

Legislation Details (With Text)

File #:	16-0100	Version:	2	Name:	511 University Drive Office Lease Agreement	
Туре:	Agreement			Status:	Consent Agenda	
File created:	2/10/2016			In control:	City Council Regular	
On agenda:	2/25/2016			Final action:		
Title:	Presentation, possible action, and discussion regarding a three year lease agreement between The City of College Station and JAR Capital Investments, LLC, in the total amount of \$350,413.44 for office lease space at 511 University Drive East.					
Sponsors:	Aubrey Nettle	s				
Indexes:						
Code sections:						
Attachments:	Lease 511 Un	iversity 2-12	<u>2-16</u>			
Date	Ver. Action By	/		Ac	tion Result	

Presentation, possible action, and discussion regarding a three year lease agreement between The City of College Station and JAR Capital Investments, LLC, in the total amount of \$350,413.44 for office lease space at 511 University Drive East.

Relationship to Strategic Goals:

Core Services and Infrastructure

Recommendation(s):

Staff recommends approval of this lease agreement.

Background & Summary:

Staff has been working with a real estate brokerage firm to identify properties available in College Station to serve as temporary office space. After reviewing multiple listings and visiting six different locations, it appears that the property located at 511 University Drive is the most cost effective option that meets our short-term needs. Staff, through the broker acting on our behalf, prepared a proposal that includes a competitive lease rate, a three year term with the option to extend another year, and requires the landlord to customize the build-out to meet our staff's space needs at no additional charge. The property owner has agreed to this proposal.

Budget & Financial Summary:

Lease space rent:

Months 01 thru 12:	\$9,448.50 per month (\$113,382.00. per year)
Months 13 thru 24:	\$9,731.96 per month (\$116,783.52 per year)
Months 25 thru 36:	\$10,020.66 per month (\$120,247.92 per year)

Attachments:

1. Lease Agreement

OFFICE LEASE FOR 511 UNIVERSITY DRIVE EAST

JAR Capital Investments, LLC, (with its successors, called "Landlord") and **The City of College Station** a Texas Home Rule Municipal Corporation (with its successors, called "Tenant"), in consideration of their mutual covenants and agreements in this Lease, agree as follows:

- 1. SUMMARY AND DEFINITIONS. The following definitions apply in this Lease:
 - (a) **Term:** Three (3) Years.
 - (b) **Commencement Date:** Upon substantial completion of the build out of the Tenant improvements.
 - (c) **Termination Date.** This Lease shall terminate on the Termination Date, or at the end of any extension or renewal thereof. Tenant hereby agrees that if Tenant fails to surrender the Leased Premises at the end of the Term, or any renewal thereof, Tenant will be liable to Landlord for any and all reasonable damages which Landlord shall suffer by reason thereof.
 - (d) Monthly Base Rent:

Months 01 thru 12:	\$9,448.50 per month (\$18.00 / sq. ft. per year)
Months 13 thru 24:	\$9,731.96 per month (\$18.54 / sq. ft. per year)
Months 25 thru 36:	\$10,020.66per month (\$19.09 / sq. ft. per year)

- (e) **Permitted Use:** Tenant shall be entitled to use and occupy the Leased Premises for general office purposes.
- (f) **Exhibits:** Exhibits A, B & C, attached hereto, all a part of this Lease.
- (g) **Premises:** Designated by the outlined area on the site plan attached as Exhibit "A" and containing approximately 6,299 square feet located within the Building.
- (h) Building: The office building known as 511 University Drive East, College Station, Texas 77840; with a total rentable area of approximately11,517 square feet, on which said building is situated, and with the building(s), parking facilities, and all other structures, improvements, fixtures and appurtenances from time to time on, appurtenant to or servicing that land and the building.
- (i) **Prepaid Rent.** Tenant shall pay at lease execution Nine Thousand Four Hundred Forty-Eight Dollars and 50/100 Cents (\$9,448.50.) to be credited towards first month's rent.

- (j) **Security Deposit:** Tenant shall pay within thirty (30) days of lease execution Nine Thousand Four Hundred Forty-Eight Dollars and 50/100 Cents (\$9,448.50).
- (k) Parking Area: Landlord shall make available a total of twenty five (25) free of charge parking spaces of which five (5) shall be covered and reserved for the duration of the term. Landlord shall bring ADA parking access and wheelchair access up to current ADA standards and provide a minimum of two (2) handicap parking spaces, before Tenant occupancy.
- (I) Brokers: Landlord and Tenant each acknowledge that Jody Slaughter of Oldham Goodwin Group, LLC represents the Tenant only. Jennifer Roberts of Oldham Goodwin Group, LLC is one of the owners of and represents JAR Capital Investments, LLC and also a licensed real estate broker. Oldham Goodwin Group, LLC is hereby acting as an intermediary.
- (m) **Tenant's Share:** The rentable area of the Premises divided by 100% of the rentable area of the Building. The agreed-upon rentable areas of the Premises and the Building shall be stated above, and Tenant's Share shall be 55%.
- (n) **Employees:** Employees, agents, partners, officers, licensees, invitees, contractors or guests.
- (o) Expense Stop: Base Year 2016.
- (p) **Alterations:** Alterations, improvements or additions (including fixtures) in or to the Premises.
- (q) Assignment: See Section 10.
- (r) Assignee: See Section 10.
- (s) Guarantor: Any Guarantor of the obligations to this Lease.
- (t) **Mortgage:** Any mortgage or deed of trust covering any part of the Building or any interest in Landlord.
- (u) Mortgagee: Any holder of a Mortgage.
- (v) Event of Default: See Section 19 (a).
- (w) Leasehold Improvements: Landlord shall "turn-key" the Leased Premises using building standard materials and finishes according to plan attached hereto as Exhibit C. Plan subject to further modification from Tenant and/or Landlord.
- (x) Tenant Improvement Allowance: [Intentionally Deleted]

- (y) **Signage:** Subject to Tenant and Landlord approval, Tenant, at Tenant's sole cost and expense, shall have the right to place their signage on the monument sign on University Dr., and building directory, if any, free of charge, for the duration of the primary lease term.
- 2. **DEMISE.** Landlord leases the Premises to Tenant for the Term, and Tenant takes the same, all upon and subject to the terms and conditions of this Lease.
- 3. CONSTRUCTION OF LEASED PREMISES. Tenant has accepted the Premises according to the attached Exhibit C.
- **4. RENT.** Tenant will pay the following to Landlord as rent, for the Term plus any earlier period of Tenant's occupancy:
 - (a) **Base Rent**. Base Rent, due in advance on the first day of each calendar month (prorated, for any partial month, based on a 30-day month). The first full monthly installment will be paid upon execution of this Lease.
 - (b) Additional Rent. Tenant to pay pro rata share of increases in building operating expenses above base year 2016. Landlord shall cap increases in operating expense pass throughs at three percent (3%) per year.

