

City of Mesa Lease Template
6030 S. Kent Street

Executed leases for tenants at 6030 S. Kent Street are not in the custody of the City and information related to the tenants is not authorized for public dissemination pursuant to federal requirements.

COMMERCIAL LEASE AGREEMENT # _____

THIS COMMERCIAL LEASE AGREEMENT (“**Lease**”) is made as of the Effective Date as defined in Section 1.4, by and between the **CITY OF MESA**, an Arizona municipal corporation, (“**Landlord**”) and _____ (“**Tenant**”). Landlord and Tenant may be referred to jointly as “**Parties**,” and each separately may be referred to as a “**Party**.”

The Lease shall be contingent upon the condition(s) listed in para 1.20.

1.1. Premises Leased (“ Premises ”)	That certain space as described in Exhibit A , attached hereto to this Lease, including all improvements situated thereon.
1.2. Maximum Number of Tenant Personnel Assigned (See Section 3.3)	XX
1.3. Use of Other Facilities and Services Provided (See Section 3.9)	<p>Parking spaces. Tenant shall have nonexclusive access to a designated set of non-assigned parking spaces. As Campus occupancy and parking space utilization increases, a system of parking decals, rationed parking, and designated parking areas will be implemented and Tenant agrees to abide by the resulting policies. Parking is currently inside the facility compound but may be relocated outside the compound.</p> <p>Bathrooms and Water Dispenser. Tenant shall have nonexclusive access to bathrooms and water dispenser in the building containing the Premises.</p> <p>Access to site. Tenant personnel assigned to Premises will have vehicle and pedestrian ingress and egress privileges. Tenant will submit names and other required data to the Security Operations Center (SOC) of all personnel assigned to Tenant’s Premises. Tenant personnel must meet AZLabs security standards to be eligible for assignment to Premises.</p>

City of Mesa Lease Template
6030 S. Kent Street

<p>1.3a. Security Services Provided by Landlord (<i>See Section 3.9</i>)</p>	<p>24x7 Campus security presence, surveillance, and monitoring.</p> <p>Security alarm monitoring, including initial response to secure area alarm.</p> <p>Campus access control (vehicle and pedestrian).</p> <p>Tenant personnel badge processing</p> <p>Tenant visitor initial reception and badge processing.</p> <p>Tenant incoming visit request processing. Visit requests for Tenant visitors will be submitted to the SOC in accordance with Campus security procedures. Landlord will verify security status and issue appropriate badges. Visitors not in the Joint Personnel Adjudication System (JPAS) will require a Tenant escort. Tenant outgoing visit request services will not be provided.</p> <p>Fire alarm monitoring.</p>
<p>1.3b. Maintenance and Custodial Services Provided by Landlord (<i>See Section 3.9</i>)</p>	<p>Preventative maintenance of Landlord-provided telecommunications equipment, within the scope of the Landlord-contracted preventative maintenance services.</p> <p>Sprinkler system maintenance.</p> <p>Fire alarm system maintenance.</p> <p>Fire extinguisher maintenance.</p> <p>Maintenance of telephone server and voicemail server.</p> <p>Maintenance of other infrastructure items, within the scope of the Landlord-contracted preventative maintenance services. Alterations, additions, moving outlets, adding/moving phones, etc. is not included.</p> <p>Periodic trash pickup. Trash will be picked up from a central trashcan outside of Premises, but inside the building where Premises is located. Larger trash items (boxes, pallets, etc.) must be disposed of in containers outside of Premises.</p> <p>Groundskeeping of Campus.</p>

City of Mesa Lease Template
6030 S. Kent Street

<p>1.3c. Pest Control Services Provided by Landlord (<i>See Section 3.9</i>)</p>	<p>Pest control of common pests.</p>
<p>1.3d. Utilities and Related Services Provided by Landlord (<i>See Section 3.9</i>)</p>	<p>Heating. Heating will be provided (nonexclusively to Premises) within the capabilities of the existing heating system.</p> <p>Cooling. Cooling will be provided (nonexclusively to Premises) within the capabilities of the existing chilled water system. Accordingly, there may be times where the system is degraded and cooling is less than optimal. Tenant agrees that Landlord is not liable for any resulting consequences.</p> <p>Electricity. Electricity will be provided within the capability/limits of the electrical system in Premises.</p> <p>Vending services, including coffee, snacks, etc. will not be provided.</p> <p>Drinking water will be provided, in a common area, outside of Premises.</p>
<p>1.3e. Number of Seats Provided</p>	<p>None (0) as of the Effective Date of the Lease, but may be adjusted by Tenant upwards to a maximum of the number in para 1.2 by providing written notice to Landlord of the additional Seats required at any given time.</p>
<p>1.3f. Telephone and Internet Per Seat Charge (Monthly), to be invoiced by Danan Technologies LLC</p>	<p>\$45.00 multiplied by the number of seats in use by Tenant.</p>
<p>1.4. Effective Date of Lease (“Effective Date”)</p>	<p>1 June, 2019</p>
<p>1.5. Landlord’s Address</p>	<p>City of Mesa Attn: City Manager PO Box 1466 Mesa, AZ 85211-1466</p>

