

EXHIBIT G

PLAINTIFF: William U. McGlamary, II DEFENDANT: D&L Real Estate Investments, LLC	CASE NUMBER: UDPS2301119
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6. a. On or about (date): November 28, 2007
defendant (name each):
D&L Real Estate Enterprises, LLC's predecessor in interest
- (1) agreed to rent the premises as a month-to-month tenancy other tenancy (specify): Lease
(2) agreed to pay rent of \$ 4,000.00 payable monthly other (specify frequency):
(3) agreed to pay rent on the first of the month other day (specify): 18th of the month
- b. This written oral agreement was made with
(1) plaintiff. (3) plaintiff's predecessor in interest.
(2) plaintiff's agent. (4) Other (specify):
- c. The defendants not named in item 6a are
(1) subtenants.
(2) assignees.
(3) Other (specify): Other parties in possession
- d. The agreement was later changed as follows (specify):
- e. A copy of the written agreement, including any addenda or attachments that form the basis of this complaint, is attached and labeled Exhibit 1. (Required for residential property, unless item 6f is checked. See Code Civ. Proc., § 1166.)
- f. (For residential property) A copy of the written agreement is not attached because (specify reason):
(1) the written agreement is not in the possession of the landlord or the landlord's employees or agents.
(2) this action is solely for nonpayment of rent (Code Civ. Proc., § 1161(2)).
7. The tenancy described in 6 (complete (a) or (b))
a. is not subject to the Tenant Protection Act of 2019 (Civil Code, § 1946.2). The specific subpart supporting why tenancy is exempt is (specify): Commercial Lease
b. is subject to the Tenant Protection Act of 2019.
8. (Complete only if item 7b is checked. Check all applicable boxes.)
a. The tenancy was terminated for at-fault just cause (Civil Code, § 1946.2(b)(1)).
b. The tenancy was terminated for no-fault just cause (Civil Code, § 1946.2(b)(2)) and the plaintiff (check one)
(1) waived the payment of rent for the final month of the tenancy, before the rent came due, under section 1946.2(d)(2), in the amount of \$
(2) provided a direct payment of one month's rent under section 1946.2(d)(3), equaling \$
to (name each defendant and amount given to each):
- c. Because defendant failed to vacate, plaintiff is seeking to recover the total amount in 8b as damages in this action.
9. a. Defendant (name each): Defendant D&L Real Estate Enterprises, LLC
- was served the following notice on the same date and in the same manner:
- (1) 3-day notice to pay rent or quit (5) 3-day notice to perform covenants or quit
(not applicable if item 7b checked)
(2) 30-day notice to quit (6) 3-day notice to quit under Civil Code, § 1946.2(c)
Prior required notice to perform covenants served (date):
(3) 60-day notice to quit (7) Other (specify): by certified mail.
(4) 3-day notice to quit

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9. b. (1) On (date): October 25, 2023 the period stated in the notice checked in 9a expired at the end of the day.
 (2) Defendants failed to comply with the requirements of the notice by that date.
- c. All facts stated in the notice are true.
- d. The notice included an election of forfeiture.
- e. A copy of the notice is attached and labeled Exhibit 2. (Required for residential property. See Code Civ. Proc., § 1166. When Civil Code, § 1946.2(c), applies and two notices are required, provide copies of both.)
- f. One or more defendants were served (1) with the prior required notice under Civil Code, § 1946.2(c), (2) with a different notice, (3) on a different date, or (4) in a different manner, as stated in Attachment 10c. (Check item 10c and attach a statement providing the information required by items 9a–e and 10 for each defendant and notice.)
10. a. The notice in item 9a was served on the defendant named in item 9a as follows:
- (1) By personally handing a copy to defendant on (date): September 26, 2023
- (2) By leaving a copy with (name or description):
 a person of suitable age and discretion, on (date): _____ at defendant's
 residence business AND mailing a copy to defendant at defendant's place of residence
 on (date): _____ because defendant cannot be found at defendant's residence or usual place of business.
- (3) By posting a copy on the premises on (date):
 AND giving a copy to a person found residing at the premises AND mailing a copy to defendant at the premises
 on (date):
 (a) because defendant's residence and usual place of business cannot be ascertained OR
 (b) because no person of suitable age or discretion can be found there.
- (4) (Not for 3-day notice; see Civil Code, § 1946, before using) By sending a copy by certified or registered mail addressed to defendant on (date):
- (5) (Not for residential tenancies; see Civil Code, § 1953, before using) In the manner specified in a written commercial lease between the parties
- b. (Name):
 was served on behalf of all defendants who signed a joint written rental agreement.
- c. Information about service of notice on the defendants alleged in item 9f is stated in Attachment 10c.
- d. Proof of service of the notice in item 9a is attached and labeled Exhibit 3.
11. Plaintiff demands possession from each defendant because of expiration of a fixed-term lease.
12. At the time the 3-day notice to pay rent or quit was served, the amount of **rent due** was \$92,338.73
13. The fair rental value of the premises is \$ 265.87 per day.
14. Defendant's continued possession is malicious, and plaintiff is entitled to statutory damages under Code of Civil Procedure section 1174(b). (State specific facts supporting a claim up to \$600 in Attachment 14.)
15. A written agreement between the parties provides for attorney fees.
16. Defendant's tenancy is subject to the local rent control or eviction control ordinance of (city or county, title of ordinance, and date of passage):

Plaintiff has met all applicable requirements of the ordinances.

17. Other allegations are stated in Attachment 17.
18. Plaintiff accepts the jurisdictional limit, if any, of the court.

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19. PLAINTIFF REQUESTS

- a. possession of the premises.
- b. costs incurred in this proceeding:
- c. past-due rent of \$ 92,338.73
- d. reasonable attorney fees.
- e. forfeiture of the agreement.
- f. damages in the amount of waived rent or relocation assistance as stated in item 8: \$
- g. damages at the rate stated in item 13 from date: August 31, 2023 for each day that defendants remain in possession through entry of judgment.
- h. statutory damages up to \$600 for the conduct alleged in item 14.
- i. other (specify): All unpaid rent plus late fees plus interest pursuant to the parties' lease.

20. Number of pages attached (specify):

UNLAWFUL DETAINER ASSISTANT (Bus. & Prof. Code, §§ 6400-6415)

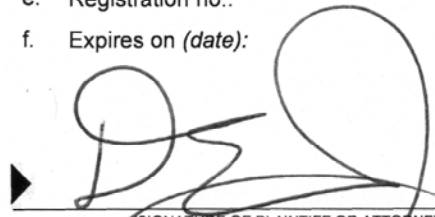
21. (Complete in all cases.) An unlawful detainer assistant did not did for compensation give advice or assistance with this form. (If declarant has received any help or advice for pay from an unlawful detainer assistant, complete a-f.)

- a. Assistant's name:
- b. Street address, city, and zip code:
- c. Telephone no.:
- d. County of registration:
- e. Registration no.:
- f. Expires on (date):

Date: October 26, 2023

David Earl Jacobs

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY)

VERIFICATION

(Use a different verification form if the verification is by an attorney or for a corporation or partnership.)

I am the plaintiff in this proceeding and have read this complaint. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: October 26, 2023

William U. McGlamary, II

(TYPE OR PRINT NAME)



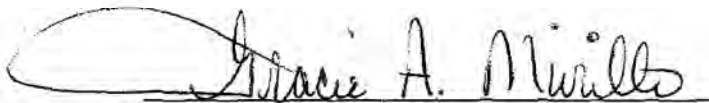
(SIGNATURE OF PLAINTIFF)

**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
PALM SPRINGS FIELD OFFICE**

**APPROVAL OF
BUSINESS LEASE NO. PSL-360**

The foregoing Business Lease No. PSL-360, executed by Georgianna McGlamary, as Representative in her private capacity for Lorene Welmas McGlamary, also known as Lorene McGlamary Martinez, as Lessor, and Scott P. Timberlake, as Lessee (consisting of twenty-nine (29) pages, plus Exhibits "A" and "A-1"), is hereby approved.

Dated: SEP 18 2002



ACTING Regional Director
Pacific Regional Office

Pursuant to the authority delegated by 209 DM 8,
230 DM 1, and 3 IAM 4

EXHIBIT 1

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
Palm Springs Office
P.O. Box 2245
Palm Springs, CA 92263

Lease No. PSL-360
Allot. No. PS-36A

BUSINESS LEASE

THIS BUSINESS LEASE ("Lease"), in sextuplicate, is made and entered into this 30TH day of July, 2002, by and between GEORGIANNA MCGLAMARY, AS REPRESENTATIVE IN HER PRIVATE CAPACITY FOR LORENE WELMAS MCGLAMARY, also known as LORENE MCGLAMARY MARTINEZ (Allottee No.36A of the Agua Caliente Band of Cahuilla Indians), hereinafter called the "Lessor," and SCOTT P. TIMBERLAKE, hereinafter called the "Lessee," whose address is 2720 N.E. 33rd Avenue, Portland, Oregon 97212. This Lease is entered into pursuant to the provisions of the Act of August 9, 1955, as amended and as subsequently modified, 25 U.S.C. 415, as implemented by Part 162 - Leasing and Permitting - of the Code of Federal Regulations, Title 25 Indians, and any amendments thereto relative to business leases on restricted Indian lands, which by reference are made a part hereof. If a conflict arises with any subsequent modification of Part 162 and this Lease, the modification applies, unless specifically waived by the Secretary.

This Lease shall be effective and binding upon the parties on the date ("Effective Date") that this Lease is approved by the Secretary of the United States Department of the Interior, through the Bureau of Indian Affairs ("Secretary").

1. DESCRIPTION OF LEASED PROPERTY.

For and in consideration of the rents, covenants, and agreements hereinafter set out, Lessor hereby leases to Lessee the property described in Exhibit "A" attached hereto and incorporated herein by this reference, including all buildings, structures, site improvements and other improvements thereon (the "Premises"). The underlying land on the Premises is referred to in this Lease as the "Land."

2. USE OF PREMISES.

Lessee is expressly permitted to use and occupy the Premises for office or commercial (such as restaurant, bar or retail) purposes.

If Lessee uses the leased Premises for any purpose not set forth above without the prior consent and written approval of the Lessor and the Secretary, such use shall constitute grounds for termination

of this Lease, unless Lessee discontinues such non-permitted use (or causes any sublessee or other authorized user to discontinue such non-permitted use) within thirty (30) days after Lessee's receipt of written notice from Lessor or the Secretary.

Lessee shall not use or suffer to permit any person or persons to use the Premises or any part thereof for any use or purpose in violation of the laws of the United States of America, the laws, ordinances, regulations and the requirements of the state, county or city where the Premises is situated or of any other applicable governmental authorities (collectively, "**Applicable Laws**"). Lessee shall use and keep the Premises, including all improvements located thereon, in full compliance with all Applicable Laws, regardless of whether any such Applicable Law expressly allocates the burden of such compliance to Lessor or to another party (in which case, Lessee shall have, and is hereby granted, the authority to cause the Premises to be in compliance). Lessee shall keep the Premises and every part thereof in a clean and wholesome condition, free from any nuisances, and shall comply with any and all applicable health and police regulations in all material respects.

2.1. Prohibition Against Unlawful Use. Lessee agrees not to use or cause to be used any part of the leased Premises for any unlawful conduct or purpose.

3. DEFINITIONS.

In addition to any other terms specifically defined in this Lease, the following initial-capitalized terms shall have the following meanings when used in this Lease:

3.1. "Acquirer" shall mean an Encumbrancer which acquires the interest of the Lessee and/or sublessee by foreclosure or assignment in lieu of foreclosure.

3.2. "Affiliate" of a person or entity shall mean a person, corporation, partnership, limited liability company, trust or other entity that is controlled by such person or entity, controls such entity, or is under common control with such person or entity.