5. SERVICES PROVIDED BY LANDLORD.

- (a) **Services Provided.** If there is no uncured Event of Default by Tenant, Landlord will furnish for the occupied portion of the Premises the following services, all at Landlord's costs and expense except as stated in this Lease:
 - Air conditioning as required by Tenant in temperatures and amounts which, in Tenant's sole judgment, are reasonably required for comfortable occupancy under normal business operations.
 - (ii) Toilet facilities, water for lavatory and toilet purposes, all at points of supply provided for general use of tenants in the Building through fixtures installed by Landlord or by Tenant with Landlord's consent.
 - (iii) Electrical lighting for all public areas and special service areas of the Building as Landlord determines to be reasonable and standard, including replacement of standard light bulbs and tubes.

- Electrical service to the Premises, including providing and (iv)installing all standard replacement lighting tubes. All installations of electrical fixtures, appliances and equipment within the Premises shall be subject to Landlord's approval, and if they materially affect the temperature or humidity otherwise maintained. Landlord may install supplemental air conditioning units (which costs shall include the additional electrical consumptions of such units and costs associated with the removal of any additional heat load). Tenant's use of electricity will never exceed Tenant's share of the capacity of existing feeders to the Building or of the risers, wiring installations and transformers serving the floors containing the Premises. Any risers or wiring necessary to meet Tenant's electrical requirements in excess of the design capacity will be installed by Landlord on Tenant's written request, at Tenant's sole cost and expense (to be paid in advance), only if in Landlord's sole belief they are necessary and will not cause damage to the Building or a dangerous condition, or entail excessive or unreasonable alterations, repairs or expense or disturb other occupants. Save and except Landlord shall be responsible for repair or replacement of the HVAC system.
- (b) Landlord's Obligations. Landlord's obligation to furnish service is subject to the rules and regulations of applicable utilities and of any governmental authority. Landlord does not warrant that the services provided for in Section 5 will be free from any irregularity or stoppage. Landlord shall use due diligence to correct the same, but no such condition or event will create any liability for Landlord, or constitute an eviction, actual or constructive, of Tenant, or relieve Tenant from any of its obligations under this Lease.
- 6. ACCEPTANCE OF PREMISES. By taking possession of the Premises, Tenant shall conclusively evidence that the Premises are fully completed and are suitable for Tenant's purposes; that the Building and every part of it, including the Premises, is in good and satisfactory condition; and that Tenant waives any known defects therein; and that the Premises complies with Landlord's covenants and obligations hereunder.

7. USE OF PREMISES.

- (a) **Permitted Use.** Tenant will use and occupy the Premises only for the Permitted Use, using and maintaining them in a clean, careful, safe, sanitary and proper manner, and for no other use without the prior written consent of Landlord.
- (b) **Liability for Misuse**. Tenant will pay for any damage to the Premises or to any other part of the Building caused by any negligence or willful act or any misuse or abuse by Tenant or its Employees.

- Limitation on Use. Tenant will not cause anywhere in the Building, (C) or permit in the Premises: (i) any activity or thing contrary to applicable law, ordinance, regulation or insurance regulation; or which is in any way immoral or extra hazardous or could jeopardize the coverage of normal insurance policies or increase their cost; (ii) waste or nuisance, defacing or injury of the Building, or any activity causing odors perceptible outside the Premises; (iii) retail sales, purchases or gifts of any merchandise, or storage therefore; (iv) cooking or heating food (except in microwave ovens approved by Underwriters Laboratories for residential use and used solely for Tenant's Employees); or (v) overloading of the floors or the structural or mechanical systems of the Building. Tenant will conduct its business and occupy the Premises and shall not create any nuisance or interfere with, annoy, or disturb any other tenants in the Building or the Landlord in its management thereof, and shall not injure the reputation of the Building. Tenant shall not erect or place any item (including but not limited to signs) in, upon, or visible from the exterior or the common areas of the Building.
- (d) **Excluded Uses.** No portion of the Premises shall be used for noxious or offensive activities.
- (e) **Permits.** Tenant shall procure, at its sole expense, any permits required for the occupancy and transaction of business in the Premises and otherwise comply with all applicable laws, ordinances, and governmental regulations, and at Landlord's request, promptly provide copies of such permits to Landlord.

8. TENANT'S ALTERATIONS, REPAIR AND MAINTENANCE.

- (a) Tenant's Maintenance Obligations. Tenant will immediately pay the cost of repair and replacement due to damage or injury to the Building by Tenant or its Employees. Tenant, at Tenant's sole cost and expense, shall pay for all janitorial costs for the Leased Premises. Tenant shall pay for janitorial services if required in leased Premises. Notwithstanding anything in this Lease to the contrary, Tenant shall not be required to make any repair to, modification of, or addition / capital replacements to the building structure and/or the building systems and/or the site except required because of Tenant's use of all or a portion of the Premises for something other than normal and customary business office operations. Except as provided above, Landlord shall be responsible for any repairs to, modifications of, or additions/capital replacements to the building structure and/or the building systems and/or the site necessary in order to comply with laws, ordinances, regulations or the like.
- (b) **Approval of Tenant Alterations.** Tenant will not make or permit Alterations without Landlord's prior written consent, which shall not unreasonably withheld. Tenant shall have the right to paint the exterior of the front door of the Premises with Landlord's prior written approval.

