pursuant thereto, the parties hereto enter into this Written Designation Agreement on this ____ day of _____, 2017, and agree as follows:

Section 1. Reporting Person. In accordance with Regulation Section 1.6045-4(e)(5)(iii), the parties hereby designate the following person to act as the "reporting person" for the purpose of preparing, filing and maintaining any and all information returns required by Section 6045 in connection with this transaction:

Name of Reporting Person: First American Title Insruance Company

Address of Reporting Person: _____, Escrow Officer (Escrow No._____)

The parties agree and acknowledge that the reporting person herein identified is an eligible person under Regulation Section 1.6045-4(e)(5)(ii). The reporting person hereby covenants and agrees to fully comply with all reporting and other requirements of Internal Revenue Code Section 6045 and the regulations promulgated thereunder. The reporting person specified herein agrees to file the forms between the end of the calendar year in which the transactions contemplated herein occur and _____ of the following calendar year.

Section 2. Transferor and Transferee.

Name of Transferor: 2260 EAST MAIN STREET, LLC, an Arizona limited liability company

Address of Transferor: 7545 Irvine Center Drive, Suite 200, Irvine, CA 92618

Name of Transferee: HARI SACHANANDANI, or assigns

Address of Transferee: c/o Daniel J. Vedra, Esq., Vedra Law, LLC, 1435 Larimer Street, Suite 302, Denver, CO 80202.

Section 3. Subject Property. The real property which is the subject of this Agreement is located in the County of Maricopa, Arizona, and is described in the legal description attached hereto as Exhibit A and incorporated herein by this reference.

Section 4. Retention of Agreement. Each of the parties to this Agreement agrees to retain a copy of this Agreement for at least four (4) years after the Closing Date. Upon request by the Internal Revenue Service or any person involved in the subject transaction, other than the parties hereto, each party agrees to provide copies of this Agreement for inspection as required by Regulation 1.6045-4(e)(5)(iii). The reference in this Section to a party's interest in Seller includes all distributions made by Seller to such party.

[remainder of page intentionally left blank; signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Written Designation Agreement as of the date first above written.

TRANSFEROR:

_____
Brent McMahon, Managing Member of 2260 EAST MAIN STREET, LLC, an Arizona limited liability company

TRANSFEREE:

_____
Hari Sachanandani, or assigns

REPORTING PERSON:

FIRST AMERICAN TITLE INSURANCE COMPANY

By: _____
Escrow Officer

EXHIBIT A to 1099 DESIGNATION

Description of Property

For APN/Parcel ID(s): 140-24-002D 5:

THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 1 NORTH, RANGE 6 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THE NORTH 755.82 FEET; AND

EXCEPT THE SOUTH 50 FEET; AND

EXCEPT ANY PORTION THEREOF LYING WEST OF THE EAST LINE OF THE WEST 60 FEET OF THE EAST 895.87 FEET THEREOF AND

EXCEPT THAT PORTION OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER DEEDED TO THE CITY OF MESA IN INSTRUMENT NO. 99-0082808, DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 19;

THENCE SOUTH 89 DEGREES 07 MINUTES 48 SECONDS WEST, 895.93 FEET;

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THENCE SOUTH 89 DEGREES 07 MINUTES 48 SECONDS WEST, 835.93 FEET TO THE POINT OF BEGINNING.

EXHIBIT 4

EXHIBIT 4

INFORMATION

The Title Insurance Commitment is a legal contract between you and the company. It is issued to show the basis on which we will issue a Title Insurance Policy to you. The Policy will insure you against certain risks to the land title, subject to the limitations shown in the Policy

The Company will give you a sample of the Policy form, if you ask.

The Commitment is based on the land title as of the Commitment Date. Any changes in the land title or the transaction may affect the Commitment and the Policy.

The Commitment is subject to its Requirements, Exceptions and Conditions.

THIS INFORMATION IS NOT PART OF THE TITLE INSURANCE COMMITMENT.

COMMITMENT FOR TITLE INSURANCE

ISSUED BY

First American Title Insurance Company
through its Division

First American Title Insurance Company

TABLE OF CONTENTS

YOU SHOULD READ THE COMMITMENT VERY CAREFULLY
If you have any questions about the Commitment, contact:

First American Title Insurance Company National Commercial Services
1125 17th Street, Suite 500, Denver, Colorado 80202

AGREEMENT TO ISSUE POLICY

We agree to issue a policy to you according to the terms of this Commitment. When we show the policy amount and your name as the proposed insured in Schedule A, this Commitment becomes effective as of the date shown in Schedule A.

If the Requirements shown in this Commitment have not been met within six months after the Commitment Date, our obligation under this Commitment will end. Also, our obligation under this Commitment will end when the Policy is issued and then our obligation to you will be under the Policy.

Our obligation under the Commitment is limited by the following:

The Provisions in Schedule A
The Requirements
The Exceptions in Schedule B - Parts 1 and 2
The Conditions

This Commitment is not valid without SCHEDULE A and Parts 1 and 2 of SCHEDULE B.

SCHEDULE B - EXCEPTIONS

Any Policy we issue will have the following exceptions unless they are taken care of to our satisfaction.

Part One:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.

   Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.

2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.

3. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.

4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.

5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water; whether or not the aforementioned matters excepted are shown by the public records.

6. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

Part One of Schedule B will be eliminated from any A.L.T.A. Extended Coverage Policy, A.L.T.A. Plain Language Policy and policies with EAGLE Protection added. However, the same or similar exception may be made in Schedule B of those policies in conformity with Schedule B, Part Two of this Commitment.

REQUIREMENTS
(Standard)

The following requirements must be met:

(a) **Pay the agreed amounts for the interest in the land and/or the mortgage to be insured.**

(b) **Pay us the premiums, fees and charges for the policy.**

(c) **Documents satisfactory to us creating the interest in the land and/or the mortgage to be insured must be signed, delivered and recorded.**

(d) **You must tell us in writing the name of anyone not referred to in this commitment who will get interest in the land or who will make a loan on the land. We may then make additional requirements or exceptions.**

(Continued on Requirements Page)

CONDITIONS

1. **DEFINITIONS**
   (a) "Mortgage" means mortgage, deed of trust or other security instrument.
   (b) "Public Records" means title records that give constructive notice of matters affecting the title according to the state law where the land is located.

2. **LATER DEFECTS**
   The Exceptions in Schedule B may be amended to show any defects, liens or encumbrances that appear for the first time in the public records or are created or attached between the Commitment Date and the date on which all of the Requirements are met. We shall have no liability to you because of this amendment.

3. **EXISTING DEFECTS**
   If any defects, liens or encumbrances existing at Commitment Date are not shown in Schedule B, we may amend Schedule B to show them. If we do amend Schedule B to show these defects, liens or encumbrances, we shall be liable to you according to Paragraph 4 below unless you knew of this information and did not tell us about it in writing.

4. **LIMITATION OF OUR LIABILITY**
   Our only obligation is to issue to you the Policy referred to in this Commitment, when you have met its Requirements. If we have any liability to you for any loss you incur because of an error in this Commitment, our liability will be limited to your actual loss caused by your relying on this Commitment when you acted in good faith to:

   comply with the Requirements
   or
   eliminate with our written consent any Exceptions shown in Schedule B

   We shall not be liable for more than the Amount shown in Schedule A of this Commitment and our liability is subject to the terms of the Policy form to be issued to you.

5. **CLAIMS MUST BE BASED ON THIS COMMITMENT**
   Any claims, whether or not based on negligence, which you may have against us concerning the title to the land must be based on this Commitment and is subject to its terms

The First American Corporation

PRIVACY POLICY

We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information - particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our parent company, The First American Corporation, we have adopted this Privacy Policy to govern the use and handling of your personal information.

Applicability

This Privacy Policy governs our use of the information which you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from public records or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its *Fair Information Values*, a copy of which can be found on our web site at www.firstam.com.

Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial services providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies, and escrow companies. Furthermore, we may also provide all information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies, or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply.

Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products and services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's *Fair Information Values*. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

First American Title Insurance Company
National Commercial Services

SCHEDULE A

Effective Date: **February 07, 2017** at 7:30 a.m.

1. Policy or (Policies) to be issued:

   ALTA 2006 Standard Owner's Policy for $2,500,000.00

   Proposed Insured:
   Hari Sachanandani

2. The estate or interest in the land described or referred to in this commitment and covered herein is fee simple and title thereto is at the effective date hereof vested in:

   2260 East Main Street, L.L.C., an Arizona limited liability company

3. Title to the estate or interest in the land upon issuance of the policy shall be vested in:

   Hari Sachanandani

4. The land referred to in this Commitment is located in Maricopa County, AZ and is described as:

SEE EXHIBIT "A " ATTACHED HEREIN

Title officer: James A. Nye @ (303)876-1112/jnye@firstam.com.

Pages 1 through 5 of this document consist of the Title Insurance Commitment contract and our Privacy Policy.

EXHIBIT "A"

THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 1 NORTH, RANGE 6 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THE NORTH 755.82 FEET; AND

EXCEPT THE SOUTH 50 FEET; AND

EXCEPT ANY PORTION THEREOF LYING WEST OF THE EAST LINE OF THE WEST 60 FEET OF THE EAST 895.87 FEET THEREOF AND

EXCEPT THAT PORTION OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER DEEDED TO THE CITY OF MESA IN INSTRUMENT NO. 99-0082808, DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 19;

THENCE SOUTH 89 DEGREES 07 MINUTES 48 SECONDS WEST, 895.93 FEET;

THENCE NORTH 00 DEGREES 12 MINUTES 40 SECONDS WEST, 50.00 FEET;

THENCE NORTH 89 DEGREES 07 MINUTES 48 SECONDS EAST, 60.00 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 00 DEGREES 12 MINUTES 40 SECONDS WEST, 15.00 FEET;

THENCE NORTH 89 DEGREES 07 MINUTES 48 SECONDS EAST, 835.93 FEET;

THENCE SOUTH 00 DEGREES 12 MINUTES 40 SECONDS EAST, 15.00 FEET;

THENCE SOUTH 89 DEGREES 07 MINUTES 48 SECONDS WEST, 835.93 FEET TO THE POINT OF BEGINNING.

First American Title Insurance Company
National Commercial Services

SCHEDULE B

PART TWO:

1. Second installment of 2016 taxes, a lien, payable on or before March 1, 2017, and delinquent May 1, 2017.

2. Taxes for the full year of 2017.
(The first half is due October 1, 2017 and is delinquent November 1, 2017. The second half is due March 1, 2018 and is delinquent May 1, 2018 .)