3.3. "Anniversary Date" shall mean the Effective Date and every twelfth (12th) month thereafter.

3.4. "Approved Encumbrance" shall mean an encumbrance approved by the Secretary, the Lessor, and sureties, if any, in the manner provided herein.

3.5. "Balance of Encumbrance" shall mean the amount of principal remaining unpaid on a note secured by a trust deed or mortgage of an interest in this Lease created under this Lease, provided that to such principal shall be added accrued interest thereon past due and expenses incurred by the lender in connection with foreclosure of such trust deed or mortgage and note, together with all necessary expenditures made by the lender to maintain said leasehold interest valid and in good standing during the process of foreclosure. Said expenditures shall include but not be limited to fire insurance premiums, title insurance expenses, recording fees, appraisal fees, attorney's fees, credit reports and any tax reporting services and additional expenditures paid by the lender on additions, betterment and rehabilitation of improvements on the property encumbered, pursuant to plans approved by the Secretary, and necessary to place the improvements in marketable condition. Such adjusted

principal shall be amortized over the term and in accordance with the schedule set forth in said note, the interest rate on the unpaid balance thereto to be as set forth in said note.

3.6. "Encumbrancer" shall mean the owner and holder of an Approved Encumbrance.

3.7. "Gross Receipts" shall mean all revenues received by the business(es) conducted at the Premises; if the business is conducted by a sublessee(s), the Gross Receipts shall mean all revenues received by the business(es) conducted by such sublessee(s). Notwithstanding the foregoing, Gross Receipts shall not include: amounts collected and paid out for a sale, excise or receipts tax imposed by a duly constituted governmental authority where such tax is billed to the purchaser as a separate item; credits for any exchange of goods or merchandise between stores, if any, of Lessee (sublessee) or its affiliates where such exchange is made solely for the convenient operation of business and not for the purpose of consummating a sale previously made directly or indirectly from or on the leased Premises; the amount of any refund where the merchandise sold, or some part thereof, is returned by the purchaser and accepted by Lessee or its affiliates; items billed but not collected; insurance proceeds; or income from the sale of fixtures, good will, or improvements, or other items not constituting inventory or stock in trade.

3.8. "Lease Year" shall mean each twelve-month period during the Term of the Lease, beginning on the Effective Date.

3.9. "Term" is defined in Section 4, and all references to the Term of this Lease shall mean the Initial Term, as it may be extended into the Extended Term in accordance with the requirements of Section 4.

4. TERM.

4.1. **Initial Term.** The initial term ("Initial Term") of this Lease shall be thirty (30) years, beginning on the Effective Date, which date shall be the anniversary date of this Lease.

4.2. **Extended Term.** At the option of the Lessee, and provided that (a) Lessee is not in Default at the end of the Initial Term and (b) written notice of the exercise of such option is given by the Lessee to the Lessor and the Secretary at least three (3) months prior to the expiration of the Initial Term, the Term of this Lease may be extended beyond the 30-year Initial Term, for an additional period of twenty-five (25) years ("Extended Term") commencing at the expiration date of the Initial Term, upon the same conditions and terms as in effect at the expiration of the Initial Term. The Guaranteed Minimum Annual Rent (GMAR) during the Extended Term shall be as described in Section 5 below.

5. RENT.

Unless and until Lessee is notified in writing by the Secretary to do otherwise, the Lessee, in consideration of the foregoing, agrees to pay in lawful money of the United States of America to the BUREAU OF INDIAN AFFAIRS, for the account of Lessor, the following rent:

5.1. Guaranteed Minimum Annual Rent for First Lease Year. During the first Lease Year of the Term, commencing on the Effective Date, Lessee shall pay Guaranteed Minimum Annual Rent ("GMAR") in the amount of Forty-Eight Thousand Dollars (\$48,000.00) per year.

All GMAR shall be payable on a monthly basis. The first monthly installment payment of the GMAR shall be deposited in advance with the Bureau of Indian Affairs, P.O. Box 2245, Palm Springs, California 92263, on or before the Effective Date of this Lease.

5.2. Annual GMAR CPI Increase. At the beginning of the second Lease Year and on each Anniversary Date thereafter (including during the Extended Term, if Lessee exercises its option), the GMAR shall be adjusted to reflect any increase (but not decrease) in the applicable Consumer Price Index ("CPI") (see below); provided, however, and notwithstanding the actual percentage change in the CPI during any Lease Year, each annual increase in the GMAR throughout the Lease Term (including any Extended Term(s)) shall be at least Three Percent (3%), but no more than Four Percent (4%).

The annual CPI increase in the GMAR shall be based upon changes in the Department of Labor, Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers, Los Angeles-Riverside-Orange County, California, "All Items" (1982-1984 = 100), referred to in this Lease as the "Index." As used herein, the term "Base Index" shall mean the Index for the month immediately preceding the Anniversary Date in the previous Lease Year, and the term "Adjustment Index" shall mean the Index for the month immediately preceding the Anniversary Date for the Lease year in which the adjustment is effective.

The procedure for determining the CPI-adjusted GMAR as of the first day (adjustment date) of each Lease Year after the first Lease Year shall be to multiply the GMAR payable in the immediately preceding Lease Year by a fraction, the numerator of which is the Adjustment Index and the denominator of which is the Base Index. If the present base of the Index should hereafter be changed, then the new base shall be converted to the base now used. In the event that the Bureau of Labor Statistics should cease to publish said Index figure, then any similar index published by any other branch or department of the U.S. Government shall be used.

In the event the Bureau of Labor Statistics shall publish more than one such index, then the index showing the greater proportionate increase shall be used, and if none is so published, then another index generally recognized as authoritative shall be substituted by agreement of the parties hereto, or if no such agreement is reached within a reasonable time, either party may make application to any court of competent jurisdiction to designate such other index. In any event, the base used by any new index shall be reconciled to the 1982-1984 = 100 base index. In the event the Index for the Index adjustment month is not available at the time of adjustment of the GMAR as provided herein, Lessee shall continue to pay (in monthly installments) the GMAR then in effect, plus a three percent (3%) increase, provided, however, Lessee shall promptly pay to Lessor any deficiency at such time as said GMAR is adjusted.

5.3. Percentage Rent. In addition to the GMAR, for each Lease Year during the Term of this Lease, Lessee shall pay to Lessor as percentage rent ("Percentage Rent") the amount (if any) by

which (i) Three Percent (3%) of the Gross Receipts exceeds (ii) the GMAR paid by Lessee to Lessor during such Lease Year.

5.4. Interest on Delinquencies; 5% Additional Late Fees. It is understood and agreed between the parties hereto that, if any installment of rental is not paid within fifteen (15) days after becoming due, interest will be assessed on any delinquent payment(s) at a per annum rate equivalent to the then-existing Prime Rate (see below), plus three percent (3%). Although interest will not be assessed unless any rent is not paid within said 15-day grace period, if interest is assessed, then the interest will accrue retroactive to the date that the delinquent payment was first due and payable, and will continue to accrue until said rental is paid.

The per diem interest rate formula shall be: Interest [Prime Rate + .03] times amount past due, divided by 360 days.

In addition to interest, a late payment penalty equal to five percent (5%) of the past due payment will also be assessed.

For the purposes of this Lease, the term "**Prime Rate**" shall mean the per annum interest rate as determined by Bank of America to be the prime rate, or if not then available, as published on the date of determination in the Western Edition of the Wall Street Journal.

5.5. Payments of Rent Upon Death of Lessor. In the event of the death of the Lessor during the Term of this Lease and while the leased Premises are in trust or restricted status, all rentals remaining due or payable to the decedent or her representative under the provisions of this Lease shall be paid to the official of the Bureau of Indian Affairs having jurisdiction over the leased Premises.

6. ACCOUNTING AND AUDITS.

Within ninety (90) days after each Anniversary Date during the Term, Lessee shall submit/remit to the Lessor and the Secretary (i) an annual report of Gross Receipts certified by Lessee to be true, correct and complete, and (ii) payment of any Percentage Rent for the immediately preceding Lease Year that is due and payable under the provisions of Section 5.3 [Percentage Rent] above.

The acceptance by Lessor of any monies paid to Lessor by Lessee as Percentage Rent for the leased Premises as shown by any report furnished by Lessee pursuant to the foregoing paragraph shall not be an admission of the accuracy of said report, or of the sufficiency of the amount of said Percentage Rent payment. Lessor or the Secretary shall be entitled at any time within four (4) years after the receipt of any such Percentage Rent payment to question the sufficiency of the amount thereof and/or the accuracy of the report or reports furnished by Lessee to justify the same, by conducting a single independent audit undertaken by a qualified independent certified public accountant, which shall be concluded within forty-five (45) days after the Lessor's/Secretary's receipt of all pertinent records requested by the Lessor/Secretary in writing from the Lessee. For that purpose, Lessee shall be required to retain and keep safe and intact all of Lessee's records, books, accounts and other data which in any way bear upon or are required to justify in detail any such report of Gross Receipts for a period of at least four (4) years after submission of such report to Lessor or the Secretary.

If any audit conducted by the Lessor/Secretary and certified by an independent certified accountant in accordance with the above provisions concludes that Lessee has underpaid any Percentage Rent in any of the up to four (4) years that are the subject of such audit, then Lessee shall remit the deficit amount to the Lessor or Secretary within thirty (30) days after Lessee's receipt of written demand from Lessor or the Secretary and a complete copy of the audit report. If Gross Receipts for any subject Lease Year are under-reported by more than five percent (5%) (i.e., the Gross Receipts reported by Lessee are less than 95% of the actual Gross Receipts for such Lease Year), then Lessee shall pay the cost of the audit up to \$1,500, except that Lessee shall not be required to pay (i) the cost of the audit or (ii) any late fees or interest if Lessee establishes that the under-reporting was due to an under-reporting of Gross Receipts to Lessee by its sublessee(s) and that Lessee was not aware of such under-reporting by its sublessee(s).

7. RENTAL BOND.

Within thirty (30) days after the approval of this Lease by the Secretary, Lessee shall post a bond (or cash equivalent, or negotiable United States Treasury obligations), satisfactory to the Secretary in the amount of no less than the monthly installment of GMAR due under Section 5 above. Said bond or equivalent shall be maintained at all times in an amount not less than the monthly installment of GMAR due under Section 5 above, unless and until the requirement for such bond or equivalent is waived by the Secretary. Should waiver of rent bond be granted, the Secretary may require Lessee to furnish bond at a later date, and Lessee hereby agrees to comply with said request. The Secretary shall have the right to use said bond or cash equivalent to pay rent that is in default, for the benefit of Lessor during the term of the Lease (subject to Lessee's right to cure said default).

8. LESSEE'S RESPONSIBILITY FOR LIENS, TAXES, UTILITIES.

No mechanics' lien, materials lien, or any other lien for goods, labor, materials, services or work delivered to or performed on the Premises shall attach to or encumber Lessor's fee or reversionary interest in the property. All contractors, subcontractors and providers of goods, labor, materials, services or work to or for the benefit of the Premises are hereby put on notice of this provision and restriction and by such notice they agree that they shall have no such lien on Lessor's interest in the Premises. Lessor shall have the right to post on the Premises any and all notices of non-responsibility, which Lessor in its sole and absolute discretion deems appropriate.

The filing of any lien against Lessor's interest in the Premises in violation of this provision shall not be deemed to be a Default of Lessee under this Lease, if Lessee diligently and in good faith discharges or contests the lien. Lessee shall cause each person with whom it contracts for the construction of improvements on or for the benefit of the Premises to agree, in such contract, to the prohibition against liens against the Lessor's fee interest in the land and shall require such contractors to cause their subcontractors to do the same.