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- (c) **Tenant Alterations.** Alterations will be performed, if Landlord elects, by Landlord or a contractor designated by Landlord. All Alterations will immediately be Landlord's property and a part of the Building without compensation to Tenant but subject to Tenant's rights hereunder, and Tenant will promptly notify Landlord of the value thereof for insurance purposes. Alterations, repairs and replacements by Tenant shall be in accordance with all applicable laws, including, but not limited to the Texas Architectural Barriers Act, rules and ordinances and the requirements of any insurance carrier, and be of a quality and class at least equal to the original work, performed in a good and workmanlike manner with good grades of materials. Landlord shall have the opportunity to inspect this work.
- 9. LIENS PROHIBITED. Tenant will not permit any lien on any part of the Building allegedly resulting from any work or materials furnished or obligations incurred by or for Tenant. If any such lien is filed, Tenant will promptly (i) discharge any such lien of record or (ii) if such lien is filed in connection with a disputed matter, Tenant may instead procure and maintain a bond around such lien to Landlord's satisfaction. Neither this Lease nor any request or consent of Landlord to the labor, materials or obligations, is a consent to such a lien.
- **10. ASSIGNMENT; SUBLETTING**. Except as expressly permitted hereby, Tenant may not assign, transfer, or encumber this Lease or any estate or interest therein, or permit the same to occur, or sublet or grant any right of occupancy for any part of the Premises, or permit such occupancy by any parties other than Tenant and its Employees. (The foregoing, and any changes in the terms thereof, are collectively called an "Assignment", and the other party thereto the "Assignee".) Any prohibited Assignment is voidable by Landlord.
 - (a) Conditions of Assignment. Landlord's consent to an Assignment is in Landlord's sole discretion. Any assignee must agree to the terms and conditions of this lease unless this requirement is expressly waived by Landlord. Such consent shall be effective only if in writing. Consent by Landlord to any Assignment shall not be a waiver of Landlord's rights as to any subsequent Assignments. Any approved sublease shall be expressly subject to the terms and conditions of this Lease. In the event of any Assignment, the assigning Tenant and any Guarantor will remain fully responsible and liable for all of Tenant's obligations under this Lease, and the Assignee will automatically be jointly and severally liable to the extent of the Assigned portion of the Premises. Upon an Event of Default, as hereinafter defined, while an Assignment is in effect, Landlord may collect directly from the Assignee all sums becoming due to Tenant under the Assignment and apply this amount against any sums due Landlord by Tenant, and Tenant authorizes and directs any Assignee to make payments directly to Landlord upon notice from Landlord. No direct collection by Landlord from any Assignee shall constitute a novation or release of Tenant or any Guarantor, consent to the Assignment or a waiver of the covenant prohibiting Assignments.

- (b) During the Term, Tenant shall have the right to sublease all or any portion of the Premises, or assign all of the Premises, subject to Landlord's approval, which approval shall not be unreasonably withheld, conditioned or delayed. During the Term, Tenant shall have the right to sublease all or any portion of the Premises, or assign all of the Premises, to any affiliate, successor entity or person by merger, consolidation, liquidation, reorganization or otherwise, or the sale to any entity or person of all or substantially all of the assets of Tenant, whether or not there may be a change in Tenant's name, without having to secure Landlord's approval therefore, and Tenant shall be entitled to all profits, if any, derived therefrom. Landlord may not reasonably withhold consent to sublease in the event prospective sublessee is a tenant of or a prospect for the Building, as long as prospective sublessee or prospect's use does not conflict with the existing tenant's use or exclusions currently in Building.
- (c) Request to Assign or Sublet; Cancellation. With any request for consent to an Assignment, Tenant will submit a copy of the Assignment to Landlord and notify Landlord of the proposed commencement date of the Assignment, the name of the proposed Assignee (accompanied by evidence of the nature, character, and financial condition of Assignee and its business), and all terms and conditions (including rental) of or relating to the Assignment. Within fifteen (15) days of such request (or any time, if no request was given), Landlord, by notice to Tenant, may terminate this Lease as to the portion of the Premises that would have been affected by the Assignment, in which event Tenant shall be relieved of all obligations under this Lease as to such portion of the Premises affected thereby, as of the stated commencement date of the Assignment.
- (d) **Excess Rent.** If the consideration Tenant receives for any Assignment exceeds the rent payable under this Lease for the same period and portion of the Premises, the excess shall be split evenly between Landlord and Tenant and immediately due and payable by Tenant to Landlord as additional rent under this Lease.
- (e) **Change of Control.** Tenant will notify Landlord of any change in control of Tenant or any Guarantor, or any sale of more than half its assets outside the ordinary course of business. In such event, Tenant will submit current financial statements with the notice to the Landlord.
- (f) Conveyance by Landlord. Landlord may transfer, assign and convey any part of or interest in the Building or any of its rights under this Lease. If Landlord assigns its rights under this Lease, no further liability or obligation shall thereafter accrue against Landlord under this Lease, and Tenant will attorn and look solely to Landlord's successor in interest for performance of this Lease. In the event Landlord transfers, assigns, or conveys any part or interest in the building the Tenant's security deposit shall transfer to the new Landlord.

- 11. LANDLORD'S LIABILITY. The liability of Landlord to Tenant for any default by Landlord under the terms of this Lease shall be limited to Tenant's actual and direct damages, but not consequential damages. Tenant does not waive or limit any governmental immunities or any other remedies available to it by the terms of this Lease.
- **12. INSURANCE.** Tenant will maintain as a minimum the following insurance during the entire Term:
 - (a) Comprehensive general liability insurance with combined single limits not less than \$2,000,000.00, for personal injury or death and property damage occurring in or about or related to the use of the Premises.
 - (b) "All Risk" insurance for the full replacement cost of all Tenant's property on the Premises and all fixtures. Unless this Lease is terminated upon damage or destruction, the proceeds of such insurance will be used to restore the foregoing.
 - (c) All policies required hereunder will be issued by carriers rated A VII or better by the then current Best's Key Rating Guide and authorized to do business in the State of Texas. The policies shall name Landlord as an additional insured, with primary coverage non-contributing to any insurance Landlord may carry, and shall provide that coverage cannot be canceled or materially changed except upon 30 days prior written notice to Landlord. Tenant shall furnish Landlord with an original certificate of insurance evidencing the required coverage upon execution of this Lease.
- 13. NO SUBROGATION. If either party suffers a loss of or damage to property in the Premises, in the Building, or related to this Lease, which is covered by valid insurance policies (or would be covered by policies which are required hereunder or which would be required but for any specific provisions for self-insurance), that party waives any claim therefore which it may have against the other party or its Employees (excluding contractors), regardless of whether negligence or fault of the other party or its Employees (excluding contractors) may have caused the loss or damage. Each party will have its appropriate insurance policies properly endorsed, if necessary, to prevent any invalidation of insurance coverage required hereunder due to these mutual waivers.
- 14. FIRE AND CASUALTY. If the Premises or any part thereof is damaged by fire or other casualty, Tenant will promptly notify Landlord.
 - (a) **Cancellation of Lease; Restoration of Building.** If the Building or the Premises is damaged by fire or other casualty to the extent that substantial alteration or reconstruction is required in Landlord's sole opinion, or if any Mortgagee requires that the insurance proceeds payable as a result of the fire or other casualty be applied against the mortgage debt, Landlord may terminate this Lease by notifying Tenant within Sixty Days (60) after the later of the date the damage occurs, or the date Landlord is so notified by its Mortgagee, in which event the rent under this Lease will be abated as of

the date of the fire or other casualty. If this Lease is not terminated, then within Seventy-Five Days (75) after the fire or other casualty, or such greater period as may be reasonably necessary, Landlord will commence to repair and restore the Premises and any portion of the Building required for access to the Premises, and will diligently complete the same, but Landlord is not required: (i) to expend more for such repair of the Premises than the net insurance proceeds (after any payment required under any Mortgage) reasonably allocable to the Premises, or (ii) to rebuild, repair or replace any of Tenant's furniture or furnishings or of fixtures and equipment removable by Tenant under the provisions of this Lease. Landlord shall abate rent while Premises is being restored.