3. The liabilities and obligations imposed upon said land by reason of: (a) inclusion thereof within the boundaries of the Salt River Project Agricultural Improvement and Power District; (b) membership of the owner thereof in the Salt River Valley Water Users' Association, an Arizona corporation and (c) the terms of any Water Right Application made under the reclamation laws of the United States for the purpose of obtaining water rights for said land.

4. An easement for public utilities and incidental purposes in the document recorded as 99-0082809 of Official Records.

5. An easement for underground power and incidental purposes in the document recorded as 99-0959872 of Official Records.

6. All matters as set forth in Record of Survey, recorded as Book 1010 of Maps, Page 29.

7. Any right or asserted right of a creditor, trustee or debtor in possession in bankruptcy to avoid that certain conveyancing document which recorded _____ as _____ of Official Records, pursuant to Title 11 of the United States Codes.

8. Water rights, claims or title to water, whether or not shown by the public records.

End of Schedule B

First American Title Insurance Company
National Commercial Services

REQUIREMENTS:

1. Compliance with A.R.S. 11-480 relative to all documents to be recorded in connection herewith. See note at end of this section for details.

   NOTE to proposed insured lender only: No Private transfer fee covenant, as defined in Federal Housing Finance Agency Final Rule 12 CFR Part 1228, that was created and first appears in the Public Records on or after February 8, 2011, encumbers the Title except as follows: None

2. First half of 2016 taxes are paid in full.

   NOTE: Taxes are assessed in the total amount of $48,550.64 for the year 2016 under Assessor's Parcel No. 140-24-002D 5.

3. Record partial release and reconveyance of a Deed of Trust securing an original indebtedness in the amount of $250,000.00, recorded January 09, 1998 as 98-0016289 of Official Records.

Dated:	January 07, 1998
Trustor:	Sur-Way Concrete Construction Co., Inc., an Arizona corporation
Trustee:	Title Reporting of Arizona, Inc., an Arizona corporation dba Fiesta Title & Escrow Agency
Beneficiary:	Winnebago Realty Corporation, an Iowa corporation

   A document recorded September 12, 2000 as 2000-0700802 of Official Records provides that Security Title Agency, an Arizona corporation was substituted as trustee in the Deed of Trust.

4. Payment, cancellation and satisfaction of record of deed of trust executed by 2260 East Main Street, L.L.C., an Arizona limited liability company in favor of Alliance Bank of Arizona, a Division of Western Alliance Bank, an Arizona corporation, dated June 28, 2011, recorded June 30, 2011 in 2011-0550929, in the original principal sum of $2,781,625.00, together with the production of the original promissory note marked "paid".

   Assignment of Rents and Leases recorded June 30, 2011 as 2011-0550930 of Official Records.

   Notice of Substitution of Trustee recorded October 14, 2016 as 2016-0756080 of Official Records.

   Notice of Trustee's Sale recorded October 14, 2016 as 2016-0756338 of Official Records.

   Said Trustee's Sale will eliminate the interests created by the following documents:

   Deed of Trust recorded as 2013-1069844 of Official Records.

   This Requirement No. 4, will be deleted upon satisfaction of Requirements No. 6 and No. 7 as follow.

5. Record full release and reconveyance of a Deed of Trust securing an original indebtedness in the amount of $2,000,000.00, recorded December 18, 2013 as 2013-1069844 of Official Records.

Dated: November 07, 2013
Trustor: 2260 East Main Street, L.L.C., an Arizona limited liability company
Trustee: Thomas Title & Escrow
Beneficiary: Forest River, Inc., an Indiana corporation

A document recorded June 16, 2014 as 2014-0391625 of Official Records provides that Michael J. Farrell was substituted as trustee in the Deed of Trust.

This Requirement No. 5, will be deleted upon satisfaction of Requirements No. 6 and No. 7 as follow.

6. Record Trustee's Deed from Janel Glynn, Esq., a member of the State Bar of Arizona, as Trustee under Deed of Trust recorded June 30, 2011 as 2011-0550929 of Official Records to Hari Sachanandani.

7. Proper showing as to the sufficiency of the proceedings leading up to and including the issuance of Trustee's Deed as set forth herein.

8. Proper showing as to the marital status of Hari Sachanandani and disposition of any matters disclosed thereby.

9. Such further requirements as may be necessary after completion of the above.

10. Return to title department for final recheck before recording.

NOTE: In connection with Arizona Revised Statutes 11-480, as of January 1, 1991, the County Recorder may not accept documents for recording that do not comply with the following:

a. Print must be ten-point type or larger.
b. A margin of two inches at the top of the first page for recording and return address information and margins of one-half inch along other borders of every page.
c. Each instrument shall be no larger than 8-1/2 inches in width and 14 inches in length.

DISCLOSURE NOTE: In the event any Affidavit required pursuant to A.R.S.⊥ 33-422 has been, or will be, recorded pertaining to the land, such Affidavit is not reflected in this Commitment nor will it be shown in any policy to be issued in connection with this Commitment. The statute applies only to unsubdivided land in an unincorporated area of a county.

NOTE: The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than the certain dollar amount set forth in any applicable arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. If you desire to review the terms of the policy, including any arbitration clause that may be included, contact the office that issued this Commitment or Report to obtain a sample of the policy jacket for the policy that is to be issued in connection with your transaction.

End of Requirements

EXHIBIT 5

EXHIBIT 5

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
ADRIAN FONTES
20170151545 03/02/2017 11:23
ELECTRONIC RECORDING

120693-17-1-1--
Garciac

When recorded, return to:

Western Alliance Bank
2701 E. Camelback Rd., Suite 110
Phoenix, AZ 85016
Attention: Robert Simpson

640088w 1/1

Courtesy Recording
No Title Liability

RELEASE OF DEED OF TRUST AND RECONVEYANCE

WHEREAS, Trustor has fully paid and satisfied the indebtedness secured by that certain Deed of Trust, Assignment of Leases and Rents and Security Agreement, executed by SUR-WAY CONCRETE CONSTRUCTION, CO., an Arizona corporation, as Trustor, in favor of WINNEBAGO REALTY CORPORATION, an Iowa corporation, which was renamed WINNEBAGO HEALTH CARE MANAGEMENT COMPANY pursuant to Restated Articles of Incorporation filed August 28, 1997, later merged into WINNEBAGO INDUSTRIES, INC., pursuant to Articles of Merger dated May 1, 2006, and filed May 4, 2006, both attached as Exhibit A hereto, as Beneficiary, dated as of January 7, 1998, and recorded on January 9, 1998, as Instrument No. 98-0016289, in the Official Records of Maricopa County, Arizona (the "Deed of Trust");

NOW, THEREFORE, the present Beneficiary under said Deed of Trust does hereby release and reconvey, without covenant or warranty, express or implied, unto the parties legally entitled thereto all right, title and interest which was heretofore acquired by said Trustee under said Deed of Trust.

[SIGNATURE PAGE FOLLOWS]

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DATED this 23rd day of February, 2017.

WINNEBAGO INDUSTRIES, INC., an Iowa corporation

By: _____

Name: Scott C. Folkers

Title: Vice President, General Counsel & Secretary

"Beneficiary"

STATE OF IOWA)
) ss.
County of Hancock)

The foregoing instrument was acknowledged before me this 23rd day of February, 2017, by Scott C. Folkers, the Vice President, General Counsel & Secretary of WINNEBAGO INDUSTRIES, INC., an Iowa corporation, on behalf of the corporation.

_____

Notary Public

My Commission Expires:
7-30-18

SUSAN GARDNER
Commission Number 721667
My Commission Expires
July 30, 2018

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EXHIBIT A

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RECEIVED
AUG 2 8 1997
SECRETARY OF STATE

507178 RART10 $50.00 SFO 2

FIRST RESTATED
ARTICLES OF INCORPORATION
OF
WINNEBAGO REALTY CORPORATION

TO THE SECRETARY OF THE STATE OF IOWA:

Pursuant to Section 1007 of the Iowa Business Corporation Act, Winnebago Realty Corporation (which is hereinafter called the "**Corporation**") hereby certifies and adopts the following First Restated Articles of Incorporation.

1. The name of the Corporation is Winnebago Realty Corporation.

2. The First Restated Articles of Incorporation shall read as follows:

ARTICLE I

NAME

1.1 **Name.** The name of the Corporation is Winnebago Health Care Management Company.

ARTICLE II

DURATION

2.1 **Duration.** The period of the duration of the Corporation is perpetual.

ARTICLE III

PURPOSES

3.1 **Purposes.** The Corporation shall have unlimited power to engage in, or do any lawful act concerning, any and all lawful business for which corporations may be organized under the Iowa Business Corporation Act.

ARTICLE IV

SHARES

4.1 **Total Shares.** The total number of shares of stock of all classes which the Corporation has authority to issue is One Hundred Twenty Thousand (120,000) shares of capital stock, having a par value of One Hundred Dollars ($100.00) per share, amounting to an aggregate par value of Twelve Million Dollars ($12,000,000.00), One Hundred Thousand

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(100,000) of which shares of capital stock are classified as **"Class A Common Stock"** having a par value of One Hundred Dollars ($100.00) per share; Ten Thousand (10,000) of which shares of capital stock are classified as **"Class B Voting Preferred Stock"** having a par value of One Hundred Dollars ($100.00) per share; and Ten Thousand (10,000) of which shares of capital stock are classified as **"Class C Voting Preferred Stock"** having a par value of One Hundred Dollars ($100.00) per share. The Board of Directors may classify and reclassify any unissued shares of capital stock by setting or changing in any one or more respects the preferences upon liquidation, conversion or other rights, voting powers, restrictions, limitations as to dividends, put rights, and qualifications or terms or conditions of redemption of such shares of stock by the Corporation. A description of each class of stock, with its preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends, and qualifications is as set forth in these First Restated Articles of Incorporation.

4.2 **Class A Common Stock.**

4.2.1 **Dividends.** Subject to the provisions below relating to the payment of dividends on the Class B Voting Preferred Stock and the Class C Voting Preferred Stock of the Corporation, dividends may be declared on the Class A Common Stock.

4.2.2 **Preferences Upon Liquidation.** Holders of shares of Class A Common Stock are entitled, after payment of all liabilities, and subject to the liquidation preferences of the Class B Voting Preferred Stock and the Class C Voting Preferred Stock, to receive the assets of the Corporation on a pro rata basis.

4.2.3 **Voting Rights.** Each share of Class A Common Stock shall entitle the holder thereof to one (1) vote in all proceedings in which action may be taken by stockholders of the Corporation. If any shares of Class B Voting Preferred Stock or Class C Voting Preferred Stock are issued and outstanding, the holders of the shares of Class A Common Stock shall have the right, voting as a separate class, to elect six (6) directors of the Corporation. If neither shares of Class B Voting Preferred Stock nor Class C Voting Preferred Stock are issued and outstanding, the holders of the shares of Class A Common Stock shall have the right to elect all of the directors. Such directors shall be designated as the Class A Directors. In the event of the death, disability, removal, resignation, or refusal to act of a Class A Director, the holders of the shares of Class A Common Stock, to the exclusion of the holders of shares of Class B Voting Preferred Stock and Class C Voting Preferred Stock, are entitled to nominate and elect a new Class A Director to fill the vacancy created by that death, disability, removal, resignation, or refusal to act.