**City of Mesa Lease Template
6030 S. Kent Street**

	<p>City of Mesa Attn: Director of Economic Development 20 E. Main St. Suite 200 Mesa, AZ 85201</p>
<p>1.5a. Landlord’s Payment Address (excluding long distance and per seat charges)</p>	<p>City of Mesa c/o Danan Technologies LLC Attn: Cindy Parker 6030 S. Kent Street Mesa, AZ 85212</p> <p>Note: Make payments payable to: “City of Mesa”</p>
<p>1.5b. Landlord’s Payment Address (long distance and per seat charges only)</p>	<p>City of Mesa Attn: Administrative Assistant 6030 S. Kent St Mesa, AZ 85212</p> <p>Make Checks Payable to: City of Mesa</p>
<p>1.6. Tenant’s Address (See Section 11.13)</p>	<p>XXXXXX</p>
<p>1.7. Landlord’s Broker/Agent</p>	<p>N/A</p>
<p>1.8. Tenant’s Broker/Agent (See Section 11.19)</p>	<p>N/A</p>
<p>1.9. Base Rent (Monthly Rates) (See Sections 2; 5)</p>	<p>XXXXXX</p>
<p>1.10. Base Rent Payment Periods (See Section 5.1)</p>	<p>Monthly</p>
<p>1.11. Holdover Monthly Rental Rate (See Section 4.4)</p>	<p>125% of Base Rent</p>
<p>1.12. Estimated CAM Expenses</p>	<p>Included in Base Rent.</p>
<p>1.13. Taxes Payable by Tenant</p>	<p>2.25% (1.75% City of Mesa and 0.5% Maricopa County. of the gross rental amount without any deduction for expenses or brokerage fees.</p>

**City of Mesa Lease Template
6030 S. Kent Street**

1.14. Security Deposit (<i>See</i> Section 5.8)	N/A
1.15. Initial Term (<i>See</i> Section 2)	XXXXXX
1.16. Number of Renewal Terms (<i>See</i> Section 4.1) (Renewal by mutual consent.)	None
1.17. Length of Each Renewal Term (<i>See</i> Section 2)	N/A
1.18. Length of Minimum Notice Period By When Tenant Must Inform Landlord of Request to Renew Lease (<i>See</i> Section 4.1)	30 days
1.19. Approximate Square Footage of Premises (<i>See</i> Section 5.1)	4,855 of fabrication and office space
1.20. Contingency Condition(s)	

2. Definitions.

All references in this Lease to terms defined in this Section of the Lease shall have the meanings specified herein.

- A. “**Base Rent**” means the rental amount specified in Section 1.9.
- B. “**Business Days**” means a calendar day except to the extent a date, deadline, or obligation falls on a Friday, Saturday, Sunday or City of Mesa holiday, in which case “Business Day” means the next day the City of Mesa is open for business.
- C. “**Campus**” means the two fenced-in areas formally known as the Air Force Research Laboratory Mesa.
- D. “**Improvements**” means any and all additions, alterations, changes, fixtures or other improvements to the Premises.
- E. “**Initial Term**” means the time period stated in Section 1.15, commencing on the Effective Date.

City of Mesa Lease Template
6030 S. Kent Street

- F. **“Renewal Term”** means the time period stated in Section 1.17, commencing immediately upon expiration of the Initial Term or expiration of the most recently completed Renewal Term, whichever occurs later.
- G. **“SOC”** means the Security Operations Center.
- H. **“Term”** means the Initial Term and any exercised Renewal Term.

3. **Premises and Use of Premises.**

3.1. **Lease of Premises.** For and in consideration of the rents, covenants and agreements hereinafter set forth, Landlord hereby leases to Tenant, and Tenant leases and accepts, subject to the terms and conditions of this Lease, the Premises, subject to any prior, valid, existing claims or rights of way, including any presently existing roads, easements, restrictions, and other encumbrances of record.

