

and repair; (ii) the Landlord is not in default under any mortgage or deed of trust filed against the Building or the land of which it is a part ; (iii) the Building and the land of which it is a part are not subject to any pending litigation or government investigation; (iv) the Leased Premises are not leased and are not subject to any rights of first refusal, rights of first offer, options or other preferential rights to lease, occupy, license or purchase; (v) the Building and the Park have Triple Freeport Inventory tax exemption status, are located in Foreign Trade Zone 39, and have Foreign Trade Zone designation.

ARTICLE 3 - RENT

Section 3.01 **Base Rent.** Tenant shall pay to Landlord the Minimum Annual Rent in the Monthly Rental Installments identified in Section 1.01.E herein, in advance, without demand and without abatement, deduction or offset, beginning on the Commencement Date (subject to the abatements, deductions or offsets provided in this Lease) and continuing on or before the first day of each and every calendar month thereafter during the Lease Term. The Monthly Rental Installments for partial calendar months shall be prorated based on the number of days in that month.

Section 3.02 Additional Rent.

(a) Any amount required to be paid by Tenant hereunder (in addition to Minimum Annual Rent) and any charges or expenses incurred by Landlord on behalf of Tenant which are to be reimbursed to Landlord by Tenant under the terms of this Lease shall be considered "Additional Rent" payable in the same manner and upon the same terms and conditions as the Minimum Annual Rent reserved hereunder except as set forth herein to the contrary. Any failure on the part of Tenant to pay such Additional Rent when and as the same shall become due shall entitle Landlord to the remedies available to it for non-payment of Minimum Annual Rent.

(b) In addition to the Minimum Annual Rent, Tenant shall pay to Landlord for each calendar year during the Lease Term, as Additional Rent, Tenant's Proportionate Share of all costs and expenses incurred by Landlord during the Lease Term for Operating Expenses (as hereinafter defined) for the Building and the common areas associated therewith. Operating Expenses for the year 2013 are estimated to be \$0.26 per square foot of Rentable Area.

(c) In addition to the Minimum Annual Rent and Tenant's Proportionate Share of Operating Expenses, Tenant shall pay to Landlord for each calendar year during the Lease Term, as Additional Rent, Tenant's Proportionate Share of (i) Insurance Premiums (as herein defined) payable by Landlord; and (ii) all Real Estate Taxes (as herein defined). Tenant's Proportionate Share of Insurance Premiums and Real Estate Taxes for the year 2013 are estimated to be \$0.95 per square foot of Rentable Area.

(d) For purposes of this Lease, "**Operating Expenses**" shall mean all of Landlord's expenses actually paid or incurred (but net of any refunds, reimbursements or recoveries) for operation, repair, replacement and maintenance to keep the Building and the common areas associated therewith in good order, condition and repair (including all additional direct costs and expenses of operation and maintenance of the Building which vary directly with the occupancy of the Building and which Landlord reasonably determines it would have paid or incurred during such year if the Building had been 95% occupied), including, but not limited to the following: management or administrative fees; utilities; insurance deductibles; stormwater discharge fees; license, permit, inspection and other fees; fees and assessments imposed by any covenants or owners' association; access patrols; and maintenance and repair and replacement of the driveways, parking areas (including snow removal), exterior lighting, landscaped areas, walkways, curbs, drainage strips and sewer lines.

Operating Expenses shall not include the following:

(i) costs of roof replacement and costs of other capital improvements, except for those capital improvements (other than roof replacement) that (x) increase the efficiency of the Building and thereby reduce Operating Expenses, or (y) are required under any governmental law or regulation, or (z) do not exceed \$20,000 in the aggregate in any calendar year and are part of normal repair or replacement of components of the Building, but in any case to be amortized over such

reasonable period as Landlord shall determine (but not less than the life of the improvement);

(ii) ground rent and interest on and amortization of mortgages or other debt service;

(iii) Landlord's local, state and/or federal income, gift, estate, inheritance, transfer, excise or franchise taxes (other than the Texas "margin tax" imposed under Texas Tax Code Chapter 171, as may be amended; provided that (1) the margin tax shall be calculated as if the **Building were the only income-producing asset** belonging to Landlord, (2) **Tenant's obligations to pay Landlord's margin taxes** will be reduced by the benefit of **Landlord being able to deduct (or use as a credit)** its margin tax from federal income taxes or other payments, (3) Tenant will not be responsible for Landlord's margin tax if the state of Texas repeals the reduction in real property tax rates that was enacted in connection with the adoption of the Texas margin tax, and (4) Landlord's margin taxes paid by Tenant will not include revenue from sales of real property or other extraordinary transactions consummated by Landlord);