- (b) **Casualty Loss During Last Year of Lease**. If the Premises are substantially damaged by fire or other casualty during the last Twelve Months (12) of the Term, Landlord may cancel this Lease as of the date of the fire or casualty by written notice to Tenant within Ninety (90) thereafter and abate the rent from the date of the fire or casualty.
- (c) Abatement of Rent. Landlord will allow Tenant a proportional abatement of rent based upon the percentage of rentable square feet of the Premises that is unfit for occupancy due to fire or other casualty. Except as expressly provided to the contrary in this Lease, this Lease will not terminate, and Tenant will not be entitled to damages or to any abatement of rent or other charges, as a result of a fire or other casualty, repair or restoration.
- CONDEMNATION. If all or substantially all of the Building or of the Premises 15. is taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain or is sold to the condemning authority in lieu of condemnation, then this Lease will terminate when physical possession is taken by the condemning authority. If a lesser but material portion of the Building is thus taken or sold (whether or not the Premises are affected thereby), Landlord may terminate this Lease by notice to Tenant within Sixty Days (60) after the taking or sale, in which event this Lease will terminate when physical possession is taken by the condemning authority. If the Lease is not terminated, rent payable will be reduced by the amount allocable to any portion of the Premises so taken or sold, and Landlord, at its sole expense, will restore the affected portion of the Building to substantially its former condition as far as feasible, but not beyond the work done by Landlord in originally constructing the affected portion of the Building and installing tenant improvements in the Premises. However, Landlord need not spend more for such restoration of the Premises than the Premises' allocable share of the net compensation or damages received by Landlord for the part of the Building taken. Landlord will be entitled to receive all of the compensation awarded upon a taking of any part of or all of the Building, including any award for any unexpired term of this Lease; Tenant may seek an award in separate proceedings for its personal property, trade fixtures, moving expenses and goodwill.

- 16. LANDLORD'S ACCESS. Landlord may enter any part of the Premises at all reasonable hours (or, in any emergency or suspected emergency, at any hour) to (i) inspect, test, clean, or make repairs, alterations and additions to the Building or the Premises as Landlord believes appropriate, or (ii) provide any service which Landlord is now or hereafter obligated to furnish to tenants of the Building, or (iii) show the Premises to prospective lenders, purchasers or (during the last twelve (12) months of the Term), tenants and, if they are vacated, to prepare the Premises for re-occupancy. Rent will not abate because of Landlord's entry. Landlord agrees to provide reasonable notice before entering the lease space in non-emergency situations.
- 17. SURRENDER OF PREMISES. As soon as its right to possession ends, Tenant will surrender the Premises to Landlord in as good repair and condition as when Tenant first occupied, except for reasonable wear and tear and for damage or destruction by fire or other casualty, and will concurrently deliver to Landlord all keys to the Premises, and restore any locks which it has changed to the system which existed at the commencement of the Term.
 - (a) Leasehold Improvements and Fixtures. Upon surrendering the Premises, Tenant will remove only parts specified by Landlord of the initial construction, Alterations and personal property in or upon the Premises. Except where Landlord requires removal, Tenant (if it is not in default) may elect whether to remove each item of moveable office furniture and equipment in the Premises not attached to the Building, but all initial construction and Alterations will remain without compensation to Tenant. All removals by Tenant will be accomplished in a good and workmanlike manner, in compliance with all governmental requirements, laws, and ordinances, so as not to damage any portion of the Building, and Tenant will promptly repair and restore all damage done. If Tenant does not so remove any property which it has the right or duty to remove, Landlord may immediately either claim it as abandoned property, or remove, store and dispose of it in any manner Landlord may choose, at Tenant's cost and without liability to Tenant or any other party. Tenant's obligations under this section shall survive the termination or expiration of this Lease.
 - (b) Holding Over. If Tenant does not surrender the Premises as required, this creates a tenancy at sufferance only, on all terms of this Lease except that Tenant will have no right to renew, extend or expand, and the monthly rental will be one and a half (1.5) the total amount payable (disregarding abatements or credits) by Tenant under this Lease (including without limitation parking rental, if applicable) during the last full calendar month before holding over. Nothing other than a written agreement (executed by both parties) will create any other relationship, notwithstanding any course of dealing. Tenant is liable for all damage Landlord suffers from such holding over, and will indemnify Landlord against any claims resulting from delay by Landlord in delivering possession of the Premises to other parties.

18. SECURITY DEPOSIT. To secure its obligations under this Lease, Tenant has paid Landlord the Security Deposit. Landlord may commingle the Security Deposit with other funds, and from time to time may apply any of the Security Deposit to satisfy any obligation of Tenant under this Lease. Tenant will pay to Landlord on demand the amount applied. If Tenant is not in default at the termination of this Lease, Landlord will return any remaining Security Deposit, without interest, upon receipt of Tenant's forwarding address within thirty (30) days of Lease expiration. Tenant shall not assign or encumber the Security Deposit or attempt to do so, and Landlord shall not be bound by such assignment or encumbrance. Regardless of any Assignment, Landlord may return the Security Deposit to the original Tenant.

19. DEFAULT AND REMEDIES.

(a) Events of Default. It shall be an "Event of Default" if:

- i. Tenant fails to make a payment within Ten Days (10) after Tennant is given written notice, it is due hereunder, or three (3) times in a calendar year fails to pay when due Base Rent, Additional Rent or any other amount owed by Tenant hereunder.
- ii. Tenant fails to comply with any other obligation under this Lease and does not cure such failure as soon as reasonably practicable and in any event within Twenty Days (20) after notice.
- Tenant or any Guarantor becomes insolvent, makes a transfer iii. in fraud of creditors or an assignment for the benefit of creditors, admits in writing its inability to pay its debts as they become due, or files a petition under any section or chapter of the United States Bankruptcy Code or any similar law or statute; or an order for relief is entered with respect to Tenant or any Guarantor in any bankruptcy, reorganization or insolvency proceedings; or a pleading seeking such an order is not discharged or denied within Sixty Days (60) after its filing; or a receiver or trustee is appointed for all or substantially all assets of Tenant or any Guarantor or of the Premises or. any of Tenant's property located thereon in any proceeding brought by Tenant or any Guarantor, or any receiver or trustee is appointed in any proceeding brought against Tenant or any Guarantor and not discharged within Sixty Days (60) after appointment or Tenant or the Guarantor does not contest such appointment; or any part of Tenant's estate under this Lease is taken by process of law in any action against Tenant.