Lessee shall not permit to be enforced against the leased Premises, or any part thereof, any liens arising from any work performed, materials furnished or obligations incurred by Lessee. Lessee shall discharge all such liens before any action is brought to enforce same; further, Lessee shall pay, when and as the same become due and payable, all taxes, assessments, licenses, fees and other like charges levied during the Term of this Lease upon or against the leased Land and all interests therein and property

thereon for which either the Lessee or Lessor may become liable. Lessee shall directly bear, pay and discharge all impositions including the payment of taxes before the first day on which a penalty or interest may accrue or be assessed thereon for nonpayment. Upon written application, the Lessee shall furnish to the Secretary written evidence duly certified that any and all taxes required to be paid by Lessee have been paid, satisfied or otherwise discharged.

Lessee shall have the right to contest any claim, asserted tax or assessment against the property by posting bond to prevent enforcement of any lien resulting therefrom, or, alternatively, gives to Lessor such security as Lessor may reasonable require to insure payment thereof and to prevent any sale, foreclosure or forfeiture of the Premises or any portion thereof or any interest therein by reason of non-payment. Lessee agrees to protect and hold harmless the Lessor, the Secretary and the leased Premises and all interest therein and improvements thereon from any and all claims, taxes, assessments and like charges and any lien thereto or sale or other proceedings to enforce payment thereof, and all costs in connection therewith. Lessor shall execute and file any appropriate documents with reference to real estate tax exemption of the land when requested by Lessee.

In addition to the rents, taxes and other charges herein described, Lessee shall pay all charges for water, sewage, gas, electricity, telephone and other utility services supplied to said Premises as they become due. Nothing in this Lease shall require the Lessee to pay any franchise, estate, inheritance, succession, capital levy or transfer tax of the Lessor, or any income, excess profits tax, or any other tax, assessment, charge or levy upon the rent payable by Lessee under this Lease.

During the Term of this Lease, Lessee shall not permit to remain, and shall promptly discharge, at its sole cost and expense, all liens and charges upon the Premises or any part thereof (other than liens and charges created by Lessor), provided that the existence of any mechanics' liens, laborers' liens, material men's liens, suppliers' liens or vendors' liens or rights thereto shall not constitute a violation of this section if payment is not yet due under the contract and the contract does not postpone payment for more than sixty days after performance, and there is no risk of foreclosure on the lien prior to payment. Lessee shall have the right to contest with due diligence the validity or amount of any lien or claimed lien, if Lessee posts in the manner required by applicable local law, a bond to remove the lien or, alternatively, gives to Lessor such security as Lessor may reasonable require to insure payment thereof and to prevent any sale, foreclosure or forfeiture of the Premises or any portion thereof or any interest therein, by reason of such non-payment.

On final determination of the lien or claim for lien (including the settlement or compromise of the claim by Lessor as provided below), Lessee shall immediately pay any judgment rendered, with all proper costs and charges and shall have the lien released or judgment satisfied at its own expense. If Lessee fails to do so, Lessor may pay, at its option, any such final judgment and clear the Premises from such lien, and any such amount shall become immediately due and payable to Lessor by Lessee with interest at the Prime Rate plus three (3) percentage points. If Lessee fails to contest with due diligence the validity or amount of any such lien or claim for lien, or to post the bond or give Lessor security as required under this Section, Lessor may, but shall not be required to, contest the validity or amount of any such lien or claim for lien or settle or compromise the same, provided that Lessor gives Lessee written notice and Lessee does not cure its failure within thirty (30) days after delivery of such written notice.

If any lien is filed against the Premises or if any action of any character affecting the title hereto is commenced, Lessee shall give to the Lessor written notice hereof promptly following Lessee's receipt of notice of such lien or action.

9. CONSTRUCTION, MAINTENANCE, ALTERATION AND REPAIRS.

All improvements placed on the leased Premises shall be constructed in a good and workmanlike manner and in compliance with applicable Federal, Local, State and Tribal laws and building codes. All parts of buildings exposed to perimeter properties shall present a pleasant appearance.

Lessee shall have the right at any time during the Term of this Lease to make limited alterations or additions and any repair to any improvement on or placed upon the Premises; however, no single alteration, addition or remodeling of improvements involving an expenditure in excess of Five Hundred Thousand Dollars (\$500,000), or any removal or demolition of existing improvements, shall take place without the prior written consent of the Lessor and the Secretary, which shall not be unreasonably withheld, conditioned or delayed. Lessor and Secretary will either approve or state the reasons for disapproval within thirty (30) days after Lessee's request of the foregoing. If Lessor and Secretary fail to disapprove said request within said 30-day period, then the request shall be deemed approved.

Lessee shall, at all times during the Term of this Lease and at the Lessee's sole cost and expense, maintain the Premises and all improvements thereon in good order and repair and in a neat, sanitary and attractive condition. Lessee shall construct, maintain and repair, as required by law, all improvements on the leased Premises and any alterations, additions or appurtenances thereto, and shall otherwise comply with all public laws, ordinances and regulations applicable to said Premises. Lessee shall indemnify and hold harmless the Lessor and the United States Government against liability for all claims arising from Lessee's failure to maintain said Premises and the improvements thereon pursuant to the above requirements, or from Lessee's violation of any Applicable Law.

10. NON-RESPONSIBILITY NOTICES.

Prior to the commencement or construction of each improvement on the leased Premises, or any repair or alteration thereto, or work or labor thereon, the Lessee shall give the Secretary at least ten (10) days advance notice in writing of its intention to begin said activity, in order that non-responsibility notices may be posted and recorded as provided by state law. Lessor hereby authorizes the Secretary to post said notices on Lessor's behalf. Nothing contained herein shall be construed as a waiver of immunity of trust or restricted land from mechanic's or material men's liens or obligate the Secretary or Lessor to post non-responsibility notices while the leased Premises are in a trust or restricted status.

11. INDEMNIFICATION.

Neither the Lessor nor the United States Government, nor their officers, agents, and employees shall be liable for any loss, damage, or injury of any kind whatsoever (including without limitation, death) to the person or property of the Lessee or any sublessees or any other person whomsoever, caused by any use of the leased Premises, or by any defect in any structure erected thereon, or arising from any accident, fire, or other casualty on said Premises or from any other cause whatsoever, except to the

extent of the negligent acts or omissions of, breach of this Lease by, or violation of Applicable Laws by, the Lessor or the United States Government or their respective agents, representatives or employees.

As a material part of the consideration for this Lease, Lessee hereby waives all claims against Lessor and/or the United States Government and agrees to hold Lessor and/or the United States Government free and harmless from liability for all claims for any loss, damage, or injury arising from the use of the Premises by Lessee, together with all costs and expenses in connection therewith, except to the extent of the negligent acts or omissions of, breach of this Lease by, or violation of Applicable Laws by, the Lessor or the United States Government or their respective agents, representatives or employees.

12. FIRE AND CASUALTY INSURANCE.

During the entire Term of this Lease, Lessee shall carry fire insurance with extended coverage endorsements, vandalism, and malicious mischief, naming Lessor and the Bureau of Indian Affairs as additional insureds, covering the full replacement cost of all improvements on the leased Premises. Said policy or policies (or certificates of insurance evidencing such coverage) shall be deposited with the Secretary within thirty (30) days after the approval of this Lease by the Secretary, and thereafter on an annual basis within thirty (30) days after each Anniversary Date, and Lessee shall pay all premiums and other charges payable in respect to such insurance, and Lessee shall deposit with the Secretary the receipt for each premium or other charge as paid, or satisfactory evidence thereof.

In the event of damage to any improvement on the leased Premises, and subject to the terms of any Approved Encumbrance, Lessee shall reconstruct the improvement in compliance with Applicable Laws (including and building regulations), and subject to the requirements of Section 9 above [Construction, Maintenance, Alteration and Repairs]. Such reconstruction shall commence within one (1) year after the damage occurs and shall be pursued diligently. Subject to the terms of any Approved Encumbrance, insurance proceeds shall be used for such reconstruction.

Lessee shall also carry or cause its contractors to carry builder's risk insurance on an "all risks" basis, providing coverage against fire, theft, vandalism and malicious mischief and loss of stored materials, in such commercially reasonable amounts as Lessor and Lessee shall agree during all periods of time in which any improvements are under construction. Full and correct copies of said policy or policies or a current certificate of insurance shall be deposited with the Secretary, and Lessee shall pay or cause to be paid all premiums and other charges payable in respect to such insurance, and shall deposit with the Secretary the receipt for each premium or other charges as paid, or satisfactory evidence thereof.

If Lessee has not defaulted under this Lease, and subject to the terms of any Approved Encumbrance, any funds in escrow after reconstruction has been completed shall be paid to Lessee; if a Default has taken place, said money shall remain in escrow as security for Lessee's performance until said Default is cured, after which funds remaining shall be paid to Lessee. If Lessee does not cure the Default, said funds shall be paid to Lessor.

In the event of damage to the extent of seventy-five percent (75%) or more of the total value of all improvements on the leased Premises during the last five (5) years of the Initial Term or Extended Term of this Lease, the Lessee shall have the option whether or not to reconstruct said improvement.

Should Lessee elect not to reconstruct, the leased Premises shall be cleared at Lessee's expense and, upon the completion of such clearing, this Lease shall terminate.

Approved Encumbrances. Any Encumbrancer(s) shall be named as a beneficiary under the insurance mentioned in this Section 12, and in the event of loss or damage to the buildings on the leased Premises while an Approved Encumbrance remains unpaid, the amount of such loss or damage (but not exceeding the amount of the Approved Encumbrance) shall be paid to the Encumbrancer. If such amount paid to the Encumbrancer is sufficient to repair the loss or damage with respect to which it was paid or if Lessor or Lessee shall, within three (3) months after such payment by the insurer to the Encumbrancer, deposit with the Encumbrancer enough money to completely repair the loss or damage, when added to the amount paid by the insurer to the Encumbrancer, the Encumbrancer shall upon written instructions from Lessor and Lessee pay such monies for such repair, and it shall not be deemed a payment or credit on the Encumbrance; otherwise, at the expiration of such three (3) months, said sum so paid by the insurer to the Encumbrancer shall be applied and credited upon the Approved Encumbrance.

13. PUBLIC LIABILITY INSURANCE.

At all times during the term of this lease, Lessee shall carry a public liability insurance policy in the minimum amount of \$2,000,000.00/\$2,000,000.00 for personal injury, and \$2,000,000.00 for property damage, and said policy shall name the Lessor and the Bureau of Indian Affairs as additional insureds. A current certificate of insurance or copy of said policy and all renewals shall be furnished to the Secretary within thirty (30) days after the approval of this Lease by the Secretary, and thereafter on an annual basis within thirty (30) days after each Anniversary Date. Neither the Lessor nor the United States Government, nor their officers, agents and employees shall be liable for any loss, damage or injury of any kind whatsoever to the person or property of the Lessee or any sublessee or of any other person whomsoever, caused by any use of the leased Premises or by any defect in any structure erected thereon or arising from any accident, fire or other casualty on said Premises or from any other cause whatsoever. As a material part of the consideration for this Lease, Lessee waives all claims against Lessor and/or the United States Government and agrees to hold Lessor and/or the United States Government free and harmless from liability for all claims for any loss, damage or injury arising from the use of the Premises by Lessee, together with all costs and expenses in connection therewith, except to the extent of the negligent acts or omissions of, breach of this Lease by, or violation of Applicable Laws by, the Lessor or the United States Government or their respective agents, representatives or employees.

14. COMPANIES BONDING OR INSURING.

Insurance policies required under this Lease shall be furnished by such responsible companies as are rated A or better in the current edition of Best's Insurance Guide. Any bonds required under this Lease shall be furnished by companies holding certificates of authority from the Secretary of the Treasury as acceptable sureties on Federal bonds.