(iv) salaries of Landlord's employees above building manager level or not engaged full time in the operation, management, maintenance or repair of the Building;

(v) legal fees incurred in connection with the leasing of the Building or in connection with disputes with other tenants relating to the collection of rent and similar matters not benefiting the tenants of the Building generally;

(vi) leasing commissions, advertising expenses, tenant inducements and other such expenses incurred in leasing or marketing the space within the Building;

(vii) costs for which Landlord is entitled to (and actually receives) specific reimbursement by Tenant (including **without limit utility costs other than** those solely attributable to common areas), **any other tenants of the Building**, or any other third party;

(viii) costs of initial construction of the Building;

(ix) cost of renovating or modifying space in the Building for lease to other tenants;

(x) the cost (including the amount of any deductible or self-insured retention up to \$50,000.00 per occurrence [of which Tenant would pay Tenant's Proportionate Share and which would be included in Operating Expenses]) of repairing and restoring any portion of the Building damaged by fire or other casualty, to the extent covered by insurance or which would have been covered had Landlord carried the insurance required under this Lease;

(xi) depreciation allowance;

(xii) contributions to operating cost reserves;

(xiii) expenditures for travel, entertainment, professional dues, subscriptions, donations, data processing, errors and omissions insurance, automobile allowances, political donations and professional fees of any kind;

(xiv) the cost of correcting latent defects and defects in base building construction for the Building or its systems, including without limit noncompliance with governmental codes and laws currently in effect;

(xv) insurance premiums solely to the extent any other tenant causes Landlord's existing insurance premiums to increase or require Landlord to purchase additional insurance;

- (xvi) other than property management fees, any cost representing an amount paid to any entity related to or affiliated with Landlord (or its members, managers or employees, or relatives or such parties) which is in excess of the amount which would have been paid in the absence of such relationship;
- (xvii) cost incurred due to violation by Landlord or any other tenant of the terms of any lease or condition, covenant or restriction affecting the Building or common areas, or any laws, rules, regulations or ordinances applicable to the Building or common areas;
- (xviii) costs of repairs, replacements or other work occasioned by the exercise by governmental authorities of the right of eminent domain;
- (xix) penalties and interest for late payment of, including taxes, insurance, equipment leases and other past due amounts;
- (xx) costs of selling, syndicating, financing, mortgaging or hypothecating any of Landlord's interest in the Building or common areas;
- (xxi) any cost of acquiring, maintaining (other than routine cleaning), and restoring objects of art;
- (xxii) costs of constructing additions to the Building or constructing new buildings on, or otherwise developing the Building or other property owned by Landlord;
- (xxiii) charitable contributions;
- (xxiv) costs solely associated with the operation of the limited liability company, partnership or other entity which constitutes Landlord, as distinguished from costs of operation of the Building or otherwise provided for herein;
- (xxv) Landlord's property management fees in excess of three percent (3%) of the gross rent of the Building, and Landlord's general overhead and general administrative expenses (including, without limitation advertising, administrative, marketing and promotional expenditures, legal fees, auditing fees, including costs of acquiring and installing signs in or on the Premises identifying the owner of the Building or in an effort to generate rental income or promote the Property or any tenant therein);
- (xxvi) parties or events hosted by Landlord for the tenants of the Building; and
- (xxvii) costs and disbursements relating to or arising in any way, directly or indirectly, from the testing, handling, removal, treatment, disposal or replacement of asbestos, asbestos containing materials or other hazardous substances in or on Building or common areas to the extent caused by Landlord or its agents, employees, tenants or other occupants [other than Tenant], contractors or invitees ("Landlord Parties") (and not excluding the same to the extent caused by Tenant or its agents, employees, subtenants, contractors or invitees ("Tenant Parties")); and to the extent not caused by either Landlord Parties or by Tenant Parties, then such costs and disbursements shall be included as Operating Expenses only to a maximum amount of Ten Thousand Dollars (\$10,000.00) per year and a maximum amount of Twenty Five Thousand Dollars (\$25,000.00) in the aggregate during the Term of this Lease.