4.3 **Class B Voting Preferred Stock.**

4.3.1 **Dividends.** The holders of Class B Voting Preferred Stock shall be entitled to receive from the surplus or net profits of the Corporation, when and as declared by its Board of Directors, cash dividends at the rate of eight percent (8%) per share per annum, payable quarterly on such dates as may from time to time be determined by the Board of Directors. These cash dividends shall be cumulative and shall be payable for the current year and

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for all previous fiscal years (and applicable quarters thereof) before any dividends may be paid or set apart on the Class A Common Stock. The Class B Voting Preferred Stock shall not be entitled to participate in or receive any dividends or share of profits, whether payable in cash, stock or property, in excess of these dividends. No dividends shall be declared or paid on the Class A Common Stock of the Corporation during any period when the Corporation has failed to pay a quarter-annual dividend on the Class B Voting Preferred Stock for any preceding quarter.

4.3.2 **Preferences Upon Liquidation.**

(a) In the event of liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, the holders of the issued and outstanding Class B Voting Preferred Stock shall be entitled to receive out of the assets of the Corporation legally available for distribution to stockholders and before any distribution to the holders of the Class A Common Stock liquidation distributions in an amount equal to the greater of: (i) One Hundred Dollars ($100.00) for each share of Class B Voting Preferred Stock, plus all accrued but unpaid dividends thereon to the date fixed for liquidation; or (ii) the Formula Value. After payment of the full amount of the liquidation distributions to which they are entitled, the holders of shares of Class B Voting Preferred Stock shall have no right or claim to any of the remaining assets of the Corporation.

(b) In the event that, upon any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, the available assets of the Corporation are insufficient to pay all accrued but unpaid dividends on all outstanding shares of Class B Voting Preferred Stock and all outstanding shares of Class C Voting Preferred Stock, the available assets of the Corporation shall be liquidated and paid to the holders of shares of Class B Voting Preferred Stock and to the holders of shares of Class C Voting Preferred Stock pro rata based upon the amount of the total accrued but unpaid dividends due on the Class B Voting Preferred Stock and on the Class C Voting Preferred Stock for all preceding quarters as of the date fixed for the liquidation.

(c) In the event that, upon any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, the available assets of the Corporation are sufficient to pay all accrued but unpaid dividends on all outstanding shares of Class B Voting Preferred Stock and all outstanding shares of Class C Voting Preferred Stock, but are insufficient to pay the amount of the liquidation distributions an all outstanding shares of Class B Voting Preferred Stock and the corresponding amounts payable on all shares of Class C Voting Preferred Stock, then the holders of shares of Class B Voting Preferred Stock and Class C Voting Preferred Stock shall share ratably in any such distribution of assets in proportion to the full liquidation distributions to which they would otherwise be respectively entitled under these First Restated Articles of Incorporation.

(d) Neither the merger nor consolidation of the Corporation into or with any other corporation or the merger or consolidation of any other corporation into or with the Corporation, nor the sale of all or substantially all the assets of the Corporation, shall be

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deemed to be a liquidation, dissolution or winding up of the affairs of the Corporation within the meaning of the immediately preceding sentence.

4.3.3 **Voting Rights.** Each share of Class B Voting Preferred Stock shall entitle the holder thereof to one (1) vote in all proceedings in which action may be taken by stockholders of the Corporation. The holders of the shares of Class B Voting Preferred Stock shall have the right, voting as a separate class, to elect two (2) directors of the Corporation. Such directors shall be designated as the Class B Directors. In the event of the death, disability, removal, resignation, or refusal to act of a Class B Director, the holders of the shares of Class B Voting Preferred Stock, to the exclusion of the holders of shares of Class A Common Stock and Class C Voting Preferred Stock, are entitled to nominate and elect a new Class B Director to fill the vacancy created by that death, disability, removal, resignation, or refusal to act.

4.3.4 **Redemption.** On and after October 1, 2002, the Corporation at its option upon not less than thirty (30) nor more than ninety (90) days' written notice, may redeem outstanding shares of Class B Voting Preferred Stock, in whole or in part, at any time or from time to time, for cash at a redemption price equal to the greater of: (i) $100.00 per share plus an amount equal to all distributions accrued and unpaid thereon to the date fixed for redemption; or (ii) the Formula Value. Notice of redemption shall be deemed to have been given when addressed to the holders of Class B Voting Preferred Stock at their addresses recorded on the books of the Corporation and deposited in the United States mail.

After the outstanding Class B Voting Preferred Stock has been called for redemption, the holders have been duly notified, and the funds have been set aside by the Board of Directors, the holders thereof shall have no further rights as stockholders of the Corporation but shall only be entitled upon presentation of the certificates properly endorsed to receive the redemption value thereof, as set forth above.

4.3.5 **Put Rights.** On and after October 1, 2004, each holder of outstanding shares of Class B Voting Preferred Stock may require the Corporation to purchase from such holder, all or any portion of the shares of Class B Voting Preferred Stock, at any time or from time to time, for cash at a purchase price equal to the greater of: (i) One Hundred Dollars ($100.00) per share, plus an amount equal to all distributions accrued and unpaid thereon to the date fixed for payment of the put purchase price; or (ii) the Formula Value.

After the outstanding Class B Voting Preferred Stock has been put, the holders have been duly notified, and the funds have been set aside by the Board of Directors, the holders thereof shall have no further rights as stockholders of the Corporation but shall only be entitled upon presentation of the certificates properly endorsed to receive the put purchase price thereof, as set forth above.

4.4 **Class C Voting Preferred Stock.**

4.4.1 **Dividends.** The holders of Class C Voting Preferred Stock shall be entitled to receive from the surplus or net profits of the Corporation, when and as declared by

its Board of Directors, cash dividends at the rate of ten percent (10%) per share per annum, payable quarterly on such dates as may from time to time be determined by the Board of Directors. These cash dividends shall be cumulative and shall be payable for the current year and for all previous fiscal years (and applicable quarters thereof) before any dividends may be paid or set apart on the Class A Common Stock. The Class C Voting Preferred Stock shall not be entitled to participate in or receive any dividends or share of profits, whether payable in cash, stock or property, in excess of these dividends. No dividends shall be declared or paid on the Class A Common Stock of the Corporation during any period when the Corporation has failed to pay a quarter-annual dividend on the Class C Voting Preferred Stock for any preceding quarter.

4.4.2 **Preferences Upon Liquidation.**

(a) In the event of liquidation, dissolution, or winding up of the Corporation, whether voluntary or involuntary, the holders of the issued and outstanding Class C Voting Preferred Stock shall be entitled to receive out of the assets of the Corporation legally available for distribution to stockholders and before any distribution to the holders of the Class A Common Stock liquidation distributions in an amount equal to the greater of:. (i) One Hundred Dollars ($100.00) for each share of Class C Voting Preferred Stock, plus all accrued but unpaid dividends thereon to the date fixed for liquidation; or (ii) the Formula Value, but in no event shall the Formula Value exceed the Equity Cap. After payment of the full amount of the liquidation distributions to which they are entitled, the holders of shares of Class C Voting Preferred Stock shall have no right or claim to any of the remaining assets of the Corporation.

(b) In the event that, upon any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, the available assets of the Corporation are insufficient to pay all accrued but unpaid dividends on all outstanding shares of Class C Voting Preferred Stock and all outstanding shares of Class C Voting Preferred Stock, the available assets of the Corporation shall be liquidated and paid to the holders of shares of Class B Voting Preferred Stock and to the holders of shares of Class C Voting Preferred Stock pro rata based upon the amount of the total accrued but unpaid dividends due on the Class B Voting Preferred Stock and on the Class C Voting Preferred Stock for all preceding quarters as of the date fixed for the liquidation.

(c) In the event that, upon any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, the available assets of the Corporation are sufficient to pay all accrued but unpaid dividends on all outstanding shares of Class B Voting Preferred Stock and all outstanding shares of Class C Voting Preferred Stock, but are insufficient to pay the amount of the liquidation distributions an all outstanding shares of Class B Voting Preferred Stock and the corresponding amounts payable on all shares of Class C Voting Preferred Stock, then the holders of shares of Class B Voting Preferred Stock and Class C Voting Preferred Stock shall share ratably in any such distribution of assets in proportion to the full liquidation distributions to which they would otherwise be respectively entitled under these First Restated Articles of Incorporation.

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(d) Neither the merger nor consolidation of the Corporation into or with any other corporation or the merger or consolidation of any other corporation into or with the Corporation, nor the sale of all or substantially all the assets of the Corporation, shall be deemed to be a liquidation, dissolution or winding up of the affairs of the Corporation within the meaning of the immediately preceding sentence.

4.4.3 **Voting Rights.** Each share of Class C Voting Preferred Stock shall entitle the holder thereof to one (1) vote in all proceedings in which action may be taken by stockholders of the Corporation. The holders of the shares of Class C Voting Preferred Stock shall have the right, voting as a separate class, to elect one (1) director of the Corporation. Such directors shall be designated as the Class C Directors. In the event of the death, disability, removal, resignation, or refusal to act of a Class C Director, the holders of the shares of Class C Voting Preferred Stock, to the exclusion of the holders of shares of Class A Common Stock and Class B Voting Preferred Stock, are entitled to nominate and elect a new Class C Director to fill the vacancy created by that death, disability, removal, resignation, or refusal to act.

4.4.4 **Redemption.** On and after October 1, 2002, the Corporation at its option upon not less than thirty (30) nor more than ninety (90) days' written notice, may redeem outstanding shares of Class C Voting Preferred Stock, in whole or in part, at any time or from time to time, for cash at a redemption price equal to the greater of: (i) $100.00 per share plus an amount equal to all distributions accrued and unpaid thereon to the date fixed for redemption; or (ii) the Formula Value. Notice of redemption shall be deemed to have been given when addressed to the holders of Class C Voting Preferred Stock at their addresses recorded on the books of the Corporation and deposited in the United States mail.

After the outstanding Class C Voting Preferred Stock has been called for redemption, the holders have been duly notified, and the funds have been set aside by the Board of Directors, the holders thereof shall have no further rights as stockholders of the Corporation but shall only be entitled upon presentation of the certificates properly endorsed to receive the redemption value thereof, as set forth above.