15. SUBLEASE, ASSIGNMENT, TRANSFER.

Lessee shall not, unless hereinafter expressly authorized, sublease, assign or transfer this Lease or any right to or interest in this Lease or any of the improvements on the leased Premises without the written approval of the Lessor and the Secretary, which shall not be unreasonably withheld, conditioned

or delayed; provided, however, Lessee shall have the right to assign all or any portion of this Lease, or sublease all or any portion of the Premises, to an Affiliate of Lessee, with written notice to the Lessor and Secretary, and provided that such assignee or sublessee assumes the obligations of the Lessee hereunder. No sublease, assignment or transfer in violation of the foregoing requirements shall be valid or binding.

No sublease shall be valid or binding without said consent and approval and then only upon the condition that the sublessee has agreed in writing that in the event of conflict between the provisions of the sublease and this Lease, the provisions of this Lease shall prevail. The term of any sublease shall not exceed the Term of this Lease. No sublease shall release the Lessee from any obligation under this Lease or substitute the sublessee for the Lessee hereunder. Any sublease made except as aforesaid shall be deemed a breach of this Lease.

The termination of this Lease, by cancellation or otherwise, shall not serve to cancel any approved sublease and/or subtenancies, but shall operate as an assignment to Lessor of any and all such subleases and/or subtenancies.

If a proposal to assign this Lease to a qualified assignee or other successor in interest is submitted while a default in this Lease exists, neither the Secretary nor the Lessor will be obligated to consider said proposal until the Lease is restored to good standing.

Concurrent with Lessor's and the Secretary's approval of any assignment of this Lease, the Lessor shall be paid, directly, a transfer fee in the fixed amount of Five Thousand Dollars (\$5,000.00), except that no such transfer fee shall be payable for an assignment of this Lease to an Affiliate of Lessee or to the acquisition of the leasehold interest (by foreclosure, deed in lieu of foreclosure or otherwise) by an Approved Encumbrancer, although the transfer fee shall be payable in the event of an assignment of the leasehold interest by the Approved Encumbrancer.

Payment of rent by a sublessee shall preserve the tenancy of the sublessee as to payment of rent and shall be considered to be the receipt of rent by Lessor.

In the event of the termination of this Lease due to a Default of Lessee (see Section 18 below), all subleases shall automatically be assigned to Lessor, and the sublessee(s), after written notice from the Lessor or Secretary, shall thereafter pay full rental due under the sublease directly to the Bureau of Indian Affairs for deposit to the account of Lessor.

16. LEASEHOLD ENCUMBRANCE.

16.1. Approved Encumbrances. This Lease, a fractional part of this Lease, or any right to or interest in this Lease or any of the improvements on the leased Premises may be encumbered for the purpose of borrowing capital for the development, improvement or financing of the leased Premises with the written approval of the Secretary, which approval shall not be unreasonably withheld, conditioned or delayed; provided, however, no such encumbrance shall be valid without said approval, and provided further that the encumbrance is confined to the leasehold interest of Lessee and does not jeopardize in any way the Lessor's interest in the land. Lessee agree to furnish as requested any financial statements or analyses pertinent to the proposed encumbrance that the Secretary may deem necessary to justify the amount and terms of said encumbrance.

16.2. Assignment of Approved Encumbrance. An Encumbrancer shall have the right to transfer or assign its mortgage, deed of trust or other Approved Encumbrance to any other party without the approval of the Lessor or Secretary, and in such event the assignee of the Approved Encumbrance shall become the Encumbrancer.

16.3. Default by Lessee Under Approved Encumbrance. In the event of a default by the Lessee under the terms of an Approved Encumbrance, the Encumbrancer shall furnish the Secretary and the Lessor with copies of any Notice of Default sent to Lessee, and the Encumbrancer may exercise any rights provided in such Approved Encumbrance; provided, however, before any sale of the leasehold or any fractional part thereof, whether under power of sale or foreclosure, the Encumbrancer shall give to the Secretary and the Lessor notice of the same character and duration as is required to be given to Lessee by either or both such Approved Encumbrance and the laws of the State of California.

If such Notice of Default shall be given and any default shall continue beyond the applicable cure period given to Lessee under the terms of the Approved Encumbrance or Applicable Laws, then, prior to the sale of the leasehold or any fractional part thereof under power of sale or foreclosure, or issuance of a deed in lieu of foreclosure, Lessor shall have the right to cure such default and, with the Secretary, initiate action under Section 18 [Default] of this Lease to terminate this Lease or such fractional part thereof; provided, however, that upon exercise of such option and until this Lease is terminated, the Lessor shall pay to the Encumbrancer the balance of the Approved Encumbrance less the aggregate of accelerated payments of principal that would have been thereafter due had such payments not been accelerated by reason of the default of the Lessee.

Within thirty (30) days after the effective date of the termination of this Lease or such fractional part thereof, Lessor shall either (i) pay the balance of Encumbrance or (2) execute and deliver to the Encumbrancer a new promissory note for the balance of the Encumbrance, payable upon the same terms and conditions as originally provided by the Approved Encumbrance. Such note shall be secured by a new Encumbrance approved by the Secretary on the real property upon which the Approved Encumbrance is a lien. The Lessor shall deliver to the Encumbrancer a policy of title insurance in the amount of the balance of the Approved Encumbrance. The title insurance must be issued by a reputable title insurance company and shall insure that the new Encumbrance is a first Encumbrance on the Premises, subject only to current taxes and conditions, restrictions and reservations of record at the time of recording the Approved Encumbrance, and subject, further, to any agreements for utility lines entered into by Lessee and the rights of way lawfully granted by the Secretary, in connection with the development of such property pursuant to this Lease.

16.4. Assignment by Acquiring Encumbrancer. If the Lessee's leasehold or fractional part thereof is acquired by an Encumbrancer by foreclosure, deed in lieu of foreclosure or otherwise, then (i) the acquiring Encumbrancer shall be bound as the Lessee under the terms of this Lease, and shall automatically assume all of the obligations of the Lessee, and (ii) such acquiring Encumbrancer shall have the subsequent right to assign or transfer its leasehold interest thus acquired to any party and thereby be relieved of further liability under this Lease, without the approval of the Lessor or the Secretary, provided that at least thirty (30) days advance written notice of such transfer is given to the

Lessor and Secretary; subject, however, to the right of termination by Lessor of the leasehold or any fractional part thereof provided for in Section 18 [Default by Lessee], said right to be exercised prior to any such assignment by the Encumbrancer, and subject to the further condition that the assignee shall have agreed in writing to be bound by all of the terms and conditions of this Lease. Any subsequent assignment or transfer of the leasehold after the initial assignment by the acquiring Encumbrancer shall require the written approval of the Secretary, which shall not be unreasonably withheld, conditioned or delayed.

16.5. Assignment by Acquiring Party Who is Not the Encumbrancer. If the Lessee's leasehold or fractional part thereof is acquired by foreclosure, deed in lieu of foreclosure or otherwise by a party and/or parties other than the Encumbrancer, then (i) said party and/or parties shall be bound by all the terms of this Lease and shall automatically assume all of the obligations of the Lessee, and (ii) any subsequent assignment of the leasehold or fractional part thereof shall require the prior written approval of the Secretary, which shall not be unreasonably withheld, conditioned or delayed.

16.6. Consents; Non-Disturbance and Attornment Agreements; Estoppel Certificates. Upon request by any Encumbrancer, Lessor and the Secretary shall timely execute and deliver all reasonable consents, non-disturbance and attornment agreements and/or estoppel certificates to such Encumbrancer, in form reasonably acceptable to Lessor, the Secretary and such Encumbrancer.

16.7. Rental. Upon the acquisition of the interest of the Lessee in this Lease, by foreclosure, assignment in lieu of foreclosure or otherwise, the acquirer and its successors in interest shall pay full rental in accordance with this Lease.

If a notice of default is filed by any Encumbrancer under any Approved Encumbrance, the Encumbrancer shall be obligated to pay any past due or current rent to Lessor, within fifteen (15) days after receipt of notice from Lessor.

16.8. Noncurable Defaults. An acquirer of the interest of Lessee in this Lease or in a fractional portion of this Lease shall not be required to cure any type of default which can be construed to be noncurable or which, because of its nature, may not be feasible or practical to cure. In no event shall an Encumbrancer which acquires the interest of the Lessee in this Lease, or a fractional portion of this Lease, by foreclosure, assignment in lieu of foreclosure or otherwise, be obligated to post any rental bond.

16.9. Notice to Encumbrancer if Default Under Lease; Payment of Rent. The mortgage or trust deed executed by the Lessee (and/or sublessee) may provide that failure to pay rent or perform the other covenants of this Lease will constitute a default under said mortgage or trust deed.

Lessor agrees to give each Encumbrancer notice of any default of the payment of rental by the Lessee when said rent becomes forty-five (45) days past due. In addition, at least fifteen (15) days prior to any termination of this Lease due to Lessee's Default (see Section 18 below), the Lessor shall give to each Encumbrancer written notice of its intention to so terminate, and the Encumbrancer shall

be entitled to remedy such Default at any time before such termination occurs, and thereby prevent termination for such Default. If such Default cannot be remedied within fifteen (15) days, the Encumbrancer must seek other arrangements with the Lessor and the Secretary.

16.10. Bankruptcy. The bankruptcy, receivership, or similar proceedings of Lessee shall not obligate any Encumbrancer to pay any monies to cure or terminate the bankruptcy or receivership, and the Encumbrancer shall not be required to do any more than is specifically required of said Encumbrancer by the terms of this Lease.

16.11. Lessee to Record Request for Notice of Default. Upon and immediately after the recording of any Approved Encumbrance, the Lessee, at its expense, shall cause to be recorded in the office of the Recorder of Riverside County a written request for a copy of any notice of default and of any notice of sale under the Approved Encumbrance as provided by the statutes of the State of California relating thereto to be sent to Lessee and the Secretary.

16.12. Insurance. Notwithstanding any provisions of Section 12 [Fire and Casualty Insurance], in the event that an Encumbrancer is the only person covered by insurance, all insurance proceeds shall be payable to the Encumbrancer. In such event, the Encumbrancer may utilize said insurance proceeds pursuant to the insurance provisions of the Approved Encumbrance executed by Lessee. The Encumbrancer may be named as a loss payee on all insurance policies affecting the property encumbered by the Approved Encumbrance.

16.13. Status of Lease. Whenever an Encumbrancer shall so request, the Secretary and/or Lessor shall provide the Encumbrancer with current information as to the status of this Lease.

16.14. Amendment. No amendment to this Lease which adversely affects the rights of any Encumbrancer shall be effective as to said Encumbrancer without said Encumbrancer's written consent, which approval will not be unreasonably withheld, conditioned or delayed.

17. INSPECTION OF THE PREMISES.

The Secretary and the Lessor and their authorized representatives shall have the right, at any reasonable times during the term of this Lease, to enter upon the leased Premises, or any part thereof, to inspect the same and all buildings and other improvements erected and placed thereon.

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18. DEFAULT.

Time is declared to be of the essence of this Lease. Should Lessee fail to perform any of its obligations pursuant to this Lease, and if such failure shall continue uncured for a period of thirty (30) days after written notice thereof by the Secretary to the Lessee (or, if such failure is of a nature that it cannot reasonably be cured within thirty days, if Lessee has not commenced to cure such failure during such 30-day period and proceeded with diligence and good faith toward the completion of said cure within a reasonable time period)("Default"), then, unless Lessee posts an appeal bond in the applicable amount, Lessor and the Secretary may either:

A. Collect, by suit or otherwise, all monies as they become due hereunder, or enforce, by suit or otherwise, Lessee's compliance with any other provision of this Lease; or

B. Terminate this Lease, which shall exclude recourse to any other remedy.

Any adjudication rendered against Lessee as a debtor under any insolvency or bankruptcy act shall constitute a Default under this Lease.