(e) In no event shall "**Controllable Expenses**," as that term is defined below, included in Operating Expenses increase after 2014 by more than eight percent (8%) per calendar year during the Lease Term, calculated on a cumulative and compounding basis. The parties agree and acknowledge that the following are non-controllable expenses and shall not be subject to the foregoing cap: Taxes, insurance, the utility rates charged by a third party provider, management fees (only to the extent of increases due to Building rent increases), and capital improvements required by laws not in place as of the Commencement Date and any other costs not reasonably controllable by Landlord. For purposes of this Lease, "Controllable Expenses"

shall mean only the following: all Operating Expenses other than the non-controllable expenses defined above.

(f) For purposes of this Lease, "**Insurance Premiums**" shall include insurance premiums for insurance coverage on the Building or common areas (but net of any refunds, reimbursements or recoveries of premiums) and shall include all fire and extended coverage insurance on the Building and all liability insurance coverage on the common areas of the Building, and the grounds, sidewalks, driveways and parking areas related thereto, together with such other insurance coverage, including, but not limited to, rent interruption insurance, as are from time to time obtained by Landlord.

(g) For purposes of this Lease, "**Real Estate Taxes**" shall include any form of real estate tax or assessment or service payments in lieu thereof, and any license fee, commercial rental tax, improvement bond or other similar charge or tax (other than local, state and federal gift, inheritance, income, excise, franchise, transfer or estate taxes) imposed upon the Building or the common areas associated therewith (or against Landlord's business of leasing the Building) by any authority having the power to so charge or tax, together with costs and expenses of contesting the validity or amount of Real Estate Taxes to the extent they do not exceed the tax savings (but Real Estate Taxes shall be net of any refunds, reimbursements or recoveries of any portion thereof). Real Estate Taxes shall also include the Texas "margin tax" imposed under Texas Tax Code Chapter 171, as may be amended; provided that (1) the margin tax shall be calculated as if the Building were the only income-producing asset belonging to Landlord, (2) Tenant's obligations to pay Landlord's margin taxes will be reduced by the benefit of Landlord being able to deduct (or use as a credit) its margin tax from federal income taxes or other payments, (3) Tenant will not be responsible for Landlord's margin tax if the state of Texas repeals the reduction in real property tax rates that was enacted in connection with the adoption of the Texas margin tax, and (4) Landlord's margin taxes paid by Tenant will not include revenue from sales of real property or other extraordinary transactions consummated by Landlord. Additionally, Tenant shall pay, prior to delinquency, **all taxes assessed against** and levied upon trade fixtures, furnishings, equipment and all **personal property of Tenant contained** in the Leased Premises. Landlord shall pay all assessments **and improvement bonds** in the maximum number of installments allowed. Real Estate Taxes shall be allocated to the taxing period which they cover and prorated where the taxing period ends after the Lease Term ends or after this Lease otherwise terminates. Real Estate Taxes shall not include any penalty, interest or late charge for late payment.

Section 3.03 Payment of Additional Rent. Landlord shall estimate the total amount of Additional Rent to be paid by Tenant during each calendar year of the Lease Term, pro-rated for any partial years. Commencing on the Commencement Date, Tenant shall pay to Landlord each month, at the same time the Monthly Rental Installments are due, an amount equal to one-twelfth (1/12th) of the estimated Additional Rent for such year. Tenant shall make all payments of Additional Rent notwithstanding any "free rent" period provided herein, except as may be otherwise expressly provided in this Lease. Within a reasonable time (but not longer than 150 days) after the end of each calendar year, Landlord shall submit to Tenant a statement of the actual amount of such Additional Rent ("**Additional Rent Reconciliation Statement**") and within thirty (30) days after receipt of such statement, Tenant shall pay any deficiency between the actual amount owed and the estimates paid during such calendar year. In the event of overpayment, Landlord shall credit the amount of such overpayment toward the next installments of Minimum Annual Rent (and pay any balance to Tenant if the Lease Term ends before all credit is applied) or pay such overpayment to Tenant within thirty (30) days after Tenant's receipt of such statement where the Lease Term has ended. Landlord agrees to maintain complete records of all Additional Rent. All such records shall be maintained in accordance with generally accepted accounting practices and shall be retained for a period of one year following the date on which the Additional Rent Reconciliation Statement is delivered to Tenant.

Section 3.04 Late Charges. Tenant acknowledges that Landlord shall incur certain additional unanticipated administrative and legal costs and expenses if Tenant fails to pay timely any payment required hereunder. Therefore, in addition to the other remedies available to Landlord hereunder, if any payment required to be paid by Tenant to Landlord hereunder shall become overdue for more than ten (10) days once during any calendar year (and thereafter no such grace period shall be applicable that calendar year), Tenant shall pay an administrative fee equal to five percent (5%) of such past due amount.