- (b) **Remedies.** On any Event of Default, Landlord may terminate this Lease by written notice to Tenant, or continue this Lease in full force and effect, and/or perform Tenant's obligations on Tenant's behalf and at Tenant's expense. This subsection 19(b) survives expiration or termination of the Lease.
 - If and when this Lease is so terminated, all rights of Tenant and i. those claiming under it will terminate, as if this Lease had expired by lapse of time. Landlord may immediately recover from Tenant all accrued, unpaid sums, plus interest and late charges, if in arrears, under the terms of this Lease up to the date of termination, and any amounts owing under Sections 17 and 19(b)(iii). In addition, Tenant will immediately pay Landlord the excess, if any, of (A) the present value of all amounts which would have become due under this Lease for the remainder of the Term, over (B) the present value of any net amounts which Tenant establishes Landlord can reasonably expect to recover by reletting the Premises for the remainder of the Term, taking into consideration the cost of such re-letting, including, but not limited to, remodeling, the availability of acceptable tenants and other market conditions affecting leasing. Such present value shall be calculated at a discount rate which is one percent (1 %) above the rate commonly called the discount rate for 90-day commercial paper in effect at the Federal Reserve Bank of Chicago on the date of termination.
 - ii. Until the Lease is so terminated, Landlord may terminate Tenant's right of possession and, on Tenant's behalf and at Tenant's expense and in Landlord's sole discretion, may sublet any of the Premises (and, on expiration or termination of the sublease, may re-sublet), for all or part of the remainder of the Term, on whatever terms and conditions Landlord in its sole discretion deems advisable. Against the rents and sums due from Tenant to Landlord during the remainder of the Term, credit will be given Tenant in the net amount of rent received from the new tenant after deduction by Landlord for: (1) the costs incurred by Landlord in re-Letting the Premises (including, without limitation, repair and remodeling costs, brokerage fees, legal fees and the like); and (2) all accrued sums, plus interest and late charges if in arrears, under the terms of this Lease.
 - iii. Upon an Event of Default or when Tenant is no longer entitled to possession, Landlord may perform Tenant's obligations hereunder on Tenant's behalf. Tenant will reimburse Landlord on demand for Landlord's attorneys' fees and other expenses in doing so, and Landlord shall not be liable for any damages resulting to Tenant.

- (c) **Continuing Liability.** No repossession, re-entering or re-Letting of the Premises or any part thereof by Landlord relieves Tenant or any Guarantor of its liabilities and obligations under this Lease.
- (d) **Remedies Cumulative.** All rights and remedies of Landlord under this Lease will be nonexclusive of and in addition to any other remedies available to Landlord at law or in equity.
- (e) **No Exemplary or Punitive Damages.** In no event shall Tenant or Landlord be subject to any exemplary or punitive damages arising out of failure to perform as agreed in this Lease.
- (f) No Waiver. Landlord's failure to insist on strict compliance with any term hereof or to exercise any right or remedy, does not waive the same. Waiver or any agreement regarding any breach does not affect any subsequent or other breach, unless so stated. A receipt by Landlord of any rent with knowledge of the breach of any covenant or agreement contained in this Lease shall not be a waiver of the breach, and no waiver by Landlord of any violation or provision of this Lease shall be effective unless expressed in writing and signed by Landlord. Payment by Tenant or receipt by Landlord of a lesser amount than due under this Lease may be applied to such of Tenant's obligations as Landlord elects. No endorsement or statement on any check, and no accompanying letter, shall make the same an accord and satisfaction, and Landlord may accept any check or payment without prejudice to Landlord's right to recover the balance of the rent or pursue any other remedy provided in this Lease.
- 20. WAIVER. Except as otherwise set forth in this Lease, Tenant waives and surrenders any right and privilege which it may now or hereafter have (i) to redeem the Premises or to have a continuance of this Lease after termination of the Lease, Tenant's right of occupancy or the Term and (ii) for exemption of property from liability for debt or for distress for rent. Tenant and Landlord waive jury trial of any matters relating to Assignments, bankruptcy or similar matters, or the prevention of damage to the structural components or mechanical, electrical or plumbing systems of the Building.
- 21. SUBORDINATION. This Lease and all rights of Tenant under this Lease are subject and subordinate to any of the following, and any modifications thereof, which may now or hereafter affect any portion of the Building: (i) any Mortgage, (ii) any ground or underlying lease covering any part of the Building, (iii) any applicable laws, rules, statutes and ordinances of any governmental authority. having jurisdiction, and (iv) all utility easements and agreements. On sale by foreclosure of a Mortgage or sale in lieu of foreclosure, Tenant will attorn to the purchaser if requested by such purchaser, and recognize the purchaser as the Landlord under this Lease. These provisions are self-operative and no further instrument is required to affect them; however, upon demand from time to time, Tenant shall execute, acknowledge and deliver to Landlord any instruments and certificates necessary or proper to evidence such subordination and or atonement or, if Landlord so elects, to render any of the foregoing subordinate

to this Lease or to any or all rights of Tenant hereunder. Tenant further waives the provisions of any current or future statute or rule or law which may give or purport to give Tenant any right or election to terminate or otherwise adversely affect this Lease and the obligation of Tenant hereunder in the event of any such foreclosure proceeding or sale, and agrees that this Lease shall not be affected in any way whatsoever by any such proceeding or sale unless the Mortgagee, or the purchaser, shall declare otherwise.

- 22. NOTICE TO LANDLORD AND MORTGAGEE. Tenant shall not sue Landlord for damages or exercise any right to terminate until (i) it gives written notice to any Mortgagee whose name and address have been furnished to Tenant, and (ii) a reasonable time for remedying the act or omission giving rise to such suit has elapsed following the giving of the notice, without the same being remedied. During that time Landlord shall not be considered in default, and Landlord and or any Mortgagee and or their Employees may enter the Premises and do therein whatever may be necessary to remedy the act or omission.
- 23. RULES AND REGULATIONS. Tenant and its Employees shall comply with the Rules and Regulations (as changed from time to time with written notice to the Tenant as therein provided) attached as Exhibit B. Landlord shall not be responsible to Tenant for the failure of any other tenant of the Building to comply with the Rules and Regulations.
- 24. ESTOPPEL CERTIFICATE. Promptly upon not less than Fifteen Days' (15) prior request, Tenant will from time to time execute and deliver to Landlord a certification in writing as to such matters as may reasonably be requested including, without limitation, that Tenant consents to the assignment of this Lease and its rents, that (except as may be specified in said certificate), this Lease is unmodified and in full effect, that rent has been paid to and only to the end of the current month, and that to the knowledge of the signer of the certificate (after due investigation) no default exists under this Lease. Notwithstanding the preceding sentence, Tenant shall only be required to certify to truthful statements, thus any certification shall be modified by Tenant to correctly set forth any specific exceptions Tenant may have. Any such certification delivered may be relied upon by Landlord and by any actual or prospective purchaser or mortgagee of any part of the Building or of any interest in Landlord.