No waiver of a breach of any of the covenants of this Lease shall be construed to be a waiver of any succeeding breach of the same or any other covenant.

At least fifteen (15) days prior to any termination of this Lease, the Lessor shall give to each Encumbrancer written notice of its intention to so terminate. If such proposed termination be for any Default of Lessee under this Lease, then the Encumbrancer shall be entitled to remedy such Default at any time before such termination occurs, and thereby prevent termination for such Default, or if such Default cannot be remedied within fifteen (15) days, the Encumbrancer must seek other arrangements with the Lessor and the Secretary.

19. DELIVERY OF PREMISES AND IMPROVEMENTS UPON TERMINATION; HOLDING OVER.

At the option of the Lessor, all buildings and improvements on the leased Premises (excluding removable personal property and trade fixtures), shall remain on the Premises after the termination of this Lease, and shall thereupon become the property of the Lessor.

Upon the termination of this Lease, by normal expiration or otherwise, Lessee will peaceably and without legal process, deliver up the possession of the leased Premises and all buildings and improvements thereon (excluding removable personal property and trade fixtures), in good condition, usual wear and tear and acts of God excepted. Any property which remains on or attached to the Premises after thirty (30) days following the expiration or termination of this Lease shall be deemed abandoned and shall become the sole property of Lessor or, at Lessor's option, may be disposed of by Lessor in a commercially reasonable manner and as allowed by law.

Holding over by the Lessee after the completion of the Term of this Lease shall not constitute a renewal or extension thereof or give the Lessee any right hereunder or in or to the leased Premises.

20. LESSOR PAYING CLAIMS.

Subject to the provisions of Section 8 [Lessee's Responsibility for Liens, Taxes, Utilities], Lessor shall have the option to pay any lien or charge levied on the Premises which is payable by Lessee under this Lease, or settle any action with respect thereto, if the Lessee after at least thirty (30) days' written notice from Lessor or Secretary fails to pay or to post bond against enforcement. All costs and other expenses incurred by Lessor in so doing shall be paid to Lessor by Lessee upon demand with interest at the per annum rate of three percent (3%) plus Prime Rate, from the date of Lessor's payment until repaid. Default in such repayment shall constitute a breach of this Lease.

21. OPERATION OF BUSINESSES.

All businesses on the leased Premises shall be conducted during the regular and customary hours of such businesses and in good faith so that Lessor is not unreasonably deprived of Percentage Rent income. Lessee shall conduct such business on the Premises at all times in a respectable, reputable and lawful manner and in accordance with standards of similar businesses conducted in the Coachella Valley.

22. LESSEE'S OBLIGATIONS.

While the leased Premises are in trust or restricted status, all of the Lessee's obligations under this Lease, and the obligations of its sureties (to the extent applicable), are to the United States as well as to the Lessor.

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23. PAYMENTS AND NOTICES.

All notices, payments and demands shall be sent to the parties hereto at the addresses herein recited or to such addresses as the parties may hereafter designate in writing. Unless otherwise provided herein or by written notice from the Lessor to Lessee, all notices, payments or demands sent by Lessee to Lessor may be sent to the Lessor in care of the Bureau of Indian Affairs.

Any notice to any party provided for or pursuant to this Lease shall be given by: personal delivery; certified or registered mail (return receipt requested and postage prepaid); nationally recognized overnight courier service such as Federal Express, UPS or United States Postal Service (freight or postage prepaid); transmission via facsimile, with confirmation copy of the notice sent by certified or registered mail (return receipt requested and postage prepaid), and transmission confirmation retained by the sender; or by e-mail, with confirmation copy of the notice sent by certified or registered mail (return receipt requested and postage prepaid) and transmission confirmation retained by the sender, and shall be delivered to the receiving party at the address stated below, or at such other address as such party may designate by written notice to the other party from time to time in accordance with the provisions of this Section. Any notice that is personally delivered shall be deemed delivered upon receipt. Any notice that is delivered by certified or registered mail shall be deemed delivered four (4) business days after the postmark. Any notice that is delivered by overnight delivery shall be deemed delivered upon receipt as confirmed by the overnight courier service. Any notice that is transmitted via facsimile or e-mail prior to 4:00 pm PST shall be deemed delivered on that business day, and if transmitted after 4:00 pm PST or on a federal or state holiday or weekend shall be deemed delivered as of the next business day.

24. TAKING.

24.1. Termination - Total Taking. If a taking of all, or substantially all, of the Premises, or of a primary access road to the Premises, or, in the Lessee's reasonable discretion such portion sufficient to render it economically infeasible to carry out the purposes of the Lease ("**Taking**"), shall occur at any time during the Term, this Lease shall terminate and expire on the date of such Taking, and all Rent and other amounts payable hereunder shall be apportioned and paid to the date of such Taking. For purposes of this clause, "substantially all of the Premises" shall be deemed to have been taken if the portion of the Premises not so taken is insufficient to permit the economically feasible restoration of the improvements or the continuation of the business(es) conducted on the Premises in the ordinary course. Notwithstanding the foregoing, Lessee shall not be deemed to have waived any rights Lessee may have under applicable law, including but not limited to California Code of Civil Procedure Section 1265.130.

24.2. Distribution of Proceeds. In the event of a Taking and the early termination of this Lease, by the operation of law or otherwise, the proceeds of such Taking shall be distributed in the following manner, except as otherwise required by the terms of any Approved Encumbrance affecting the Lessee's or any sublessee's interest in the affected Premises:

(i) *Lessor's Interest in Land.* Prior to any other distribution under subparagraphs (ii) and (iii) below, Lessor shall first receive the value of the "taken" Land (based on its unimproved value). Any remaining proceeds will be distributed in accordance with subparagraphs (ii) and (iii) below.

(ii) *Lessee's Interest in Improvements, etc.* Lessee shall be entitled to receive and retain such portion(s) of the proceeds of the Taking as shall represent compensation for the value of (A) the buildings, site improvements and other improvements on the Premises; (B) Lessee's leasehold estate under this Lease; (C) the value of any businesses conducted on or from the Premises and all personal property thereon; and (D) all other amounts, if any, to which Lessee or any sublessee may be entitled under law except any amount to which Lessor is entitled to under subpart (i) above or subparagraph (iii) below.

(iii) *Lessor's Interest.* Lessor shall be entitled to receive and retain such portion(s) of the proceeds of the Taking as shall represent compensation for the value of (A) the value of Lessor's beneficial interest in the Land (see subparagraph (i) above); (B) Lessor's reversionary interest in the existing improvements; (C) Lessor's interest as Lessor under this Lease, and (D) all other amounts, if any, to which Lessor may be entitled under law, except any amount to which Lessee is entitled pursuant to subparagraph (ii) above.

In the event that the total amount of the proceeds from the Taking are insufficient to pay the amounts described in subparagraphs (i), (ii) and (iii) above, then such proceeds shall be apportioned and paid to Lessor and Lessee pro rata in accordance with the amount each would have received had such proceeds been sufficient to pay such amounts.

24.3. Partial Taking.

24.3.1. Adjustment of Rent. In the event of any taking of the Premises or a primary access road to the Premises that, in Lessee's reasonable discretion, is not sufficient to render it economically infeasible to carry out the purposes of this Lease (a "**Partial Taking**"), the Term shall not be reduced or affected in any way; however, the GMAR (and Percentage Rent, if applicable) shall be revised and adjusted downward to the new fair rental value of the Premises. The fair rental value, as determined under the provisions of the following paragraph, shall take into account the effect of such Partial Taking on Lessee's or any affected sublessee's business conducted on the Premises.

For purposes of the foregoing paragraph, if Lessee, on the one hand, and the Lessor and Secretary, on the other hand, are unable to reach agreement as to the new fair rental value within forty-five (45) days after the occurrence of the Partial Taking, then each party, at its own expense shall appoint an MAI appraiser with experience in the Palm Springs area. The two (2) appointed appraisers shall simultaneously exchange their appraisals of the fair rental value of the Premises. If the respective appraisals do not differ by more than five percent (5%) of the lower appraisal, then the fair rental value shall be the mid-point between the two appraisals. If the respective appraisals differ by more than five percent (5%), then the appointed appraisers shall select a third MAI appraiser with experience in the Palm Springs area, who shall make an appraisal of the fair rental value of the Premises. The third appraiser and the closer of the original two appraisals shall be used to determine fair rental value. Those two appraisals shall be added together and divided by two and the result shall be the new fair rental value, which shall be the new GMAR effective as of the date of the Partial Taking.

24.3.2. Payment of Rent Pending Determination. If the Partial Taking is of less than eight percent (8%) of the total square footage of the Land, and none of the improvements are taken, and access to the Premises is not adversely affected, then until the new Guaranteed Minimum Annual Rent

is determined as provided in Section 24.3.1, Lessee shall continue to pay Guaranteed Minimum Annual Rent in the same amounts as would be due if there had not been any Partial Taking. When the new GMAR is determined, Lessor shall refund to Lessee any excess of the amount of GMAR which was paid after the date of the Partial Taking over the amount of the new GMAR as so determined, plus interest on such excess amount at the Prime Rate from the date received by Lessor until repaid to Lessee.

If the Partial Taking is of eight percent (8%) or more of the total square footage of the land, or any of the improvements are taken, or access to the Premises is adversely affected, then Lessee shall pay to Lessor an amount reasonably estimated by Lessee to be the new GMAR until the final determination thereof is made. When said final determination is made, Lessee shall pay any balance due, or Lessor shall pay Lessee any excess of the interim Guaranteed Minimum Annual Rent paid for such period which was more than what Lessee would have paid had such rent during such period been the Guaranteed Minimum Annual Rent as finally determined, and the payor shall also pay interest thereon at the Prime Rate from the dates when each excess or underage was paid until the same is paid.

24.3.3. Temporary Repairs/Restoration of Remaining Premises. In the event of a Partial Taking which shall not result in a termination of this Lease, Lessee, at its own cost and expense up to the amount of insurance proceeds that are available, shall as soon as reasonably practical after such Partial Taking restore and replace the portion of the Premises not so taken to a complete architectural unit. If the damage or destruction as a result of such Partial Taking occurs during the last five (5) years of the Initial or Extended Term, Lessee shall not be obligated to restore and may terminate this Lease, provided, however, that any proceeds otherwise payable to Lessee which are premised on Lessee's continuation of its leasehold interest shall not be paid to Lessee.

24.3.4. Disbursement of Award for Partial Taking by Trustee. In the event of a Partial Taking, the proceeds of the award shall be deposited with and held by the trust department of a local (Coachella Valley) branch of a reputable banking or other financial institution, or by a reputable local escrow company (the "Trustee") reasonably acceptable to Lessor, the Secretary and Lessee, and shall be disbursed by the Trustee as follows, after the payment of reasonable expenses and fees of the Trustee:

- (i) *Lessor's Interest in Land.* The Lessor shall first be paid for that portion of the Land taken.
- (ii) *Cost of Restoration.* Lessee shall then be paid the costs to restore the remaining part of the Premises to an economical and operational whole (including, but not limited to, architectural, engineering, title, permitting and construction costs); and
- (iii) *Lessee's and Lessor's Interests.* The remainder shall be apportioned as follows after the restoration is completed:
 - (a) Lessee shall receive the portion of the proceeds representing compensation for the value of Lessee's interest in the Premises (including improvements), Lessee's leasehold interest under this

Lease, and any other amounts to which Lessee is entitled under law, except any amount to be paid to Lessor hereunder; and

- (b) Lessor shall receive the portion of the proceeds representing compensation for the value of Lessor's beneficial interest in the land, Lessor's reversionary interest in the improvements, Lessor's interest as Lessor under this Lease, and any other amounts to which Lessor is entitled under law, except any amount to be paid to Lessee hereunder.