3.2. **Condition of Premises.** Tenant acknowledges, represents and agrees that (i) Tenant is leasing the Premises “AS IS” based on its own inspection and investigation and not in reliance on any statement representation, inducement or agreement of Landlord except as may be expressly set forth elsewhere in this Lease, (ii) Tenant shall take possession of the Premises in an “AS IS” condition WITH ALL FAULTS and without warranties or representations from Landlord that the Premises, or any portions thereof, are suitable for a particular purpose, and (iii) this Lease confers no rights either with regard to the subsurface of the land below the ground level of the Premises or with regard to the air space above the top of the roof of any building that is part of the Premises, except to the extent necessary for construction or installation of any Improvements as approved by the Landlord. Tenant’s taking possession of the Premises on commencement of the Term shall constitute Tenant’s acknowledgment that the Premises are in a condition acceptable to Tenant. An Environmental Condition Report, which provides additional information, is available on request. Tenant acknowledges that temporary space may be provided if Premises are modified for Tenant’s use. During any such construction period, nuances such as noise, dust, worker traversals, etc. will exist.

3.3. **Permitted Uses of Premises.** Tenant shall not use the Premises for any other uses without Landlord’s prior written approval. The Maximum number of Tenant personnel assigned is limited to the number specified in Section 1.2.

3.4. **Conduct of Activities.** Tenant, Tenant’s employees, agents, contractors, customers, and invitees shall use the Premises and conduct its activities in a manner that will in no way reduce or detract from the value of the Premises or Landlord’s adjacent properties value of the Premises or Landlord’s adjacent properties; and shall not interfere with other tenants or contractors. All Campus security policies will be adhered to. Landlord has provided Tenant with access to the Campus security policies, and shall promptly notify Tenant of any changes to the Campus security policies and provide Tenant with access to any such changes. These policies shall include but not be limited to ingress/egress, badge creation, wearing of badges, escorts, complying with OPSEC/COMSEC procedures, audible/visual fire and security alarms, parking permits, etc.

City of Mesa Lease Template
6030 S. Kent Street

3.5. **Lawful Use of the Premises.** Tenant, Tenant’s employees, agents, contractors, customers, and invitees shall observe and comply with all present and future Federal, State, and local laws, statutes, ordinances, policies, rules, and regulations applicable to Tenant for its use, safety, cleanliness, and occupation of the Premises, and hold Landlord harmless from penalties, liens, costs, expenses, or damages resulting from failure to do so. Further, Tenant, Tenant’s employees, agents, contractors, customers, and invitees shall comply with all insurance companies’ written policies covering the Premises or any part thereof. Tenant shall be solely responsible for obtaining at its sole cost and expense any environmental permits and for complying with any environmental planning laws/regulations required for its operations under this Lease, independent of any existing Landlord permits or environmental planning agreements or documents.

3.6. **Prohibited Actions.** Tenant shall not commit waste on the Premises. Tenant shall not conduct any drilling operations, remove any sand, dirt, gravel, or other substances from the Premises, or in any manner change the contour or grade of the Premises without Landlord’s prior written consent, which may be withheld in Landlord’s sole and absolute discretion. Smoking is not permitted inside any buildings or fixtures. Currently, smoking is permitted outside the building but only in designated areas. This policy is under review and the entire Campus may become a smoke free area, at which time Tenant must abide by the new policy.

3.7. **Zoning Laws.** Tenant agrees to meet all applicable zoning regulations applicable to the Premises.

3.8. **Obtaining of Permits and Licenses.** Tenant shall promptly obtain and keep current each and every permit, license, certificate, or other authorization required in connection with the lawful and proper use of the Premises or required in connection with any building or Improvement now or hereafter erected thereon. Without limiting the generality of the foregoing, Tenant shall comply with all provisions of the Mesa City Code, Federal grant programs, State grant programs, and environmental regulations.

3.9. **Non-Exclusive Use of Other Facilities and Services Provided.** Tenant is granted the non-exclusive right to use the facilities described in Section 1.3, if any. The following services will be provided:

- A. **Security Services.** Landlord will provide security services as described in Section 1.3a. If SIPRNET or DREN is indicated in 1.3a, Landlord will provide access to existing communication portals/lines for SIPRNET and/or DREN usage by Tenant. Landlord will work with the tenant to coordinate Activation, Certification and Accreditation of the circuits. Related security requirements, information technology requirements, hardware/software requirements, and recurring/nonrecurring costs are not included within this lease and are the responsibility of the Tenant. Landlord may request DD 254 “flowdown” in order to properly implement and sustain security services.
- B. **Maintenance and Custodial Services.** Landlord will provide maintenance and custodial services as described in Section 1.3b.

City of Mesa Lease Template
6030 S. Kent Street

- C. **Pest Control Services.** Landlord will provide pest control services as described in Section 1.3c.
- D. **Utilities and Related Services.** Landlord will provide utilities and related services as described in Section 1.3d.