25. PAYMENTS AND NOTICES.

(a) Payments. All payments required to be made by Tenant to Landlord are to be paid to Landlord, without prior demand except as may be specified and without any setoff, deduction or counterclaim whatsoever, in legal tender of the United States of America at the address set forth on the invoice or, if no invoice is submitted or no address is set forth, at the address for Landlord set forth on this Lease or at any other address as Landlord may specify from time to time by written notice delivered in accordance with this Section.

(b) **Notices.** All notices given hereunder shall be in writing and shall be considered properly given if mailed by first class United States Mail, postage prepaid, registered or certified with return receipt requested, or by delivering same in person to the intended addressee, or by telecopy. All notices shall be effective upon receipt at the address set forth on this Lease or at such other address as the parties may specify from time to time by written notice delivered in accordance with this Section 25; except that any notice mailed as above provided shall be effective upon its deposit in the custody of the U. S. Postal Service if such notice is returned undelivered to the sender.

Landlord Notice Address:	JAR Capital Investments, LLC C/O Jennifer Roberts 1001 CR 230 Giddings, TX 78942 jennifer@robertsranchinv.com
Tenant Notice Address:	City of College Station C/O Aubrey Nettles P.O. BOX 9960 College Station, TX 77842

RIGHTS RESERVED BY LANDLORD. In addition to other rights retained or 26. reserved, without limitation, Landlord reserves the following rights, exercisable without notice and without liability to Tenant and without effecting an eviction, constructive or actual, or in any way diminishing Tenant's obligations: (a) to change the name or street address of the Building or any part of it; (b) to install, affix and maintain, modify or remove any and all signs on the exterior and interior of the Building; (c) to designate and approve, prior to installation, all types of interior and exterior window treatments, and to control all internal lighting that may be visible from the exterior of the Building; (d) the exclusive right to designate, limit, restrict and control any service in or to the Building; (e) to keep, and to use in appropriate instances, keys to all doors within and into the Premises (no locks shall be changed or added without the prior written consent of Landlord); (f) to decorate and make repairs, alterations, additions, changes or improvements whether structural or otherwise (specifically including, without limitation, those in conjunction with Landlord's construction of additional buildings) in and about any part of the Building, and to enter the Premises for these purposes and, during such work, to temporarily close doors, entryways, public space and corridors in the Building, to interrupt or temporarily suspend Building Services and facilities and to change the arrangement and location of entrances or passageways, windows, doors and doorways, corridors, elevators, stairs, toilets, or other public parts of the Building; (g) to approve the weight, size and location of safes and other heavy equipment and articles in and about the Premises and the Building, and to require all such items and furniture to be moved into and out of the Building and Premises only at times and in manner as Landlord directs (movement of Tenant's property is entirely at the risk and responsibility of Tenant, and Landlord reserves the right to require permits before allowing any property to be moved into or out of the Building); (h) to have access for Landlord and other tenants of the Building to

any "mail chutes located on the Premises according to the rules of the United States Postal Service; and (i) to take all reasonable measures Landlord considers advisable for the security of the Building and its occupants.

- 27. BROKERS. Landlord recognizes Jody Slaughter Of Oldham Goodwin Group, LLC as Tenant's authorized agent and as such shall pay commissions due pursuant to Tenant's agreement in connection with this Lease.
- 28. **RENEWAL OPTION.** Tenant shall have the right by providing no less than sixty (60) days written notice to renew the lease for a period of one (1) year at a rate not to exceed three percent (3%) of the rate of the last year of the lease.

29. MISCELLANEOUS PROVISIONS

- (a) **Covenant of Quiet Enjoyment.** Provided Tenant keeps and fulfills all of the terms, covenants, agreements and conditions to be paid or performed by it, at all times during the Term, Tenant shall enjoy peaceable and quiet possession of the Premises without any unreasonable disturbance from Landlord or from any other person claiming by, through or under Landlord, but not otherwise, subject to the terms of this Lease and to any Mortgages, ground leases or other matters to which this Lease is subject and subordinate.
- (b) **Employees.** Where either party agrees not to do a particular thing, it also agrees not to permit its Employees to do so. Where either party waives rights against the other party, it also waives the same rights against the other party's Employees. That waiver shall be considered a waiver on behalf of the party making it, of all that party's Employees, and of anyone claiming under any of them, including insurers and creditors.
- (c) Landlord's Costs. Where Tenant is required to pay or reimburse Landlord for the costs of any item, the costs shall be the reasonable and customary charge established by Landlord from time to time, including a reasonable allocation of Landlord's overhead, administrative and related costs associated with the ownership and operation of the Building. Failure to pay any reimbursable cost shall be treated as a failure to pay rent.
- (d) **Invoices.** Tenant will promptly notify Landlord of any dispute it may have regarding Landlord's invoices. If Tenant does not notify Landlord within Thirty Days (30) after receiving the invoice, it is conclusively deemed to have agreed to the invoice and all underlying facts.
- (e) **Business Days and Hours; Holidays.** The term "business days" means Monday through Friday (except for holidays). The term "normal business hours" means 7:00 a.m. to 6:00 p.m. on business days. The term "holidays" means those days designated by the government of the United States as the holidays for New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, and such other holidays as may be designated in the Rules and Regulations.