In the event that the proceeds, after the payment of reasonable expenses and fees of the Trustee and payments under subparagraphs (i) and (ii) above, shall be insufficient to pay the amounts described in subparagraphs (iii)(a) and (iii)(b) above, then the proceeds shall be apportioned and paid to Lessor and Lessee pro rata in accordance with the amount each would have received had the proceeds been sufficient to pay such amounts.

Any and all amounts that shall be paid to any Encumbrancer or sublessee shall be deemed to have been paid out of the proceeds for the account of Lessee.

24.3.5. Temporary Taking. If all or any portion of the Premises shall be taken, or access to the Premises is adversely affected, by the exercise of the right of eminent domain, or any portion of the Premises is no longer a usable portion of the Premises as a result of any law, regulation, ordinance, order or decree, for a limited period ("Temporary Taking"), this Lease shall not terminate and Lessee shall continue to perform and observe all of its obligations hereunder, including the payment of all rent as provided herein, as though such taking had not occurred (except as to non-monetary obligations only, and only to the extent that it may be prevented from operating and maintaining the Premises as an economical operating business in accordance with the provisions of this Lease by reason of such Temporary Taking by the governmental authority exercising such jurisdiction). In the event of such a Temporary Taking for a period of time ending on or prior to the expiration of the Term (including any Extended Term), Lessee shall be entitled to receive the entire amount of any award made for such Temporary Taking whether paid by way of damages, rent or otherwise, and, at the end of the period for which the Premises are so taken, Lessee will, at its sole cost and expense, restore the Premises as nearly as may be reasonably possible, regardless of cost, to the condition in which the Premises existed prior to such Temporary Taking. Any portion of the award made in respect of any such Temporary Taking for a period which extends beyond the expiration of the Term hereof, Lessee shall be entitled to receive that portion of any Award made for such Temporary Taking (whether paid by way of damages, rent or otherwise), allocable to the period of time from the date of such Temporary Taking to the expiration of the Term, and Lessor shall be entitled to receive the balance of such Award.

24.4. Condemnation Proceedings. Nothing in Section 24 or subsections thereunder shall prevent either Lessor or Lessee from filing or prosecuting separately their respective claims pursuant to Section 24 for an award on account of the takings to which Section 24 applies, provided they shall not separately settle or compromise the amount of any award in such condemnation proceeding, and they shall reasonably cooperate with each other and with any Encumbrancer in connection with such condemnation proceeding.

25. LEASE BINDING.

This Lease and the covenants, conditions and restriction hereof shall extend to and be binding upon the successors, heirs, assigns, executors and administrators of the parties hereto.

26. INTEREST OF MEMBER OF CONGRESS.

No Member of, or Delegate to, Congress shall be admitted to any share or part of this Lease or to any benefit that may arise hereunder, but this provision shall not be construed to extend to this Lease if made with a corporation, limited liability company or other entity for its general benefit.

27. VALIDITY; APPROVAL OF SECRETARY REQUIRED.

This Lease, and any modification of or amendment to this Lease, shall not be valid or binding upon either party hereto until approved by the Secretary.

28. LESSOR'S DETERMINATIONS, CONSENTS OR APPROVALS.

Whenever in this Lease it is provided that the Lessor may exercise any rights or discretions or make any determinations, consents or approvals, and the leased land is in multiple ownership, the action of those Lessors holding the applicable percentages required under Title 25, Section 2218 of the United States Code (as it may be amended from time to time) shall constitute the action of all the Lessors for the purposes of this Lease and any extension thereof.

29. TERMINATION OF FEDERAL TRUST.

Nothing contained in this Lease shall operate to delay or prevent a termination of Federal trust responsibilities with respect to the land by issuance of a fee patent or otherwise during the term of the Lease. However, such termination shall not serve to abrogate the Lease, which at Lessee's option shall remain in full force and effect, or at Lessee's option may be terminated upon prior written notice from Lessee. The Lessor and the Lessee (and its surety(ies), if any) shall be notified in writing of any such change or proposed change in the status of the Premises.

30. ARBITRATION.

Whenever during the Term of this Lease the Lessee and Lessor are unable to reach an agreement that is required by this Lease, then an Arbitration Board shall be established. Said Arbitration Board shall consist of three persons, one member to be selected by the Lessee, one member to be selected by the Lessor, and the third to be selected by the other two members. The Lessee and Lessor shall split the third arbitrator's fees, and the decision of the Arbitration Board shall be final.

31. AGREEMENTS FOR UTILITY FACILITIES.

Lessee shall have the right to enter into agreements with public utility companies and the State of California or any of its political subdivisions to provide utility services, including, but not limited to

gas, water, electricity, telephone, television, and sewer facilities, necessary to the full enjoyment of the leased Premises and/or the alteration thereof in accordance with the provisions of this Lease, which agreement shall be binding upon any sublessee or other occupant of the leased Premises; provided, that no such agreement shall cover land not included in this Lease.

Upon entering into such agreement or agreements, the Lessee shall furnish the Secretary executed copies thereof together with a plat or diagram showing the true location of the utility lines to be constructed in accordance therewith.

No sublessee shall have the right to enter into such facility agreements if all improvements to be used by such sublessee are constructed prior to the subleasing of same, except that Lessee shall not be obligated to enter into any facility agreement on behalf of sublessee. Sublessees shall, however, have the right to contract for utility services or any third-party provider of same, subject to Lessee's approval.

32. RIGHTS OF WAY FOR STREETS AND UTILITY FACILITIES.

Lessor hereby consents to the granting of rights of way for streets and utility facilities necessary to the full enjoyment of the leased Premises and/or the alteration thereof in accordance with the provisions of this Lease. Such rights of way are to be granted by the Secretary in accordance with the approved general development plan and pursuant to the Act of February 5, 1948, and any amendments thereto, as implemented by regulations of the Secretary applicable thereto.

33. TAX IMMUNITY.

Nothing contained in this Lease shall be deemed to constitute a waiver of applicable laws providing tax immunity to trust or restricted Indian property or any interest thereon.

34. FORCE MAJEURE.

If any party is rendered unable, wholly or in part, by force majeure to carry out its obligations under this Lease, other than the obligation to indemnify or make money payments or furnish surety or provide the necessary bond, that party shall give to all other parties prompt written notice of the force majeure with reasonably full particulars concerning it; thereupon, the obligations of the party giving the notice, so far as they are affected by the force majeure, shall be suspended during, but no longer than, the continuance of the force majeure. The term "force majeure," as used herein, shall mean an act of God, strike, lockout, or other industrial disturbance, act of the public enemy, war, blockade, public riot, lightning, fire, storm, flood or other act of nature, explosion, restraint or inaction, unavailability of equipment, and any other cause, whether of the kind specifically enumerated above or otherwise, which is not reasonably within the control of the party claiming suspension. The affected party shall use all reasonable diligence to remove the force majeure situation as quickly as practicable.

35. SURETY BOND.

Where the Secretary's approval of any alterations or improvements to the Premises is required under this Lease, the Secretary may require as a condition of such approval that Lessee post a

performance or other surety bond for the completion of and payment for the cost of such improvements.

36. GENERAL PROVISIONS.

36.1. No Merger. There shall be no merger of this Lease, nor of the leasehold estate created by this Lease, with the fee estate in the land or with the interest or estate of any Encumbrancer by reason of the fact that this Lease or any such leasehold estate may be held, directly or indirectly, by or for the account of any person or persons who shall own a beneficial interest in the land, or shall hold any Approved Encumbrance. No such merger shall occur unless and until all persons at the time holding the estates or interests to be merged shall join in a written instrument effecting such merger and shall duly record the same.

36.2. Entire Agreement. This Lease sets forth all of the agreements, conditions and understandings between Lessor and Lessee relative to the leasing of the Premises, and there are no promises, agreements, conditions, understanding, warranties or representations, oral or written, expressed or implied, between them other than as set forth or as referred to herein.

36.3. No Oral Modification. No statement, action or agreement hereafter made shall be effective to change, amend, waive, modify, discharge, terminate or effect an abandonment of this Lease in whole or in part unless such agreement is in writing and signed by the party against whom such change, amendment, waiver, modification, discharge, termination of abandonment is sought to be enforced.

36.4. Successors and Assigns. The covenants and agreements herein contained shall be binding upon and inure to the benefit of Lessor and Lessee and their respective heirs, successors, permitted assigns, and personal representatives.

36.5. Headings. The section headings are inserted herein only for convenience and are in no way to be construed as part of this Lease, or as indicative of the meaning of the provisions of this Lease or the intention of the parties, or as a limitation in the scope of the particular provisions to which they refer.

36.6. Severability; Invalidity of Particular Provisions. If any term or provision of this Lease, or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each other term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

36.7. No Partnership or Joint Venture. Nothing in this Lease shall be deemed to create a partnership or joint venture between Lessor and Lessee or to render either party generally liable for the debts or obligations of the other.

36.8. Time of the Essence. Except as otherwise specifically provided in this Lease, time is of the essence in this Lease and in each and every provision hereof on Lessor and Lessee's part to be performed.

36.9. Exhibits. All exhibits attached hereto and referred to in this Lease are incorporated in this Lease as though set forth in full.

36.10. Construction. The parties agree that each party has reviewed and revised this Lease and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in their interpretation of this Lease or any amendments or exhibits thereto.

36.11. Governing Law. This Lease shall be governed exclusively by the provisions hereof and by the laws of the United States and, to the extent applicable, California law.

36.12. Counterparts. This Lease may be executed in several counterparts, each of which shall be deemed an original, and such counterparts shall constitute but one and the same instrument.

36.13. Lessor's Rights to Defend. Notwithstanding anything to the contrary in this Lease, Lessor shall have the right to undertake and continue to defend, at Lessee's reasonable costs and expense, any claim, action or proceeding which is brought against Lessor and which Lessee is obligated under this Lease to defend, if following ten days written notice to Lessee, Lessee has failed to diligently defend.

36.14. Quiet Enjoyment. Lessor covenants and agrees that upon Lessee's paying the rent reserved herein and timely performing and observing all of the covenants and provisions of this Lease on Lessee's part to be performed and observed, Lessee shall peaceably and quietly enjoy the Premises without disturbance by Lessor or anyone claiming by, through or under Lessor (subject to the terms and conditions of this Lease, encumbrances and Applicable Laws).

36.15. No Third Party Beneficiary. The covenants and obligations set forth in this Lease are to benefit only the parties hereto, and any Encumbrancer, and shall not be for the benefit of any third party.

36.16. Attorneys' Fees. If action be brought by either party in unlawful detainer for rent or any other sums of money due under this Lease, or to enforce performance of or interpret any of the covenants, conditions or other terms of this Lease, then losing party shall pay reasonable attorneys' fees of the prevailing party to be fixed by the court or other hearing officer as a part of the costs in any such action.

37. SALE OF PREMISES BY LESSOR.

If Lessor sells, exchanges or assigns its interest in the Premises and this Lease, Lessor shall be and is hereby entirely free and relieved of all liability under this Lease and under any and all covenants and obligations contained in or derived from this Lease which accrue after the written notice to Lessee

that such sale, exchange or assignment has been consummated and after express assumption of all prior, current and future liabilities and obligations hereunder by the transferee or assignee.