4.4.5 **Put Rights.** On and after October 1, 2004, each holder of outstanding shares of Class C Voting Preferred Stock may require the Corporation to purchase from such holder, all or any portion of the shares of Class C Voting Preferred Stock, at any time or from time to time, for cash at a purchase price equal to the greater of: (i) One Hundred Dollars ($100.00) per share, plus an amount equal to all distributions accrued and unpaid thereon to the date fixed for payment of the put purchase price; or (ii) the Formula Value.

After the outstanding Class C Voting Preferred Stock has been put, the holders have been duly notified, and the funds have been set aside by the Board of Directors, the holders thereof shall have no further rights as stockholders of the Corporation but shall only be entitled upon presentation of the certificates properly endorsed to receive the put purchase price thereof, as set forth above.

4.5 **Definitions.** For purposes of determining the preferences upon liquidation, conversion or other rights, voting powers, restrictions, limitations as to dividends, put rights, and qualifications or terms or conditions of redemption of the Class B Voting Preferred Stock and the Class C Voting Preferred Stock of the Corporation as set forth in these First Restated Articles of Incorporation, the following terms shall have the following meanings:

"**Actual Gross Claims**" shall mean, with respect to any fiscal year of the Corporation, the employer's share (net of employee contributions) of actual annual gross medical claims (including prescription drugs) incurred during the Contract Period, including a reserve for incurred but not reported claims, as determined by generally recognized actuarial standards, of Eligible Employees and their dependents, who are or may be enrolled at any time during the Contract Period in a Plan.

"**Annual Cost Savings**" shall equal the difference (which can be greater or less than zero) between Expected Gross Claims and Actual Gross Claims.

"**Annual Equity Increment**" for each fiscal year shall be equal to the difference (which can be greater or less than zero) between: (i) the product obtained (which can be greater or less than zero) by multiplying: (a) the Class B Equity Percentage or the Class C Equity Percentage, as applicable, by; (b) the Annual Cost Savings; and (ii) the amount of dividends actually paid on outstanding Class B Voting Preferred Stock or Class C Voting Preferred Stock, as applicable, during such fiscal year.

"**Class B Equity Percentage**" shall mean twenty percent (20%), reduced by three (3) percentage points for each Strategic Milestone not completed by the end of the fiscal year.

"**Class C Equity Percentage**" shall mean twenty percent (20%).

"**Contract Period**" shall mean the period beginning on January 1, 1999, and continuing through and including August 31, 2005.

"**Eligible Employees**" shall mean eligible active employees of Winnebago Industries, Inc. and terminated employees of Winnebago Industries, Inc. receiving COBRA benefits.

"**Equity Cap**" means the product obtained by multiplying: (i) $100.00 for each share times; (ii) one (1) plus the number of fiscal years of the Corporation in the period beginning on September 1, 1998, and ending on or before the date fixed for liquidation, redemption or purchase by the Corporation, as applicable, less the amount of any dividends actually paid on outstanding Class B Voting Preferred Stock or the Class C Voting Preferred Stock, as applicable, on or before the date fixed for liquidation, redemption or purchase by the Corporation, as applicable.

"**Expected Gross Claims**" shall mean:

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Fiscal Year Ending August 31	Expected Gross Claims
1998	0
1999	$3,534,000
2000	$5,741,000
2001	$6,204,000
2002	$6,695,000
2003	$7,209,000
2004	$7,752,000
2005	$8,319,000

The above Expected Gross Claims will be adjusted pro rata on a per employee, per year (including dependent coverage) basis in the event Eligible Employees in the Plans is other than 1,675.

"Formula Value" means the sum of: (i) the quotient obtained by dividing (a) the sum of the Annual Equity Increments determined as of the end of each fiscal year ended on or before the date fixed for liquidation or redemption, or purchase by the Corporation, as applicable, by (b) the number of shares of Class B Voting Preferred Stock or the Class C Voting Preferred Stock, as applicable, outstanding at the end of each fiscal year immediately preceding the date fixed for liquidation or redemption, or purchase by the Corporation, as applicable; and (ii) $100.00; provided, however, in no event shall the Formula Value exceed the Equity Cap.

"Plan" shall mean the Alliance or Alliance Select PPO plans or any successor non-HMO health care plans maintained by Winnebago Industries, Inc.

"Strategic Milestones" shall mean:

1. Performance Targets. The following performance targets will be met or exceeded by the contracted administrator of the Plan if:

a. Ninety percent (90%) of all claims submissions will be paid, pended or denied within fourteen (14) calendar days of receipt by the contracted administrator; and

b. The dollar financial claim processing error rate shall not exceed one percent (1%), as determined by dividing the absolute value of the sum of all overpayments and underpayments by the dollar value of the claims that should have been paid. This dollar financial error rate will be determined from a sampling of claims transactions pursuant to reasonable procedures determined by the Board of Directors of the Corporation.

2. Employee Satisfaction. The level of employee satisfaction with the Plan will be maintained or improved. The level of employee satisfaction for this purpose will be determined

by employee sampling and compared to baseline data pursuant to reasonable procedures determined by the Board of Directors of the Corporation.

4.6 **Preemptive Rights.** No holder of any shares of the stock of the Corporation of any class shall have any preemptive right to purchase, subscribe for, or otherwise acquire any shares of stock of the Corporation of any class now or hereafter authorized, or any securities exchangeable for or convertible into such shares, or any warrants or other instruments evidencing rights or options to subscribe for, purchase or otherwise acquire such shares.

4.7 **Amendments.** The Corporation reserves the right from time to time to make any amendments of its Articles of Incorporation which may now or hereafter be authorized by law, including any amendments changing the terms or contract rights, as expressly set forth in its Articles of Incorporation, of any of its outstanding stock by classification, reclassification or otherwise; but no such amendment which changes such terms or contract rights of any of its outstanding classes of stock shall be valid unless such amendment shall have been approved by not less than a majority of the aggregate number of all shares entitled to vote thereon and by a majority of the aggregate number of shares of the class of stock whose terms or rights are affected by such amendment, by a vote at a meeting or in writing with or without a meeting.

ARTICLE V

DIRECTORS

5.1 **Number of Directors.** The total number of directors of the Corporation shall be six (6) directors until such time as any shares of Class B Voting Preferred Stock or Class C Voting Preferred Stock are outstanding. From and after the time that any shares of Class B Voting Preferred Stock or Class C Voting Preferred Stock are outstanding, the number of directors of the Corporation shall be: (i) seven (7) directors if no shares of Class B Voting Preferred Stock are outstanding and one (1) or more shares of Class C Voting Preferred Stock are outstanding; (ii) eight (8) directors if one (1) or more shares of Class B Voting Preferred Stock are outstanding and no shares of Class C Voting Preferred Stock are outstanding; or (iii) nine (9) directors if one (1) or more shares of Class B Voting Preferred Stock are outstanding and one (1) or more shares of Class C Voting Preferred Stock are simultaneously outstanding. Once the number of directors of the Corporation has been increased pursuant to the preceding sentence, the number of directors shall not be increased or decreased so long as any of the Class B Voting Preferred Stock or the Class C Voting Preferred Stock is outstanding other than as provided in the preceding sentence. Except as provided above, the number of directors may be increased or decreased pursuant to the By-Laws of the Corporation, but shall never be less than the minimum number permitted by the Iowa Business Corporation Act now or hereafter in force.

5.2 **Power of Directors.** The Board of Directors is hereby empowered to authorize the issuance from time to time of shares of the capital stock of any class of the Corporation, whether now or hereafter authorized, or securities convertible into shares of its stock of any class or classes, whether now or hereafter authorized, for such consideration as may be deemed advisable by the Board of Directors and without any action by the stockholders.

5.3 **Enumerated Powers of Directors Not Exclusive.** The enumeration and definition of particular powers of the Board of Directors included in the foregoing shall in no way be limited or restricted by references to or inference from the terms of any other clause of this or any other Article of the First Restated Articles of Incorporation of the Corporation, as construed or deemed by inference or otherwise, in any manner to exclude or limit any powers conferred upon the Board of Directors under the Iowa Business Corporation Act, now or hereafter in force.

ARTICLE VI

NON-LIABILITY AND INDEMNIFICATION

6.1 **Non-Liability of Directors.** A director of this Corporation shall not be personally liable to the Corporation or its shareholders for monetary damages for breach of fiduciary duty as a director, except for liability: (i) for any breach of the director's duty of loyalty to the Corporation or its shareholders; (ii) for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of law; (iii) for a transaction from which the director derived an improper personal benefit; or (iv) under Section 833 of the Iowa Business Corporation Act (or any similar provision of any subsequent law enacted in Iowa). Any repeal or amendment of this Section 6.1 by the shareholders of the Corporation shall not adversely affect any right or protection of a director existing at the time of such repeal or amendment. If Iowa law is hereafter changed to permit further elimination or limitation of the liability of directors for monetary damages to the Corporation or its shareholders, then the liability of a director of this Corporation shall be eliminated or limited to the fullest extent then permitted.

6.2 **Indemnification of Directors.** Each individual who is or was a director of the Corporation (and the heirs, executors, personal representatives or administrators of such individual) who was or is made a party to, or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such person is or was a director of the Corporation or is or was serving at the request of the Corporation as a director, officer, partner, trustee, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise ("**Indemnitee**"), shall be indemnified and held harmless by the Corporation to the fullest extent permitted by applicable law, as the same exists or may hereafter be amended. In addition to the indemnification conferred in this Section 6.2, the Indemnitee and any officer of the Corporation shall also be entitled to have paid directly by the Corporation the expenses reasonably incurred in defending any such proceeding against such Indemnitee, or any similar type of proceeding against such officer, in advance of its final disposition, to the fullest extent authorized by applicable law, as the same exists or may hereafter be amended. The right to indemnification conferred in this Section 6.2 shall be a contract right. The Board of Directors may take such action as is necessary to carry out these indemnification provisions and is expressly empowered to adopt, approve and amend from time to time such By-Laws, resolutions, or contracts implementing such provisions or such further indemnification arrangements as may be permitted by law. No amendment or repeal of any of these indemnification provisions shall limit or

eliminate the right to indemnification provided hereunder with respect to acts or omissions occurring prior to such amendment or repeal.

6.3 **Indemnification of Others.** The Corporation may, by action of the board of directors, provide indemnification to such of the officers, employees and agents of the Corporation to such extent and to such effect as the board of directors shall determine to be appropriate and authorized by applicable law.

6.4 **Enumerated Indemnification Not Exclusive.** The rights and authority conferred in this Article VI shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, provision of the articles of incorporation or bylaws of the Corporation, agreement, vote of shareholders or disinterested directors, or otherwise.

6.5 **Repeal or Amendment.** Any repeal or amendment of this Article VI by the shareholders of the Corporation shall not adversely affect any right or protection of a director or other person existing at the time of such repeal or amendment.