Section 3.05 Audit. For a period of one hundred twenty (120) days following the date on which Landlord delivers to Tenant the statement of actual Additional Rent, Tenant at its expense shall have the right during Landlord's normal business hours to examine (using a non-contingency fee qualified auditor) Landlord's books and records relating to the Additional Rent for the year to which such statement relates. If Tenant shall not request an audit in accordance with the provisions of this Section within ninety (90) days of receipt of Landlord's statement, such statement shall be conclusive and binding on Tenant. Additionally, Tenant must keep all information it obtains from Landlord's books and records in strictest confidence and Tenant shall cause its auditor to be similarly bound. In the event that such examination reveals that Tenant was over charged, then Landlord shall promptly reimburse Tenant for such overcharge (if such payment is not received within thirty (30) days of the final determination, then Tenant may offset such amount against future rent due hereunder). Further, in the event that such examination reveals that Tenant was over charged by more than 5%, then Landlord shall also promptly reimburse Tenant for the reasonable actual cost out of pocket of performing the audit.

ARTICLE 4 - SECURITY DEPOSIT

Upon Tenant's execution of this Lease, Tenant shall deposit with Landlord the Security Deposit as security for the performance by Tenant of all of Tenant's obligations contained in this Lease. In the event of a default by Tenant, Landlord may apply all or any part of the Security Deposit to cure all or any part of such default; provided, however, that any such application by Landlord shall not be or be deemed to be an election of remedies by Landlord or viewed as liquidated damages. Tenant agrees to deposit promptly, upon demand, such additional sum with Landlord as may be required to maintain the full amount of the Security Deposit. All sums held by Landlord pursuant to this section shall be without interest and may be commingled by Landlord with other security deposits for the Building, but nonetheless be deemed held in trust for the benefit of Tenant to the extent of Tenant's interest as provided herein. Within fifteen (15) days after the end of the Lease Term, provided that there is then no uncured default, Landlord shall return the Security Deposit to Tenant.

ARTICLE 5 - USE

Section 5.01 Use of Leased Premises. The Leased Premises are to be used by Tenant solely for the Permitted Use and for no other purposes without the prior written consent of Landlord. Tenant shall have access to and use of the Leased Premises for the Permitted Use on a 24-7 (around the clock) basis. Nothing in this Lease shall be deemed to impose upon Tenant any obligation to operate its business within or to occupy the Leased Premises (subject to compliance with the other terms of this Lease).

Section 5.02 Covenants of Tenant Regarding Use. Tenant shall (i) use and maintain the Leased Premises and conduct its business thereon in a safe, careful, reputable and lawful manner, (ii) comply with all laws, rules, regulations, orders, ordinances, directions and requirements of any governmental authority or agency, now in force or which may hereafter be in force, including without limitation those which shall impose upon Landlord or Tenant any duty with respect to or triggered by a change in the use or occupation of, or any improvement or alteration to, the Leased Premises, and including without limitation the requirements of Title III of the Americans with Disabilities Act of 1990 and all rules and regulations promulgated with respect thereto, (iii) comply with any protective covenants applicable to the Park which are in effect and, to the extent they do not impose material additional costs or obligations upon Tenant or materially detract from Tenant's rights under this Lease, as may hereafter be adopted and promulgated and (iv) comply with and obey all reasonable written directions of the Landlord, including any reasonable rules and regulations that may be adopted by Landlord from time to time of which Tenant is given written notice and which are uniformly applied to all tenants and occupants of the Building and which do not conflict with the provisions of this Lease. Tenant shall not do or permit anything to be done in or about the Leased Premises or common areas which will in any way obstruct or interfere with the rights of other tenants or occupants of the Building or injure or annoy them. Landlord shall not be responsible to Tenant for the nonperformance by any other tenant or occupant of the Building of its lease or of any rules and regulations. Tenant shall not overload the floors of the Leased Premises. All damage to the floor structure or foundation of the Building due to improper positioning or storage of items or materials shall be repaired by Landlord at the sole expense of Tenant, who shall reimburse Landlord immediately therefor upon demand. Tenant shall not use the Leased Premises, or allow the Leased Premises to be used, for any purpose or in any manner which would invalidate any