38. ENVIRONMENTAL PROTECTION REQUIREMENTS.

The Lessee shall comply with the 40 CFR Parts 1500 through 1508 - Council on Environmental Quality regulations and all other regulations applicable to environmental protection requirements on Federal lands. No ground disturbing activities under this Lease shall occur until National Environmental Policy Act (NEPA) Compliance has been met and this Lease has been approved by the Secretary. No hazardous substance, as defined by Federal and California State law (see Section 41 below) can be stored or placed on the leased Premises.

39. ARCHAEOLOGICAL, CULTURAL AND HISTORIC RESOURCES PROTECTION.

Lessee agrees that in the course of construction on the leased Premises involving ground disturbing activities; a qualified archaeologist (specified at 43 CFR 7.8) will monitor the construction site to insure that if archaeological or historical resources are uncovered, the construction activity shall immediately be halted and the involved area evaluated regarding the significance of the discovered resource. Within twelve (12) hours after the discovery, the Director, Bureau of Indian Affairs, Palm Springs Field Office, shall immediately be notified by the Lessee's archaeologist. Upon notification of the discovery, the Director, or his designee, will initiate a preliminary resource assessment. At the completion of the assessment, the Bureau of Indian Affairs will initiate consultation with the State Historic Preservation Officer and the Advisory Council on Historic Preservation pursuant to the required procedures at 36 CFR 800 (Protection of Historic Properties) and specifically at 36 CFR 800.11 (properties discovered during implementation of an undertaking) to determine the disposition of the resource. The Lessee will comply with any mitigation measures determined appropriate as a result of the consultation completed pursuant to 36 CFR 800.11. The cost of any required archaeological evaluation, mitigation, analysis, and curation shall be paid by the Lessee.

40. INDIAN PREFERENCE.

Lessee hereby agrees that, to the extent feasible, preference and opportunities for training and employment shall be given to enrolled members of Federally recognized tribes. Lessee is aware that under specific criteria, employers on reservations receive a 20% tax credit against tax liabilities for the first \$20,000 of qualified wages and health benefits paid to full or part-time Indian employees and their spouses. The new employee must live on or near the reservation and wages may not exceed \$30,000 annually. The tax credit applies to wages and health insurance costs paid or incurred by the employer for each qualified employee after 1993 in a tax year that begins before 2004.

Lessee shall have the right to reject the applications for valid reasons, or to terminate the employment of any Indian on reasonable grounds.

41. HAZARDOUS MATERIALS.

41.1. Definition of Hazardous Materials. For purposes of this Lease, the term "**Hazardous Materials**" shall include, without limitation, asbestos, petroleum, petroleum products, storage tanks,

substances defined as "hazardous substances," "hazardous waste" and/or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sec. 9601 et seq., Hazardous Materials Transportation Act, 49 U.S.C. Sec. 1801, Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6901 et seq., and/or any other applicable federal, state or local laws, statutes, rules, ordinances, orders and/or requirements related to hazardous materials, hazardous waste and/or toxic substances, and any publications promulgated pursuant thereto.

41.2. Notification. The parties shall immediately advise each other in writing as soon as they become aware of (i) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened pursuant to any applicable federal, state or local laws, ordinances, or regulations relating to any Hazardous Materials affecting the Premises ("**Hazardous Materials Laws**"); (ii) any and all claims made or threatened by third parties claiming or regulating damage, contribution, cost recovery compensation, loss or injury as a result of Hazardous Materials on or emanating from the Premises (the matters set forth in clauses (i) and (ii) above are hereinafter referred to as "**Hazardous Materials Claims**"); and (iii) all occurrences or conditions on any real property adjoining or in the vicinity of the Premises that could cause the Premises or any part thereof to be classified as "border zone property" under the provisions of California Health and Safety Code, Sections 25220 et seq. or any regulation adopted in accordance therewith, or to be otherwise subject to any restrictions on the ownership, occupancy, transferability or use of the Premises under any Hazardous Materials Laws.

41.3. Indemnity. Lessor shall have the right to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Hazardous Materials Claims regardless of whether Lessor is legally liable or responsible therefore, and, if Lessee is liable or responsible therefore pursuant to this paragraph, Lessor's reasonable attorneys' fees in connection therewith shall be paid by Lessee. Lessee shall be solely responsible for, and shall indemnify and hold harmless Lessor, its directors, officers, employees, agents, successors and assigns from and against, any loss, damage, cost, expense or liability directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal, or presence of Hazardous Materials on, under or about the Premise that result from Lessee's use and occupancy during the term of this Lease, including, without limitation: (a) all foreseeable consequential damages; (b) the costs of any required or necessary repair, cleanup or detoxification of the Premises, and the preparation and implementation of any closure, remedial or other required plans; and (c) all reasonable costs and expenses incurred by Lessor in connection with clauses (a) and (b), including but not limited to reasonable attorneys' fees. The various rights and remedies reserved to Lessor herein, including those not specifically described herein, shall be cumulative, and, except as otherwise provided by California law in force and effect at the time of the execution hereof, Lessor may pursue any or all of such rights and remedies, whether at the same time or otherwise.

Notwithstanding anything in this Lease which may be interpreted to the contrary, Lessee shall not be responsible for any claims relating to Hazardous Materials or Hazardous Materials Claims arising from (a) occurrences, events, acts or omissions that precede the Effective Date of this Lease or occur after the termination of this Lease, (b) the acts or omissions of, the breach of this Lease, or the violation of any Applicable Laws by, Lessor or Lessor's agents, employees or contractors (and, further, Lessor shall release, indemnify, defend and hold Lessee harmless from and against any and all liabilities, claims, penalties, fees, damages and expenses, including but not limited to reasonable attorneys' fees,

to the extent relating to such acts, omissions, breach or violation by Lessor or its agents, employees or contractors), or (b) acts or omissions of third parties on, under, over, or through any adjoining or other property.

41.4. Remediation. Without Lessor's prior written consent, which shall not be unreasonably withheld, Lessee shall not take any remedial action in response to the presence of any Hazardous Materials on, under, or about the Premises, nor enter into any settlement agreement, consent decree, or other compromise in respect to any Hazardous Material Claims, which remedial action, settlement, consent or compromise might, in Lessor's reasonable judgment, impair the value of Lessor's interest hereunder; provided, however, that Lessor's prior consent shall not be necessary in the event that the presence of Hazardous Materials on, under, or about the Premises either poses an immediate threat to the health, safety or welfare of any individual or is of such a nature that an immediate remedial response is necessary and it is not possible to obtain Lessor's consent before taking such action, provided that in such event Lessee shall notify Lessor as soon as practicable of any action so taken. Lessor agrees not to withhold its consent, where such consent is required hereunder, if either (i) a particular remedial action is ordered by a court of competent jurisdiction, or (ii) Lessee establishes to the reasonable satisfaction of Lessor that there is no reasonable alternative to such remedial action which would result in less impairment of Lessor's security hereunder. Also, Lessee shall not be deemed to be in breach of or otherwise responsible for its obligations under Section 41.3 above if Lessor refuses or withholds consent to any proposed responsive action by Lessee.

[signatures on following page]

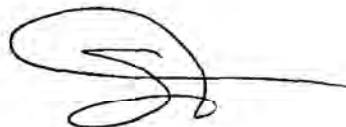
IN WITNESS WHEREOF, the parties hereto have duly executed this Lease as of the day and year first above written, and effective as of the date of the Secretary's approval hereof.

Lessor:



**GEORGIANNA MCGLAMARY, AS REPRESENTATIVE
IN HER PRIVATE CAPACITY FOR LORENE WELMAS
MCGLAMARY, also known as LORENE MCGLAMARY
MARTINEZ**

Lessee:



SCOTT P. TIMBERLAKE

STATE OF California)
COUNTY OF Riverside) ss.

On August 13, 2002, before me, Ollie Ann Beyal, a Notary Public, personally appeared GEORGIANNA MCGLAMARY, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature Ollie Ann Beyal



STATE OF OREGON)
COUNTY OF MULTNOMATH) ss.

On 7/30, 2002, before me, Lorri L. Asder, a Notary Public, personally appeared SCOTT P. TIMBERLAKE, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature Lorri L. Asder



Three-day Notice to Cure Covenant or Quit

TO: D & L REAL ESTATE ENTERPRISES LLC, LONNIE LANDERS, Individually, and DAN KETELAARS, Individually:

PLEASE TAKE NOTICE that within three days after service of this notice upon you, you are required to cure your violation of Paragraph 7 of your lease by posting a new rental bond or cash equivalent in the amount of \$100,000 as provided required by your lease.

Paragraph 7 of your Lease provides:

“RENTAL BOND.

Within thirty (30) days after the approval of this Lease by the Secretary, Lessee shall post a bond (or cash equivalent, or negotiable United States Treasury obligation), satisfactory to the Secretary in the amount of no less than the monthly installment of GMAR due under Section 5 above. Said bond or equivalent shall be maintained at all times in an amount not less than the monthly installment of GMAR due under Section 5 above, unless and until the requirement for such bond or equivalent is waived by the Secretary. Should waiver of rent bond be granted, the Secretary may require Lessee to furnish bond at a later date, and Lessee hereby agrees to comply with said request. The Secretary shall have the right to use the said bond or cash equivalent to pay rent that is in default, for the benefit of Lessor during the term of the Lease (subject to Lessee’s right to cure said default).”

On or about April 15, 2022, Ollie Beyal, Superintendent, Bureau of Indian Affairs issued to you a demand to “post a new rental bond or cash equivalent in the amount of \$100,000.00” within five days from receipt of said notice. You have failed to post the said bond and have thereby violated Paragraph 7 of your said lease.

If you fail to timely cure your violation of Paragraph 7 of your lease by posting the necessary bond, you are now required to vacate and deliver the premises to Lessors William McGlamary within three days after service of this notice upon you. If you fail either to post the said bond as demanded in this notice or to vacate and deliver the premises to the person designated above within three days, the undersigned will commence legal proceedings against you to (1) declare a forfeiture of your lease, and (2) recover possession of the premises. This demand is in addition to all prior notices given of the existing default and shall not be deemed to waive any prior notice or any additional defaults. Further, if you fail to timely post the bond demanded by this notice, the undersigned declares the forfeiture of the lease under which you hold possession of the premises upon the expiration of period of time allowed to cure by this notice.



September 26, 2023

David Earl Jacobs, Attorney for Lessors
William McGlamary and Estate of Georgianna
McGlamary

PROOF OF SERVICE OF NOTICE

I served the

Three-day Notice to Cure Covenant or Quit

document(s) served
on the following tenant(s):

Name of tenant
D & L REAL ESTATE ENTERPRISES LLC

address
 by personally serving the notice to the tenant at 29782 Teracina, Laguna Niguel,
CA 92677 on 09/26/2023 at 8:10 AM PM.

(CCP § 1162(a)(1)) **Dan Ketelaars, Agent for Service of Process, accepted.**

by attempting personal service of the notice at _____
_____ on _____ at _____ AM PM. The tenant was
not in at the tenant's residence or place or business, so I delivered a copy of the notice to
_____ at _____
on _____ at _____ AM PM and mailed a copy of the notice to the residence
address of the tenant via First Class Mail on _____ from _____,
CA.

(CCP § 1162(a)(2))

by attempting personal service of the notice at _____
_____ on _____ at _____ AM PM, and there
was no answer. The tenant's residence place of business could not be ascertained, and no
person of suitable age could be found, so I then effected service by affixing a copy of the notice
in a conspicuous place on the property and sending a copy via First Class Mail addressed to the
tenant at the place where the property is situated on _____ from
_____, CA.

(CCP § 1162(a)(3))

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on 09/26/2023 at Newport Beach, California.