3. The duly adopted First Restated Articles of Incorporation set forth above supersede the original Articles of Incorporation of the Corporation filed on December 7, 1972, as amended by the Articles of Amendment to the Articles of Incorporation filed on February 16, 1983, as amended and restated by the Restated Articles of Incorporation filed on August 22, 1997, and any and all other amendments to them.

4. The Board of Directors of the Corporation adopted these First Restated Articles of Incorporation on August 27, 1997. The First Restated Articles of Incorporation amend the Restated Articles of Incorporation requiring shareholder approval. These First Restated Articles of Incorporation were approved by the shareholders on August 27, 1997.

4.A. The designation, number of outstanding shares, number of votes entitled to be cast by each voting group entitled to vote separately on the First Restated Articles of Incorporation, and the number of votes of each voting group indisputably represented at the shareholder meeting are as follows:

DESIGNATION OF GROUP	SHARES OUTSTANDING	VOTES ENTITLED TO BE CAST ON FIRST RESTATED ARTICLES	VOTES REPRESENTED AT MEETING
Class A Common Stock	1,200	1,200	1,200
Class B Voting Preferred Stock	400	400	400

000666

4.B. The total number of votes cast for and against these First Restated Articles of Incorporation by each voting group entitled to vote separately on the First Restated Articles of Incorporation is as follows:

VOTING GROUP	VOTES FOR	VOTES AGAINST
Class A Common Stock	1,200	0
Class B Voting Preferred Stock	400	0

4.C. The number of votes cast for the First Restated Articles of Incorporation by each voting group was sufficient for approval by that voting group.

5. These First Restated Articles of Incorporation shall be effective upon the filing thereof in the Office of the Secretary of the State of Iowa.

WINNEBAGO REALTY CORPORATION

By: _____
Raymond M. Beebe, Vice President and Secretary

FILED
IOWA
SECRETARY OF STATE
8-28-97
9:47 AM
W154535

12

000667

44181-S
44185-NS

ARTICLES OF MERGER
OF
WINNEBAGO HEALTH CARE MANAGEMENT COMPANY
INTO
WINNEBAGO INDUSTRIES, INC.

TO: Secretary of State of the State of Iowa

Pursuant to the provision of Sections 490.1104 and 490.1105 of the Code of Iowa, being the "Iowa Business Corporation Act," the undersigned adopts the following Articles of Merger for the merging of Winnebago Health Care Management Company into Winnebago Industries, Inc., the surviving corporation:

ARTICLE I

Winnebago Health Care Management Company, an Iowa corporation, shall be merged into Winnebago Industries, Inc., also an Iowa corporation, effective May 1, 2006, with Winnebago Industries, Inc. being designated the surviving corporation; that such merger shall be a complete liquidation; that upon the effective date of said merger all property of Winnebago Health Care Management Company shall be thereupon transferred to Winnebago Industries, Inc. and the stock in Winnebago Health Care Management Company now held by Winnebago Industries, Inc., which constitutes all outstanding stock of such subsidiary, shall be surrendered and canceled.

ARTICLE II

All outstanding shares of Winnebago Health Care Management Company, consisting of one class only, being common, are held and owned by Winnebago Industries, Inc., the surviving corporation.

ARTICLE III

That whereas Winnebago Industries, Inc., the surviving corporation, is the owner of all issued and outstanding stock of Winnebago Health Care Management Company, Winnebago Industries, Inc. has waived the mailing of a copy of the plan of merger as would otherwise be required by law.

Dated this 1st day of May, 2006

WINNEBAGO INDUSTRIES, INC.

By: _____
Edwin F. Barker, President

By: _____
Raymond M. Beebe, Secretary

2

STATE OF IOWA)
)ss:
COUNTY OF HANCOCK)

On this 1st day of May, 2006, before me, Karen C. Jefson, a Notary Public in and for the State of Iowa, personally appeared Edwin F. Barker and Raymond M. Beebe, each to me personally known, who being by me duly sworn did say that they are President and Secretary, respectively, of Winnebago Industries, Inc.; that the seal affixed thereto is the duly adopted seal of said corporation; that said Articles of Merger was signed and executed on behalf of the Corporation by the authority of its Board of Directors, and that the said Edwin F. Barker and Raymond M. Beebe acknowledge execution of said instrument to be the voluntary act and deed of said Corporation by it and by them voluntarily executed.

Karen C. Jefson

Karen C. Jefson, Notary Public in and for the State of Iowa

KAREN C. JEFSON
COMMISSION NO. 151407
MY COMMISSION EXPIRES
5-1-07

FILED
IOWA
SECRETARY OF STATE
5-4-2006
3:04 PM
W462789

EXHIBIT "5"

EXHIBIT 6

EXHIBIT 6

STANDARD INDUSTRIAL/COMMERCIAL SINGLE-TENANT LEASE -- NET

1. **Basic Provisions ("Basic Provisions")**

1.1 **Parties**: This Lease ("Lease"), dated for reference purposes only is made by and between 2260 EAST MAIN STREET, LLC ("**Lessor**") and VERTIGO INVESTMENTS, LLC ("**Lessee**"), (collectively the "**Parties**," or individually a "**Party**").

1.2 **PREMISES**: That certain real property, including all improvements therein or to be provided by Lessor under the terms of this Lease, and commonly known as 2260 E. Main Street, Mesa, AZ, 85213, located in the County of Maricopa, consisting of approx 15,811 square feet of building and covered work areas situated on approximately 9.5 acres of land (**"Premises"**). (See also Paragraph 2)

1.3 TERM: 2 years and 0 months (**"Original Term"**) commencing May 1, 2014 (**"Commencement Date"**) and ending April 30, 2016 (**"Expiration Date"**). (See also Paragraph 3)

1.4 **Early Possession**: upon written notice of Lessor of completion of Lessor's work. (**"Early Possession Date"**). (See also Paragraphs 3.2 and 3.3)

1.5 **Base Rent**: $ 18,000.00 (**"Base Rent"**), payable on the first day of each month commencing May 1, 2014 (See also Paragraph 4)

[ ] If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted.

1.6 **Base Rent Upon Execution**: $18,000.00 as Base Rent for the period

1.7 **Security Deposit**: $ 00,000.00 (**"SECURITY DEPOSIT"**). (See also Paragraph 5) — Secured By Aaron's purchase By Mike Lightfoot 24.5%

1.8 **Agreed Use**: storage, sales, service, repair and general office for auto, truck and recreational vehicles. (See also Paragraph 6)

1.9 **Insuring Party**. Lessee is the **"Insuring Party"** unless otherwise stated herein. (See also Paragraph 8).

1.10**Real Estate Brokers**: (See also Paragraph 15)

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

[ ] _n/a_____represents Lessor exclusively (**"Lessor's Broker"**);

[ ] _n/a _____represents Lessee exclusively (**"Lessee's Broker"**); or

[ ] _____represents both Lessor and Lessee (**"Dual Agency"**).

(b) **Payment to Broker(s)**: Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Lessee's Broker the sum of 4 % of the total Base Rent for the Brokerage services rendered by said Broker)

1.11 **Guarantor**. The obligations of the Lessee under this Lease are to be guaranteed by _____ ("GAURANTOR"). (See also Paragraph 37)

1.12 **Addenda and Exhibits.** Attached hereto is an Addendum consisting of Paragraphs 49 through 52, all of which constitute a part of this Lease.

2. **Premises.**

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

2.2 **Condition**. Lessor shall deliver the Premises to Lessee broom clean and free of debris on the Commencement Date or the Early Possession Date, whichever first occurs (**"Start Date"**), and so long as the required service contracts described in Paragraph 7.1(b) below are obtained by Lessee within the term of the lease folllowing the Start Date, warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems (**"HVAC"**), loading doors, if any, and all other such elements in the Premises, other than those constructed by Lessee, shall be in good operating condition on said date and that the structural element of the roof, bearing walls and the foundation of any buildings on the Premises (the **"Building"**) shall be free of material defects. If a non-compliance with said warranty exists as of the Start Date, Lessor shall, as Lessor's sole obligation with respect to such matter, except as otherwise provided in the Lease, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify same at Lessor's expense. If, within two months after the Start Date, Lessee does not give Lessor written notice of any non-compliance with this warranty, as to the surface of the roof and the structural portions of the roof, foundations and bearing walls and HVAC systems, and the remaining systems and other elements of the Building, correction of such non-compliance shall be the obligation of Lessee at Lessee's sole cost and expense.

2.3. **Compliance**. Lessor warrants that the improvements on the premises comply with all the applicable laws, covenants or restrictions of record, building codes, regulations, and ordinances (**"Applicable Requirements"**) in effect on the Start Date. Said warranty does not apply to the use to which Lessee will put the Premises or to any Alterations or Utility Installation (as defined in Paragraph 7.3 (a)) made or to be made by Lessee. NOTE: Lessee is responsible for determining whether or not the zoning is appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed. If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance rectify the same at Lessor's expense. If Lessee does not give Lessor written notice of a non-compliance with this warranty within twelve (12) months following the Start Date, correction of that non-compliance shall be the obligation of Lessee at Lessee's sole cost and expense. If the Applicable Requirements are hereafter changed (as opposed to being in existence at the Start Date, which is addressed in Paragraph 6.2 (e) below) so as to require during the term of this Lease the construction of an addition to or an alteration of the Building, the remediation of any Hazardous Substance, or the reinforcement of other physical modification of the Building (**"Capital Expenditure"**), Lessor and Lessee shall allocate cost of such work as follows:

(a) Subject to Paragraph 2.3(c) below, if such Capital Expenditures are required as a result of the specific and unique use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof, provided, however that if such Capital Expenditure is required during the last six months of this Lease and the cost thereof exceeds one (1) months' Base Rent, Lessee may instead terminate this Lease unless Lessor notifies Lessee, in writing, within ten (10) days after receipt of Lessee's termination notice that Lessor has elected to pay the difference between the actual cost thereof and the amount equal to one (1) months' Base Rent. If Lessee elects

termination, Lessee shall immediately cease the use of the Premises which requires such Capital Expenditure and deliver to Lessor written notice specifying a termination date at least ninety (90) days thereafter. Such termination date shall, however, in no event be earlier than the last day that Lessee could legally utilize the Premises without commencing such Capital Expenditure.

(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor and Lessee shall allocate the obligation to pay for such costs pursuant to the provisions of Paragraph 7.1 (c); provided, however, that if such Capital Expenditure is required during the last six months of this Lease or if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option to terminate this Lease upon ninety (90) days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within ten (10) days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with interest, from Rent until Lessor's share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon thirty (30) days written notice to Lessor.