- (f) Severability. Every covenant and obligation contained in this Lease, including the obligation to pay rent, is and shall be construed to be a separate and independent covenant and obligation and not as a condition. If any term or provision of this Lease or its application to any person or circumstance is invalid and unenforceable to any extent, the remainder of this Lease, as well as such term or provision as otherwise applied, shall not be affected thereby.
- (g) **No Merger of Estates.** There shall be no merger of this Lease of the leasehold estate hereby created with the fee estate in the Premises or any part thereof by reason of the fact that the same person may acquire or hold, directly or indirectly, any interest in this Lease or the leasehold estate created as well as any interest in the fee estate in the Premises.
- (h) Force Majeure. When a period of time is herein prescribed for action to be taken by Landlord, Landlord shall not be liable or responsible for, and there is excluded from the computation for any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, governmental laws, regulations or restrictions or any other cause of any kind whatsoever which is beyond the control of Landlord. Subject to the preceding sentence, time is of the essence of every part of this Lease.
- (i) Interpretation of Lease. No amendment or modification of this Lease is binding or valid unless expressed in writing and executed by both parties. Tenant represents, warrants and covenants that any financial statements heretofore or hereafter provided to Landlord in connection with this Lease are accurate and not materially misleading. The headings in this Lease are for convenience only and shall not affect the meaning of the text. Words of any gender include any other gender, and words in the singular number include the plural, unless the context otherwise requires. The term "hereunder" or similar terms refer to this Lease as a whole. If any context in which any defined term is used clearly conflicts with the definition thereof, said context shall control only for that use, and clearly related uses, of such term.
- (j) Joint and Several Liability. If there is more than one Tenant or any Guarantor, the obligations imposed upon such parties are joint and several obligations of each of them, and Landlord need not first proceed against any of them before proceeding against the others, nor shall any Guarantor be released from its guarantee for any reason whatsoever, including, without limitation, any amendment of this Lease, any forbearance by Landlord or waiver of any of Landlord's rights, the failure to give any Tenant or Guarantor any notices, or the release of any party liable for the payment of Tenant's obligations.
- (k) **Governing Law.** This Lease and the rights and obligations of the parties shall be interpreted, construed and enforced in accordance with the Laws of the State of Texas. Except as to the payment of rents and fees, all

obligations under this Lease are performable in Brazos County, Texas, which shall be venue for all legal actions. If any term or provision of this Lease shall be invalid or unenforceable, then such term or provision shall be automatically reformed to the extent necessary to render such term or provision enforceable, without the necessity of execution of any amendment or new document. The remainder of this Lease shall not be affected, and each remaining and reformed provision of this Lease shall be valid and enforced to the fullest extent permitted by Law. The headings and titles to the Articles and Sections of this Lease are for convenience only and shall have no effect on the interpretation of any part of this Lease. The words "include", "including" and similar words will not be construed restrictively to limit or exclude other items not listed.

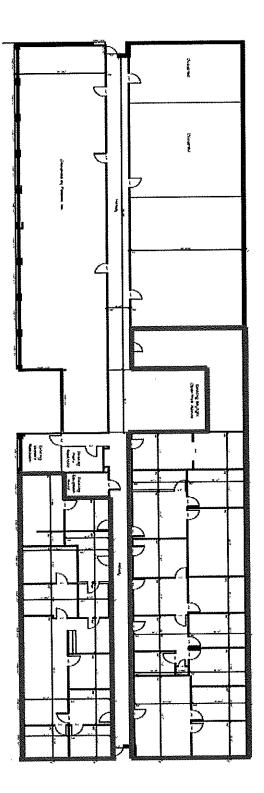
- (I) **Confidentiality.** Tenant agrees that it will not reveal the terms and conditions of this Lease or any inducements provided by Landlord in connection herewith according to the Texas Open Records Act. Landlord agrees that it will not reveal the terms and conditions of this Lease or any inducements provided by Tenant in connection herewith.
- (m)Waiver. Landlord may specifically waive any breach of the terms and conditions hereof by Tenant, but no waiver specified in this paragraph shall constitute a continuing waiver of similar or other breaches of terms and conditions hereof. Landlord may at any time upon written notice to Tenant, direct future compliance with the waived terms and conditions hereof, and Tenant shall thereafter comply as directed from such time forward. All remedies, rights, undertakings, obligations, and agreements contained herein shall be cumulative and not mutually exclusive. Tenant may specifically waive any breach of the terms and conditions hereof by Landlord, but no waiver specified in this paragraph shall constitute a continuing waiver of similar or other breaches of terms and conditions hereof. Tenant may at any time upon written notice to Landlord, direct future compliance with the waived terms and conditions hereof, and Landlord shall thereafter comply as directed from such time forward. All remedies, rights, undertakings, obligations, and agreements contained herein shall be cumulative and not mutually exclusive.
- (n) **Presumption Concerning Interpretation.** This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that all of the parties to this Agreement have contributed substantially and materially to the preparation of this Agreement.

THIS LEASE IS THE ENTIRE AGREEMENT BETWEEN THE PARTIES AND/OR THE PARTIES' AGENTS CONCERNING THE SUBJECT MATTER, SUPERSEDING ANY PRIOR WRITTEN OR ORAL AGREEMENTS AND WITHOUT ANY IMPLIED AGREEMENTS, WARRANTIES OR UNDERSTANDINGS.

IN WITNESS WHEREOF, this Lease is hereby executed in multiple originals as of the date approved by the Tenant.

JAR CAPITAL INVESTMENTS, LLC, LANDLORD	CITY OF COLLEGE STATION, TENANT
By: Jennifer Potents	By: Mayor Date:
Title: Manages	ATTEST:
Date: 2-12-16	
	City Secretary Date:
	APPROVED:
	City Manager Date:
	City Attorney Date:
	Assistant City Manager/CFO Date:

EXHIBIT A- PREMISES Suite 201 +/- 6,299 SF



511 University Lease Contract No. 16300284

EXHIBIT B

OFFICE LEASE RULES AND REGULATIONS

- The sidewalks, entrances, halls, corridors, elevators and stairways of the Building shall not be obstructed or used as a waiting or lounging place by Tenants, and their agents, servants, employees, invitees, licensees and visitors. All entrance doors leading from any leased premises to the hallways are to be kept closed at all times. Tenant shall not place nor permit any obstructions, garbage, refuse, merchandise or displays in the outside areas immediately adjoining leased premises.
- 2. In case of invasion, riot, public excitement or other commotion, Landlord reserves the right to prevent access to the Building during the continuance of same. Landlord shall in no case be liable for damages for the admission or exclusion of any person to or from the Building in the course of these events. Landlord has the right to evacuate the Building in the event of an emergency or catastrophe.
- 3. Ten door keys for doors to leased premises and ten (10) keys to the Building shall be furnished at the commencement of a lease by Landlord. All duplicate keys shall be purchased only from the Landlord. Tenant shall not alter any lock, or install new or additional locks or bolts, on any door without the prior written approval of Landlord, which approval shall not be unreasonably withheld. In the event such alteration or installation is approved by Landlord, the Tenant making such alteration or installation shall supply Landlord with a key for any such lock or bolt. Each Tenant, upon the expiration or termination of its tenancy, shall deliver to the Landlord all keys in Tenant's possession for all locks, bolts, cabinets, safes or vaults, or the means of opening any lockable device.
- 4. In order that the Building may be kept in a state of cleanliness, each Tenant shall, during the term of each respective lease, permit Landlord's employees (or Landlord's agent's employees) to take care of and clean the common areas of the Building. No tenant shall cause any unnecessary labor by reason of such Tenant's carelessness or indifference in the preservation of good order and cleanliness of the demised premises. Tenants shall see that (1) the doors are securely locked, and (2) all water faucets and other utilities are shut off (so as to prevent waste or damage), each day before leaving the demised premises. In the event Tenant must dispose of crates, boxes, etc. which shall not fit into office waste paper baskets, Tenant shall have the sole responsibility of the timely removal and disposal of same. In no event shall Tenant set such items in the public hallways or other areas of the Building, excepting Tenant's own leased premises, for disposal.
- 5. The toilet-rooms, toilets, urinals, wash bowls and water apparatus shall not be used for any purpose other than for those for which they were constructed or installed, and no sweepings, rubbish, chemicals, or other unsuitable substances shall be thrown or placed therein. The expense of any breakage, stoppage or damage resulting from violation(s) of this rule shall be borne by the Tenant by