Ronne Johnsen Aplus Process Service
5000 Birch Street, 3rd Floor
Newport Beach, CA 92660
888-992-7587
Orange / RPS: #2777
Cost of Service: \$100.00

Ronne Johnsen
Ronne Johnsen Process Server
Electronic Signature as per Rule 2.257(a)(b)

EXHIBIT 3

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PROOF OF SERVICE BY REGISTERED MAIL

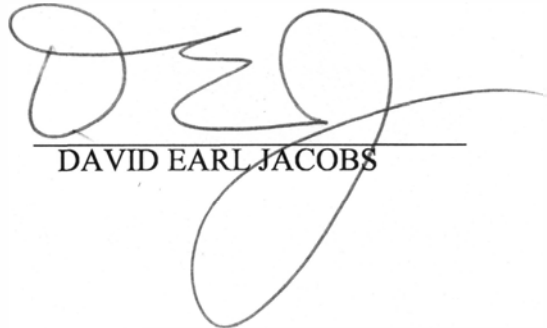
I, DAVID EARL JACOBS declare under penalty of perjury as follows:

1. I am employed in the County of Riverside. I am over the age of eighteen years, and not a party to the within action.
2. My business address is 441 S. Calle Encilia, Suite 1, Palm Springs, CA 92262
3. On October 10, 2023, I served the following upon notices via certified mail:
Three-day Notice to Cure Covenant or Quit; Three-day Notice to Pay or Quit and Notice to Quit (non-curable default).
by posting at the Palm Springs Post Office located at 333 N. Sunrise Way, Palm Springs, CA 92262, addressed as follows:

Dan Ketelaars
29782 Teracina
Laguna Niguel Ca 92677

Lonnie Landers
1695 E. Buena Vista
Palm Springs, CA 92262

I declare under penalty of perjury that the foregoing is true and correct. Executed on October 10, 2023 at Palm Springs, California.



DAVID EARL JACOBS

Exhibit 3.1

ATTACHMENT 10.c.. TO UNLAWFUL DETAINER COMPLAINT

- 9.B. a. Defendant D&L REAL ESTATE ENTERPRISES, LLC was served a 3-day notice to pay rent or quit.
 - b. (1) On October 25, 2023 the period stated in the notice expired at the end of the day.
(2) Defendants failed to comply with the requirements of the notice by that date.
 - c. All facts stated in the notice are true.
 - d. The notice included an election of forfeiture.
 - e. A copy of the notice is attached and labeled as Exhibit 2b.
-
- 10.B. a. The notice in item 9B.a. was served on the defendant named in item 9Ba as follows:
(3) By posting a copy of the premises on October 2, 2023, AND
(a) by mailing a copy to the defendant's residence because defendant cannot be found at defendant's residence or usual place of business.
(5) In the manner specified in a written commercial lease between the parties, ie., by certified mail.
 - d. Proof of service of the notice in item 9B is attached and labeled Exhibit 3b.
-
- 9.C. a. Defendant D&L REAL ESTATE ENTERPRISES, LLC was served a 3-day notice to quit (non-curable default).
 - b. (1) On October 25, 2023 the period stated in the notice expired at the end of the day.
(2) Defendants failed to comply with the requirements of the notice by that date.
 - c. All facts stated in the notice are true.
 - d. The notice included an election of forfeiture.
 - e. A copy of the notice is attached and labeled as Exhibit 2c.
-
- 10.C. a. The notice in item 9B.a. was served on the defendant named in item 9Ba as follows:
(3) By posting a copy of the premises on October 2, 2023, AND
(a) by mailing a copy to the defendant's residence because defendant cannot be found at defendant's residence or usual place of business.
(5) In the manner specified in a written commercial lease between the parties, ie., by certified mail.
 - d. Proof of service of the notice in item 9C is attached and labeled Exhibit 3c.

Three-day Notice to Pay or Quit

TO: D&L Real Estate Enterprises, LLC, Danlon, Inc., Wings of the Desert, Lonnie Landers, Dan Ketelarrs, and all others in possession ("Tenants"):

PLEASE TAKE NOTICE that you are in default of our written lease agreement, which commenced on September 18, 2002, between the Tenant(s) and Landlord for the Premises located at 424 South Indian Canyon Drive, Palm Springs, California, 92262 (hereafter the "Agreement"). This letter serves as your official notice from the Landlord regarding your default as described hereunder.

In accordance with Section 1161 of the California Code of Civil Procedure, and the terms of the Agreement, you are hereby required to pay the Landlord for past due rent, **WITHIN THREE (3) DAYS, excluding Saturdays, Sundays, and other judicial holidays**, in the amount of:

TOTAL AMOUNT DUE FOR PAST DUE RENT, 10/3/22 10/2/23: \$92,338.73.

You can pay the amount owed by writing a cashier's check or its equivalent for the full amount made payable to Bureau of Indian Affairs, Palm Springs Branch and delivering it to:

U.S. DEPT OF THE INTERIOR, BIA
ATTN: OLLIE BEYAL, SUPERINTENDENT 3700A
East Tachevah Dr #201
Palm Springs, CA 92262 or by delivering it to Landlord's authorized agent:

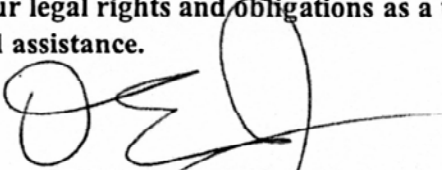
David Earl Jacobs
441 S. Calle Encilia, Ste. 1
Palm Springs, CA 92262
(760) 218-4277

If you fail to pay **within at least three (3) days, excluding Saturdays, Sundays, and other judicial holidays**, the Agreement shall terminate and you must deliver possession of the Premises to the Landlord.

YOU ARE FURTHER NOTIFIED THAT the Landlord hereby elects to declare that forfeiture of the Agreement, in the event you fail to perform or otherwise comply with the demands of this notice, shall commence legal proceedings against you to seek a judicial declaration of forfeiture of the Agreement and recover possession of the Premises, any unpaid rent, actual damages, reasonable attorney fees, any other damages or fees pursuant to the Agreement, and costs or necessary disbursements together with possible statutory damages as allowed by law for such unlawful possession of the Premises.

If you are in doubt regarding your legal rights and obligations as a tenant, it is recommended that you seek legal assistance.

October 2, 2023



David Earl Jacobs, Attorney For Lessors
441 South Calle Encilia, Ste # 1
Palm Springs, CA 92262
(760) 218-4277

PROOF OF SERVICE OF NOTICE

I served the

Three-day Notice to Pay or Quit

on the following tenant(s):

D&L Real Estate Enterprises, LLC, Danlon, Inc. Wangs of the Desert, Lonnie Landers, Dan Ketelarrs, and all in possession ("Tenants")

by personally serving the notice to the tenant at _____ on _____ at _____ AM PM.

(CCP § 1162(a)(1))

by attempting personal service of the notice at _____ on _____ at _____ AM PM. The tenant was not in at the tenant's residence or place or business, so I delivered a copy of the notice to _____ at _____ on _____ at _____ AM PM and mailed a copy of the notice to the residence address of the tenant via First Class Mail on _____ from _____ CA.

(CCP § 1162(a)(2))

by attempting personal service of the notice at **29782 Teracina, Laguna Niguel, CA 92677** on **10/02/2023** at **7:50** AM PM, and there was no answer. The tenant's residence place of business could not be ascertained, and no person of suitable age could be found, so I then effected service by affixing a copy of the notice in a conspicuous place on the property and sending a copy via First Class Mail addressed to the tenant at the place where the property is situated on **10/03/2023** from **Newport Beach**, CA.

(CCP § 1162(a)(3))

This Notice was for D&L Real Estate Enterprises, LLC--Agent for Service of Process--Dan Ketelarrs.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **10/03/2023** at **Newport Beach**, California.

**Ronne Johnsen Aplus Process Service
5000 Birch Street, 3rd Floor
Newport Beach, CA 92660
888-992-7587
Orange / RPS: #2777
Cost of Service: \$70.00**

Ronne Johnsen

Ronne Johnsen Process Server

Exhibit 3b

Three-day Notice to Quit

TO: D&L Real Estate Enterprises, LLC, Danlon, Inc., Wangs of the Desert, Lonnie Landers, Dan Ketelarrs, and all others in possession ("**Tenants**"):

PLEASE TAKE NOTICE that you are in default of our written lease agreement, which commenced on September 18, 2002, between the Tenant(s) and Landlord for the Premises located at 424 South Indian Canyon Drive, Palm Springs, California, 92262 (hereafter the "Agreement"). This letter serves as your official notice from the Landlord regarding your default as described hereunder.

In accordance with Section 1161 of the California Code of Civil Procedure, and the terms of the Agreement, you are hereby notified the Agreement shall terminate and you must deliver possession of the Premises, **WITHIN AT LEAST THREE (3) DAYS after receipt of this notice**, due to:


1. Your default of the conditions and covenants of the lease by subletting or assigning the Premises to another party without the consent of the Landlord or written notice to Landlord and in direct violation of the Agreement's terms and conditions pertaining to the subletting or assigning of any interest in the Premises to another party.
2. Your failure to post a bond as was demanded by Ollie Beyal, Superintendent of the Bureau of Indian Affairs pursuant to Paragraph 7 of the lease and your failure to cure that breach of covenant when demanded pursuant to the Three-day Notice to Cure Covenant or Quit served upon you on September 28, 2023.

Therefore, you must vacate and deliver possession of the Premises to the Landlord **within at least three (3) days** after receipt and service of this notice.

YOU ARE FURTHER NOTIFIED THAT the Landlord hereby elects to declare forfeiture of the Agreement, in the event you fail to perform or otherwise comply with the demands of this notice, shall commence legal proceedings against you to seek a judicial declaration of forfeiture of the Agreement and recover possession of the Premises, any unpaid rent, actual damages, reasonable attorney fees, any other damages or fees pursuant to the Agreement, and costs or necessary disbursements together with possible statutory damages as allowed by law for such unlawful possession of the Premises.

If you are in doubt regarding your legal rights and obligations as a tenant, it is recommended that you seek legal assistance.

October 2, 2023



David Earl Jacobs, Attorney for Lessors
441 S. Calle Encilia, Ste. #1
Palm Springs, CA 92262
(760) 218-4277

PROOF OF SERVICE OF NOTICE

I served the

Three-day Notice to Quit

on the following tenant(s):

D&L Real Estate Enterprises, LLC, Danlon, Inc. Wangs of the Desert, Lonnie Landers, Dan Ketelarrs, and all in possession ("Tenants")

by personally serving the notice to the tenant at _____ on _____ at _____ AM PM.

(CCP § 1162(a)(1))

by attempting personal service of the notice at _____ on _____ at _____ AM PM. The tenant was not in at the tenant's residence or place or business, so I delivered a copy of the notice to _____ at _____

on _____ at _____ AM PM and mailed a copy of the notice to the residence address of the tenant via First Class Mail on _____ from _____, CA.

(CCP § 1162(a)(2))

by attempting personal service of the notice at **29782 Teracina, Laguna Niguel, CA 92677** on **10/02/2023** at **7:50** AM PM, and there was no answer. The tenant's residence place of business could not be ascertained, and no person of suitable age could be found, so I then effected service by affixing a copy of the notice in a conspicuous place on the property and sending a copy via First Class Mail addressed to the tenant at the place where the property is situated on **10/03/2023** from **Newport Beach**, CA.

(CCP § 1162(a)(3))

This Notice was for D&L Real Estate Enterprises, LLC--Agent for Service of Process--Dan Ketelarrs.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **10/03/2023** at **Newport Beach**, California.

**Ronne Johnsen Aplus Process Service
5000 Birch Street, 3rd Floor
Newport Beach, CA 92660
888-992-7587
Orange / RPS: #2777
Cost of Service: \$70.00**

Ronne Johnsen

Ronne Johnsen Process Server

Exhibit 3c