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to non-voluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in Intensity of use, or modification to the Premises then, and in that event, Lessee shall be fully responsible for the cost thereof, and Lessee shall not have any right to terminate this Lease.

2.4 **Acknowledgements.** Lessee acknowledges that: (a) it has been advised by Lessor and/or Brokers to satisfy itself with respect to the condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements), and their suitability for Lessee's intended use, (b) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility thereof as the same relate to its occupancy of the Premises, and (c) neither Lessor, Lessor's agents, nor any Broker has made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (a) Broker has made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (b) it is Lessor's sole responsibility to investigate the financial capability and/or suitability of all proposed tenants.

2.5 **Lessee as Prior Owner/Occupant.** The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective work.

3. **Term.**

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

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

3.3 **Delay in Possession.** Lessor agrees to use its commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession as agreed, Lessor shall not be subject to any liability therefore, nor shall such failure affect the validity of this Lease. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until it receives possession of the Premises. If possession is not delivered within sixty (60) days after the Commencement Date, Lessee may, at its option, by notice in writing within ten (10) days after the end of such sixty (60) day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said ten (10) day period, Lessee's right to cancel shall terminate. Except as otherwise provided, if possession is not tendered to Lessee by the Start Date and Lessee does not terminate this Lease, as aforesaid, any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession of the Premises is not delivered within four (4) months after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

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

4. **Rent.**

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

4.2 **Payment.** Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States, without offset or deduction (except as specifically permitted in this Lease), on or before the day on which it is due. Rent for any period during the term hereof which is for less than one (1) full calendar month shall be prorated based upon the actual number of days of said months. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating.

5. **Security Deposit.** Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use apply or retain all or any portion of said Security Deposit for the payment of any amount due Lessor or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of said Security Deposit, Lessee shall within ten (10) days after written request therefore deposit monies with Lessor sufficient to restore said Security

* ~~[illegible]~~ Security Deposit waived w/ [illegible] Purchase of Mike [illegible] 24.3% share.

EXHIBIT "6"

Deposit to the full amount required by this Lease. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within fourteen (14) days after the expiration or termination of this Lease, if Lessor elects to apply the Security Deposit only to unpaid Rent, and otherwise within thirty (30) days after the Premises have been vacated pursuant to Paragraph 7.4(c) below, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease.

6. **USE.**

6.1 **USE.** Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs owners and/or occupants of, or causes damage to neighboring properties. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the improvements on the Premises or the mechanical or electrical systems therein, is not significantly more burdensome to the Premises. If Lessor elects to withhold consent, Lessor shall within five (5) business days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in use.

6.2 **Hazardous Substances.**

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

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

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

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

(e) **Lessor Indemnification.** Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all damages, liabilities, judgments, claims, expenses, penalties, and reasonable attorneys and consultants' fees arising out of or involving any Hazardous Substances on the Premises prior to the Start Date or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

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

(g) **Lessor Termination Option.** If a Hazardous Substance Condition occurs during the term of this Lease, unless Lessee is legally responsible therefore (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2 (d) and Paragraph 13), Lessor may, at

Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds twelve (12) times the then monthly Base Rent or $100,000, whichever is greater, give written notice to Lessee, within thirty (30) days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance condition, of Lessor's desire to terminate this Lease as of the date sixty (60) days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within ten (10) days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to twelve (12) times the then monthly Base Rent or $100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within thirty (30) days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified as of the date specified in Lessor's notice of termination.

6.3 **Lessee's Compliance With Applicable Requirements.** Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, and the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to the Premises without regard to whether said requirements are now in effect or become effective after the Start Date. Lessee shall, within ten (10) days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements.

6.4 **Inspection; Compliance.** Lessor and Lessor's "Lender" (as defined in Paragraph 30 below) and consultants shall have the right to enter into Premises at any time, in the case of an emergency, and otherwise at reasonable times, for the purpose of inspecting the condition of the Premises and for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable requirements or a contamination is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspections, so long as such inspection is reasonably related to the violation or contamination.

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

7.1 **Lessee's Obligations.**

(a) **In General.** Subject to the provisions of Paragraph 2.2 (Condition), 2.3 (Compliance), 6.3 (Lessee's Compliance with Applicable Requirements), 7.2 (Lessor's Obligations), 9 (Damage or Destruction), and 14 (Condemnation), Lessee shall, at Lessee's sole expense, except for wearable items, keep the Premises, Utility Installations, and Alterations in good order, condition and repair (whether or not the portion of the Premises requiring repairs, or the means of repairing the same, are reasonably or readily accessible to Lessee, and whether or not the need for such repairs occurs as a result of Lessee's use, any prior use, the elements or the age of such portion of the Premises), including, but not limited to, all equipment or facilities, such as plumbing, heating, ventilating, air-conditioning, electrical, lighting facilities, boilers, pressure vessels, fire protection system, fixtures, walls (interior and exterior), foundations, ceilings, floors, windows, doors, plate glass, skylights, landscaping, driveways, parking lots, fences, retaining walls, signs, sidewalks located in, on, or adjacent to the Premises. Lessee, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices. Lessee shall, during the term of this Lease, keep the exterior appearance of the Building in a first-class condition consistent with the exterior appearance of the building when received, including, when necessary, the exterior repainting of the Building.

(b) **Replacement.** Subject to Lessee's indemnification of Lessor as set forth in Paragraph 8.7 below, and without relieving Lessee of liability resulting from Lessee's failure to exercise and perform good maintenance practices, if the Basic Elements described in Paragraph 7.1 (b) cannot be repaired other than at a cost which is in excess of 50% of the cost of replacing such Basic Elements, then such Basic Elements shall be replaced by Lessor, and subject to the Addendum, the cost thereof, shall be prorated between the Parties and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease, on the date on which Base Rent is due, an amount equal to the product of multiplying the cost of such replacement by a fraction, the numerator of which is one, and the denominator of which is the number of months of the useful life of such replacement as such useful life is specified pursuant to Federal income tax regulations or guidelines for depreciation thereof (including interest on the unamortized balance as is then commercially reasonable in the judgment of Lessor's accountants), with Lessee reserving the right to prepay its obligation at any time.

7.2 Lessor's **Obligations.** Subject to the provisions of 2.2 (Condition), 2.3 (Compliance), 9 (Damage or Destruction) and 14 (Condemnation) and the Addendum, it is intended by the Parties hereto that Lessor have no obligation, in any manner whatsoever, to repair and maintain the Premises, or the equipment therein, all of which obligations are intended to be that of the Lessee. It is the intention of the Parties that the terms of this Lease govern the respective obligations of the Parties as to maintenance and repair of the Premises, and they expressly waive the benefit of any statute now or hereafter in effect to the extent it is inconsistent with the terms of this Lease.

7.3 **Utility Installations; Trade Fixtures; Alterations.**

(a) **Definitions; Consent Required.** The term **"Utility Installations"** refers to all floor and window coverings, air lines, power panels, electrical distribution, security and fire protection systems, communication systems, lighting fixtures, HVAC equipment, plumbing, and fencing in or on the Premises. The term "Trade Fixtures" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "Alterations" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "Lessee Owned Alterations and/or Utility Installations" are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4 (a). Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent, which consent shall not be unreasonably withheld and shall be granted or denied within ten (10) business days, which ten (10) business days will commence to run from the date of receipt by Lessor of a copy of all of the items outlined in Paragraph 7.3(b) below. Lessee may, however, make non-structural Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof or any existing load walls, and the cumulative cost thereof during this Lease as extended does not exceed $50,000 in the aggregate or $10,000 in any one year.

(b) **Consent.** Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. For work which costs an amount equal to the greater of one months Base Rent, or $10,000, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to one and one-half times the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.

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

7.4 **Ownership; Removal; Surrender; and Restoration.**

(A) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per Paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

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

(c) **Surrender/Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof broom clean and free of debris, and in condition and state of repair as when received ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee Owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee, and the removal, replacement, or remediation of any soil, material or groundwater contaminated by Lessee. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. The failure by Lessee to timely vacate the Premises pursuant to this paragraph 7.4 (c) without the express prior written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

8. **Insurance; Indemnity.**

8.1 **Payment For Insurance.** Lessee shall pay for all insurance required under Paragraph 8 except to the extent of the cost attributable to liability insurance carried by Lessor under Paragraph 8.2(b) in excess of $2,000,000 per occurrence. Premiums for policy periods commencing prior to or extending beyond the Lease term shall be prorated to correspond to the Lease term. Payment shall be made by Lessee to Lessor within ten (10) days following receipt of an invoice.

8.2 **Liability Insurance.**

(a) **Carried by Lessee.** Lessee shall obtain and keep in force a Commercial General Liability Policy of Insurance protecting Lessee and Lessor against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than $2,000,000 per occurrence with an **"Addition insured-managers or Lessors of Premises Endorsement** " and contain the **"Amendment of the Pollution Exclusion Endorsement"** for damaged caused by heat, smoke or fumes from a hostile fire. The Policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "insured contract" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. All insurance carried by Lessee shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

(b) **Carried by Lessor.** Lessor may maintain liability insurance as described in Paragraph 8.2 (a), in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.

8.3 **Property Insurance – Building. Improvements and Rental Value.**

(a) **Building and Improvements.** The Insuring Party shall obtain and keep in force a policy or policies in the name of Lessor, with loss payable to Lessor, any groundlessor, and to any Lender(s) insuring loss or damage to the Premises. The amount of such insurance shall be equal to the full replacement cost of the Premises, as the same shall exist from time to time, or the amount required by any Lenders, but in no event more than the commercially reasonable and available insurable value thereof. If Lessor is the Insuring Party, however, Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee under Paragraph 8.4 rather than by Lessor. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a lender), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard\ protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed $1,000 per occurrence, and Lessee shall be liable for such deductible amount in the event of an Insured Loss.

(b) **Rental Value**. The Insuring Party shall obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one (1) year. Said insurance shall provide that in the event the Lease is terminated by reason of an insured loss, the period of indemnity for such coverage shall be extended beyond the date of the completion of repairs or replacement of the Premises, to provide for one full year's loss of Rent from the date of any such loss. Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next twelve (12) month period. Lessee shall be liable for any deductible amount in the event of such loss.

(c) **Adjacent Premises**, if the Premises are part of a larger building, or of a group of buildings owned by Lessor which are adjacent to the Premises, the Lesee shall pay for any increase in the premiums for the property insurance of such building or buildings if said increase is cause by Lessee's acts, omissions, use or occupancy of the Premises.

8.4 **Lessee's Property/Business Interruption Insurance.**

(a) **Property Damage**. Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed $1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations. Lessee shall provide Lessor with written evidence that such insurance is in force.