whom, or by whose agents, servants, employees, invitees, licensees or visitors, such breakage, stoppage or damage shall have been caused.

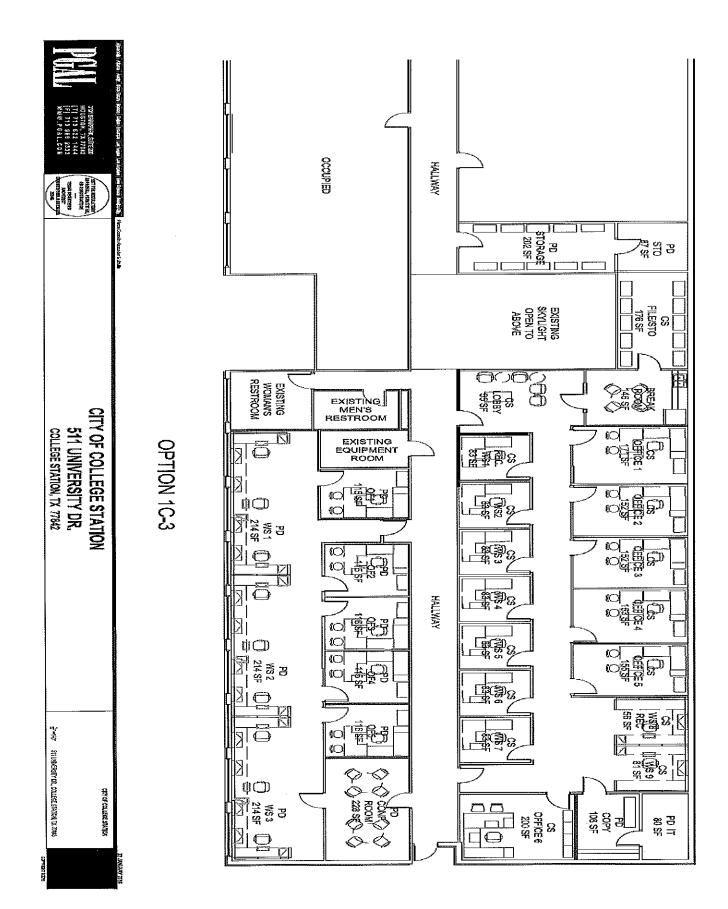
- 6. No sign, light, name placard, poster, advertisement or notice visible from the exterior of any demised premises, shall be placed, inscribed, painted or affixed by any Tenant on any part of the Building without the prior written approval of Landlord. All signs or lettering on doors, or otherwise, approved by Landlord shall be inscribed, painted or affixed at the sole cost and expense of the Tenant, by a person approved by Landlord.
- 7. Tenants, their agents, servants, employees, invitees, licensees, or visitors shall not:
 - enter into or upon the roof of the Building or any storage, electrical or telephone closet, or heating, ventilation, air-conditioning, mechanical or elevator machinery housing areas.
 - (b) use any additional method of heating or air-conditioning.
 - (c) sweep or throw any dirt or other substance into the stairways, elevator shafts, corridors to or from the Building
 - (d) bring in or keep in or about the leased premises any vehicles, bicycles, motorcycles or animals of any kind.
 - (e) install any radio or television antennas or any other device or item on the roof, exterior walls, windows or window sills of the Building.
 - (f) deposit any trash, refuse, cigarettes, or other substance of any kind within or out of the Building, except in the refuse containers provided therefore.
 - (g) be permitted to operate any device that may produce an odor, cause music, vibrations or air waves to be heard or felt outside the Tenant's leased premises, or which may emit electrical waves that shall impair radio, television or any other form of communication system.
- 8. If Tenant desires signal, communication, alarm or other utility or service connection installed or changed, the same shall be made at the expense of Tenant, with approval and under direction of Landlord.
- 9. No canvassing, soliciting, distribution of hand bills or other written material shall be permitted in the Building.
- 10. Tenant shall give Landlord prompt notice of all accidents to or defects in airconditioning equipment, plumbing, electrical facilities or any part of appurtenances of the Tenant's leased premises.
- 11. If the leased premises of any Tenant becomes infested with vermin and such infestation is caused by Tenant's use of its premises, such Tenant, at its sole cost

and expense shall cause its leased premises to be treated by a professional exterminator from time to time to the satisfaction of the Landlord.

- 12. Tenant shall not waste electricity or water and agrees to cooperate fully with Landlord to assure the most effective operation of the Building's heating and air-conditioning system, and shall not adjust any controls.
- 13 Tenant assumes full responsibility for protecting its space from theft, robbery, and pilferage, which includes keeping doors locked and other means of entry to the space closed and secure.
- 14. Tenant shall not install and operate machinery or any mechanical devices of a nature not directly related to Tenant's ordinary use of the Tenant's leased premises without the written permission of the Landlord.
- 15. Tenant shall comply with parking rules and regulations as may be posted and distributed from time to time.
- 16. Tenant shall use its best efforts to prohibit picketing or other activities involving its employees in the Building except in those locations and subject to time and other limitations as to which Landlord may give prior written consent.
- 17. With 10 days advanced written notice to Tenant, Landlord reserves the right to rescind, make reasonable amendments, modifications and additions to the rules and regulations heretofore set forth, and to make additional reasonable rules and regulations, as in Landlord's sole judgment may from time to time be needed for the safety, care, cleanliness and preservation of good order of the Building. Landlord shall not be responsible for any violation of the foregoing rules and regulations by other tenants of the Building and shall have no obligation to enforce the same against other tenants.

EXHIBIT C LEASEHOLD IMPROVEMENTS

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511 University Lease Contract No. 16300284