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

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

8.5 **Insurance Policies**. Insurance required herein shall be by companies duly licensed or admitted to transact business in the state where the Premises are located, and maintaining during the policy term a "General Policyholders Rating" of at least B+, V, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be reasonably required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certificates evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after thirty (30) days prior written notice to Lessor. Lessee shall, at least thirty (30) days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or upon 5 days written notice Lessor may order such insurance and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, upon 5 days written notice the other Party may, but shall not be required to, procure and maintain the same.

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

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

8.8 **Exemption of Lessor from Liability**. Lessor shall not be liable for injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the Building of which the Premises are a part, or from other sources or places. Lessor shall not be liable for any damages arising from any act or neglect of any other tenant of Lessor. Notwithstanding Lessor's negligence or breach of this Lease, Lessor shall under no circumstances be liable for injury to Lessee's business or for any loss of income or profit therefrom. Notwithstanding Lessee's breach of this Lease, Lessor shall under no circumstances be liable for injury to Lessee's business or for any loss of income or profit therefrom.

9. **Damage or Destruction**

9.1 **Definitions.**

(a) "**Premises Partial Damage**" shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in six (6) months or less from the date of the damage or destruction. Lessor shall notify Lessee in writing within thirty (30) days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(b) "**Premises Total Destruction**" shall mean damage or destruction to the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in six (6) months or less from the date of the damage or destruction. Lessor shall notify Lessee in writing within thirty (30) days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

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

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

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

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

9.3 **Partial Damage – Uninsured Loss**. If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may either: (i) repair such damage as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within thirty (30) days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective sixty (60) days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within ten (10) days after receipt of the termination notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage in excess of $25,000 without reimbursement from Lessor. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within thirty (30) days after making such commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

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

9.5 **Damage near End of Term**. If at any time during the last six (6) months of this Lease there is damage for which the cost to repair exceeds one (1) month's Base Rent, whether or not an Insured Loss, Lessor or Lessee may terminate this Lease effective sixty (60) days following the date of occurrence of such damage by giving a written termination notice to the other party within thirty (30) days after the date of occurrence of such damage. Notwithstanding the foregoing, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this Lease by, (a) exercising such option and (b) providing Lessor with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is ten days after Lessee's receipt of Lessor's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. If Lessee duly exercises such option during such period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate on the date specified in the termination notice and Lessee's option shall be extinguished.

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

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

(b) **Remedies**. If Lessor shall be obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within ninety (90) days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than sixty (60) days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within thirty (30) days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within said thirty (30) days, this Lease shall continue in full force and effect. "COMMENCE" shall mean either the unconditional authorization of the preparation of he required plans, or the beginning of the actual work on the Premises, whichever first occurs.

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

9.8 **Waive Statutes**. Lessor and Lessee agree that the terms of this Lease shall govern the effect of any damage to or destruction of the Premises with respect to the termination of this Lease and hereby waive the provisions of any present or future statute to the extent inconsistent herewith.

10. **Real Property Taxes**

10.1 **Definition of "Real Property Taxes."** As used herein, the term "**Real Property Taxes**" shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Premises, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Building address and where the proceeds so generated are to be applied by the city, county or other local taxing authority of a jurisdiction within which the Premises are located. The term "**Real Property Taxes**" shall also include any tax, fee, levy, assessment or charge, or any increase therein, imposed by reason of events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Premises.

10.2

(a) **Payment of Taxes**. Lessee shall pay the Real Property Taxes applicable to the Premises during the term of this Lease. Subject to Paragraph 10.2(b), all such payments shall be made at least ten (10) days prior to any delinquency date. If requested by Lessor, Lessee shall promptly furnish Lessor with satisfactory evidence that such taxes have been paid. If any such taxes shall cover any period of time prior to or after the expiration or termination of this Lease, Lessee's share of such taxes shall be prorated to cover only that portion of the tax bill applicable to the period that this Lease is in effect, and Lessor shall reimburse Lessee for any overpayment. If Lessee shall fail to pay any required Real Property Taxes, Lessor shall have the right to pay the same, and Lessee shall reimburse Lessor therefore upon demand

(b) **Advance Payment**. In the event Lessee incurs a late charge on any Rent payment, Lessor may, at Lessor's option, estimate the current Real Property Taxes, and require that such taxes be paid in advance to Lessor by Lessee, either: (i) in a lump sum amount equal to the installment due, at least twenty (20) days prior to the applicable delinquency date, or (ii) monthly in advance with the payment of the Base Rent. If Lessor elects to require payment monthly in advance, the monthly payment shall be an amount equal to the amount of the estimated installment of taxes divided by the number of months remaining before the month in which said installment becomes delinquent. When the actual amount of the applicable tax bill is known, the amount of such equal monthly advance payments shall be adjusted as required to provide the funds needed to pay the applicable taxes. If the amount collected by Lessor is insufficient to pay such Real Property Taxes when due, Lessee shall pay Lessor, upon demand, such additional sums as are necessary to pay such obligations. All moneys paid to Lessor under this Paragraph may be intermingled with other moneys of Lessor and shall not bear interest. In the event of a Breach by Lessee in the performance of its obligations under this Lease, then any balance if funds paid by Lessor under the provisions of this Paragraph may at the option of Lessor, be treated as an additional Security Deposit.

10.3 **Joint Assessment**. If the Premises are not separately assessed, Lessee's liability shall be an equitable proportion of the Real Property Taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be conclusively determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available.

10.4 **Personal Property Taxes**. Lessee shall pay, prior to delinquency, all taxes assessed against and levied upon Lessee Owned Alterations, Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee. When possible, Lessee shall cause such property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said personal property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within ten (10) days after receipt of a written statement.

11. **Utilities**. Lessee shall pay for all water, gas, heat, light, power, telephone, trash disposal and other utilities and services supplied to the Premises, together with any taxes thereon. If any such services are not separately metered to Lessee, Lessee shall pay a reasonable proportion, to be determined by Lessor, of all charges jointly metered.

12. **Assignment and Subletting.**

(a) Lessee may voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "**assign or assignment**") or sublet all or any part of Lessee's interest in this Lease or in the Premise.

(b) A change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of twenty-five (25%) or more of the voting control of Lessee shall constitute a change in control for this purpose.

12.1 **Terms and Conditions Applicable to Assignment and Subletting.**

(a) Regardless of Lessor's consent, any assignment or subletting shall not: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations thereunder, or (iii) after the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

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

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

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

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of $1,000 or ten percent (10%) of the current monthly Base Rent applicable to the portion of the Premises which is the subject of the proposed assignment, whichever is greater, as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested.

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

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

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. Lessor shall not, by reason of the foregoing or any assignment of such sublease, or by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim for Lessee to the contrary.

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

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

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

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

13. **DEFAULT; BREACH; REMEDIES.**

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

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

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of three (3) business days following written notice to Lessee.

(c) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting , (iv) a Estoppel Certificate, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 42 (easements), or (viii) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of ten (10) days following written notice to Lessee.

(d) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 40 hereof, other than those described in subparagraphs 13.1(a), (b) or (c), above, where such Default continues for a period of thirty (30) days after written notice; provided, however, that if the nature of Lessee's Default is such that more than thirty (30) days are reasonably required for its cure then it shall not be deemed to be a breach if Lessee commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.

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

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

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

13.2 **Remedies.** If Lessee fails to perform any of its affirmative duties or obligations, within ten (10) days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. The costs and expenses of any such performance by Lessor shall be due and payable by Lessee upon receipt of invoice therefore. If any check given to Lessor by Lessee shall not be honored by the bank upon which it is drawn, Lessor, at its option, may require all future payments to be made by Lessee to be by cashier's check. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been

earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorney's fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent (1%). Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover damages under Paragraph 12. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

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

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

13.3 **Inducement Recapture.** Any agreement for free or abated rent or other charges, or for the giving or paying by Lessor to or for Lessee of any cash of other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "Inducement Provisions" shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants, and conditions of this Lease. Upon Breach of this Lease by Lessee, any such inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

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

13.5 **Interest.** Any monetary payment due Lessor or Lessee hereunder, other than late charges, not received by Lessor, when due as to scheduled payments (such as Base Rent) or within thirty (30) days following the date on which it was due for non-scheduled payment, shall bear interest from the date when due, as to scheduled payments, or the thirty-first (31st) day after it was due as to non-scheduled payments. The interest ("Interest") charged shall be equal to the prime rate reported in the Wall Street Journal as published closest prior to the date when due plus 4% but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 **Breach by Lessor.**

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

(b) **Performance by Lessee on Behalf of Lessor.** In the event that neither Lessor nor Lender cures said breach within thirty (30) days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense, and offset from Rent an amount equal to the greater of one month's Base Rent or the Security Deposit, and to pay an excess of such expense under protest, reserving Lessee's right to reimbursement from Lessor. Lessee shall document the cost of said cure and supply said documentation to Lessor.

14. **Condemnation.** If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively "**Condemnation**"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than ten percent (10%) of any building portion of the premises, or more than twenty-five percent (25%) of the land area portion of the premises not occupied by any building, is taken by Condemnation, Lessee may, at Lessee's

option, to be exercised in writing within ten (10) days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within ten (10) days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefore. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to the Premises caused by such Condemnation.

15. **Brokers.**

15.1 **Brokers' Fee.** Refer to paragraph 1.10 of this Lease.

15.2 **Assumption of Obligations**. Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's obligation hereunder. Each Broker shall be a third party beneficiary of the provisions of Paragraphs 1.10, 15, 22 and 31. If Lessor fails to pay to a Broker any amounts due as and for commissions pertaining to this Lease when due, then such amounts shall accrue Interest. In addition, if Lessor fails to pay any amounts to Lessee's broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within ten (10) days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker.

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

16. **Estoppel Certificates.**

(a) Each Party (as "Responding Party") shall within ten (10) days after written notice from the other Party (the "Requesting Party") execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current "Estoppel Certificate" form published by the American Industrial Real Estate Association, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

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

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

17. **Definition of Lessor**. The term "Lessor" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Except as provided in Paragraph 15, upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined. Notwithstanding the above, and subject to the provisions of Paragraph 20 below, the original Lessor under this Lease, and all subsequent holders of the Lessor's interest in this Lease shall remain liable and responsible with regard to the potential duties and liabilities of Lessor pertaining to Hazardous Substances as outlined in Paragraph 6 above.

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

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

20. **Limitation on Liability.** Subject to the provisions of Paragraph 17 above, the obligations of Lessor under this Lease shall not constitute personal obligations of Lessor, the individual partners of Lessor or its or their individual partners, directors, officers or shareholders and Lessee shall look to the Premises, and to no other assets of Lessor, or its or their individual partners, directors, officers or shareholders, or any of their personal assets for such satisfaction.

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

22. **No Prior or Other Agreements**; Broker Disclaimer. This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party. The liability (including court costs and Attorneys' fees), of any Broker with respect to negotiation, execution, delivery or performance by either Lessor or Lessee under this Lease or any amendment or modification hereto shall be limited to an amount up to the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

23. **Notices.**

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

23.2 **Date of Notice.** Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given forty-eight (48) hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantee next day delivery shall be deemed given twenty-four (24) hours after delivery of the same to the Postal Service or courier. Notices transmitted by facsimile transmission or similar means shall be deemed delivered upon telephone confirmation of receipt, provided a copy is also delivered via delivery or mail. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

24. **Waivers.** No waiver by Lessor or Lessee of the Default or Breach of any term, covenant or condition hereof by Lessee or Lessor, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant, or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent. The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of moneys or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.

25. **Recording.** Either Lessor or Lessee shall, upon request of the other, execute, acknowledge and deliver to the other a short form memorandum of this Lease for recording purposes. The Party requesting recordation shall be responsible for payment of any fees applicable thereto.

26. **No Right To Holdover.** Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then the Base Rent shall be increased to one hundred fifty percent (150%) of the Base Rent applicable during the month immediately preceding the expiration or termination. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee.

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

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

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

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

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

30.2 **Attornment.** Subject to the non-disturbance provisions of Paragraph 30.3, Lessee agrees to attorn to a Lender or any other party who acquires ownership of the Premises by reason of foreclosure of a Security Device, and that in the event of such foreclosure, such new

owner shall not: (i) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (ii) be subject to any offsets or defenses which Lessee might have against any prior lessor, or (iii) be bound by prepayment of more than one (1) month's rent.

30.3 **Non-Disturbance.** With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a "Non-Disturbance Agreement") from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises. Further, within sixty (60) days after the execution of this Lease, Lessor shall use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said sixty (60) days, then Lessee may, at Lessee's option, directly contact Lessor's lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.

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

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

32. **Lessor's Access; Showing Premises; Repairs.** Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times for the purpose of showing the same to prospective purchasers, lenders, or lessees and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary. All such activities shall be without abatement of rent or liability to Lessee. Lessor may at any time place on the Premises any ordinary "For Sale" signs and Lessor may during the last six (6) months of the term hereof place on the Premises any ordinary "For Lease" signs. Lessee may at any time place on or about the Premises any ordinary "For Sublease" sign.

33. **Auctions.** Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. **Signs.** Except for ordinary "For Sublease" signs, Lessee shall not place any sign upon the Premises without Lessor's prior written consent. All signs must comply with all Applicable Requirements and/or governmental ordinances.

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

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

37. **Guarantor**

37.1 **Execution.** The Guarantors, if any, shall each execute a guaranty in the form most recently published by the American Industrial Real Estate Association, and each such Guarantor shall have the same obligations as Lessee under this Lease.

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

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

39. **Options.**

39.1 **Definition.** "Option" shall mean: (a) the right to extend the term of or renew this Lease or to extend or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase or the right of first refusal to purchase the Premises or other property of Lessor.

39.2 **Options Personal to Original Lessee.** Each Option granted to Lessee in this Lease is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and, if requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subletting.

39.3 **Multiple Options.** In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.

39.4 **Effect of Default on Options.**

(a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given three (3) or more notices of separate Default, whether or not the Defaults are cured, during the twelve (12) month period immediately preceding the exercise of the Option.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).

(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term, (i) Lessee fails to pay Rent for a period of thirty (30) days after such Rent becomes due (without any necessity of Lessor to give notice thereof), (ii) Lessor gives to Lessee three (3) or more notices of separate Default, whether or not the Defaults are cured, during any twelve (12) month period, whether or not the Defaults are cured, or (iii) if Lessee commits a Breach of this Lease.

40. **Multiple Buildings.** If the Premises are a part of a group of buildings controlled by Lessor, Lessee agrees that it will observe all reasonable rules and regulations which Lessor may make from time to time for the management, safety, and care of said properties, including the care and cleanliness of the grounds and including the parking, loading and unloading of vehicles, and that Lessee will pay its fair share of common expenses incurred in connection therewith.

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

42. **Reservations.** Lessor reserves to itself the right, from time to time, to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, and to cause the recordation of parcel maps and restrictions, so long as such easements, rights, dedications, maps and restrictions do not unreasonably interfere with the use of the Premises by Lessee. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate any such easement rights, dedication, map or restrictions.

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

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

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

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

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

48. **Multiple Parties.** If more than one person or entity is named herein as either Lessor or Lessee, such multiple Parties shall have joint and several responsibility to comply with the terms of this Lease.

49. **Option to Extend the Lease.** Lessee shall have a one time option to extend the Lease for a period of five (5) years ("Option Period") after expiration of the Original Term. The base rent during the Option Period shall be $18,000.00 per month. Lessee shall notify Lessor in writing at least three months prior to the expiration of the Original Term of Lessee's desire to exercise the Option to extend the Lease. In the event

Lessee does not notify Lessee in writing of Lessee's intention to exercise the Option at least three (3) months prior to expiration of the Original Term, then Lessee's Option to Extend shall become null and void.

50. **Base Rent.** The Base Rent referenced in Paragraph 1.5 shall be $18,000.00 per month during the Option Period.

51. **Option To Purchase.** Lessee, as part of the consideration herein, is hereby granted the exclusive right and option of purchasing the Premises at any time during the term of this agreement or any extensions thereto. The Lessee will notify the Owner in writing of the exercise of this Option at least ten (10) days prior to such exercise. The purchase price will be set at fair market value as determined by an average of three (3) third party MAI certified appraisers, or, mutual agreement of the Parties hereto. Lessee has entered into, or will be entering into, a separate agreement to purchase a 24.5% ownership interest in the Premises and become a partner of the Lessor. In that event, this Option To Purchase only pertains to the remaining 75.5% ownership of the Premises. In the event no separate agreement is reached, then this Option To Purchase shall pertain to the entire Premises and the purchase price shall be determined by an average of three (3) third party MAI certified appraisers, or, mutual agreement of the Parties, as set forth herein. Purchase price needs to cover cost to Allegria Bank + Balance to Pete Luzi which is currently 2,000,000- Measured to bottom

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

The parties hereto have executed this Lease at the place and on the dates specified below.

LESSOR:	LESSEE:
Executed at: _____	Executed at: _____
Date: 4/10/14	Date: 4/8/14
By: _____	By: _____
Name Printed: Mclvin Lankford	Name Printed: AARON KOERNER
Title: Partner	Title: Managing Member
Address: Brent McMahon 3131 Michaelson Dr., #1803 Irvine, CA 92612	Address: Vertigo Investments LLC 3335 E. Main Street Mesa, AZ 85213
Telephone: 949-279-4493 Facsimile: Email:	Telephone: 602-790-7799 Facsimile: 480 968-2067 Email: aaron@desertautoplex.com

EXHIBIT "6"

AMENDMENT NO. 1 TO LEASE

This AMENDMENT NO. 1 TO LEASE (the "Agreement") is made as of April 30, 2014, by and between 2260 East Main Street, LLC, an Arizona limited liability company ("Landlord"), and, Vertigo Investments, LLC, an Arizona limited liability company ("Tenant").

RECITALS

A. Landlord and Tenant are parties to that certain Standard Industrial/Commercial Single-Tenant Lease – Net, with a commencement date of May 1, 2014 (the "Original Lease"), which pertains to, *inter alia*, the real property and improvements thereon commonly known as 2260 East Main Street, Mesa, Arizona (the "Demised Premises");
B. Landlord and Tenant now elect to amend the Original Lease on the terms and conditions set forth in this amendment.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, Landlord and Tenant agrees as follows:

1. Option To Purchase: Paragraph 51 of the Original Lease is modified to add the following provision:

> "In no event shall the purchase price of the Premises be less than the amount of any and all notes, loans, mortgages and all other liens encumbering the Premises at the time of sale."

2. Security Deposit: Paragraph 1.7 is modified to add the following provision:

> "In lieu of posting a cash Security Deposit, Lessee's performance shall be guaranteed by Aaron Korges' agreement to purchase Mike Lankford's 24.5% share in Lessor's company. If, however, Aaron Korges and/or his assignee does not purchase at least 12% of Mike Lankford's 24.5% share in Lessor's company by May 1, 2015, then Lessee shall post a cash deposit of $18,000 with Lessor."

3. Reaffirmation: Except as expressly modified by this Amendment, the Original Lease shall remain in full force and effect. In the event of any inconsistency between the terms of the Original Lease and this Amendment, the terms of this Amendment shall prevail.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first set forth above.

LANDLORD	**TENANT**
By: _____	By: _____
Printed: Brent J Mey	Printed: _____
Its: MANAGING MEMBER	Its: _____

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 18101 Von Karman Avenue, Suite 1200, Irvine, CA 92612

A true and correct copy of the foregoing document entitled (*specify)*: **NOTICE OF MOTION AND MOTION FOR ORDER: (1) APPROVING THE SALE OF THE ESTATE'S ASSETS FREE AND CLEAR OF LIENS AND OTHER INTERESTS; (2) AUTHORIZING ASSIGNMENT OF THE ESTATE'S INTEREST IN CERTAIN LEASE AGREEMENT; (3) FINDING PURCHASER IS A GOOD FAITH PURCHASER; (4) WAIVING 14-DAY STAYS OF FRBP 6004(h) AND 6006(d); AND (5) APPROVING COMPROMISE WITH ALLIANCE WESTERN BANK AND BRENT McMAHON; MEMORANDUM OF POINTS AND AUTHORITIES AND DECLARATIONS OF BRENT McMAHON AND HARI SACHANANDANI IN SUPPORT** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) August 18, 2017, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- **Frank Cadigan** frank.cadigan@usdoj.gov
- **Robert P Goe** kmurphy@goeforlaw.com, rgoe@goeforlaw.com;goeforecf@gmail.com
- **Robbin L Itkin** ritkin@linerlaw.com, cbullock@linerlaw.com
- **Nathan F Smith** nathan@mclaw.org, CACD_ECF@mclaw.org
- **United States Trustee (SA)** ustpregion16.sa.ecf@usdoj.gov

2. SERVED BY UNITED STATES MAIL:
On (*date*) August 18, 2017, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows: Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Cobe Real Estate Inc
2152 S Vineyard, Ste. 116
Mesa, AZ 85210

Vertigo Investments, LLC
2260 E. Main Street
Mesa, AZ 85213

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL: (state the method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) August 18, 2017, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows: Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

The Honorable Mark Wallace, USBC, 411 West Fourth Street, Santa Ana, CA 92701

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

August 18, 2017	Susan C. Stein	/s/Susan C. Stein
Date	*Printed Name*	*Signature*