3.10. **Storage of Equipment and Material.** Tenant shall not store on the Premises equipment or material outside of buildings without the prior written approval of the Landlord, which may be given or withheld at the Landlord's sole discretion. Tenant may not store equipment or material unrelated to its operation or business at the Premises without the prior written approval of the Landlord, which may be given or withheld at the Landlord's sole discretion.

3.11. **Mechanics' Liens.** Tenant agrees to keep the Premises free of any type of mechanics' or materialmen's liens for any work done, labor performed, or material furnished thereon at the instance or occasion of tenant or any contractor, employee, or subtenant of Tenant. To the extent permitted by law, Tenant further agrees to defend, indemnify, and hold harmless Landlord for, from, and against any and all claims, liens, demands, costs, and expenses of any nature for any work done, labor performed, or materials furnished at Tenant's request or at the request of any contractor, employee, or subtenant of Tenant.

- A. **Landlord's Right to Remove Mechanics' Lien.** In the event any type of mechanic's or materialmen's lien is filed against the Premises, Tenant shall promptly inform landlord of lien, pay the lien and take steps immediately to have the lien removed or bonded over. If the lien is not removed or bonded over within 10 Business Days from the date of written notice from Landlord, Landlord shall have the right to cause the lien to be discharged by record of payment, deposit, bond or order of a court of competent jurisdiction or otherwise, or to pay any portion thereof and of the amounts so paid, including attorneys' fees and expenses connected therewith and interest at the rate of 15% per annum on any sums paid or advanced shall be deemed to be additional rent due from Tenant to Landlord and shall be paid to Landlord immediately upon delivery to Tenant of the bill.

3.12. **Easements.** Landlord expressly reserves all rights in and with respect to the Premises that are not inconsistent with Tenant's use of the Premises as provided in the Lease. Landlord expressly reserves the right to give easements to others for the purpose of installing, using, maintaining, renewing, and replacing such overhead or underground water, gas, sewer, and other pipe lines, and telephone, electric, cable, and power lines, cables, and conduits as Landlord may deem desirable in connection with the development or use of any other property in the neighborhood of the Premises, whether owned by Landlord or not, all of which pipelines, lines, and conduits shall be buried to a sufficient depth or raised to a sufficient height so as not to interfere with the use or stability of the building or any other Improvements on the Premises.

3.13. **Fixtures.** All trade fixtures, equipment, and other personal property installed or placed by the Tenant on the Premises which are not permanently affixed thereto shall remain the property of Tenant, and Tenant shall have the right at any time during the Term of this Lease to remove the same from the Premises, provided that Tenant is not in default of any of its obligations hereunder and that Tenant shall repair, at its sole expense, any damage caused by removal. Any

City of Mesa Lease Template
6030 S. Kent Street

property not removed by Tenant upon termination of the Lease shall, at Landlord's sole discretion, either (1) become a part of the Premises; or (2) shall be disposed of by Landlord at Tenant's sole cost.

No sign, object, notice or any type of lettering shall be exhibited, painted or affixed by the Tenant on any part of the interior/exterior of the Building or of the Premises without the prior written consent of the Landlord. All signs to be constructed by the Tenant at his expense. Tenant shall remove the same from the Property upon the expiration or earlier termination of this Lease and shall repair all damages caused by such removal. Landlord shall, at Landlord's expense, include Tenant's name in the directory to be provided in the lobby.

- A. Exterior signage must be smaller than 10" x 30", displayed in Landlord designated space.
- B. Interior signage may be affixed directly onto interior doors of tenant spaces, and will be no larger than 4" x 24".
- C. Signage will not be illuminated or spotlighted in any way.
- D. Signage will be created, installed, and removed at lease termination, at the Tenant's expense.
- E. The Landlord will review and approve individual signage prior to installation.

3.14. **Landlord's Development of Its Adjacent Property.** Landlord reserves the right to further develop, modify, or alter any building, lot, parcel, or other piece of real property adjacent to the Premises provided that Landlord continues to provide a means of access to the Premises.

3.15. **Protection and Maintenance of Premises.** Tenant shall at all times, at no cost or expense to the Landlord, protect, preserve, and maintain, and repair the Premises, including any improvements/facilities and city owned property located thereon, in good order and condition, and exercise due diligence in protecting the Premises against damage or destruction by fire and other causes. Any Landlord property on the Premises damaged or destroyed by Tenant incident to the exercise of the rights and privileges herein granted shall be promptly repaired or replaced by Tenant to the satisfaction of the Landlord. If Tenant fails to promptly repair or replace any such property after being notified to do so by the Landlord, the Landlord may repair or replace such property and Tenant shall be financially liable for the costs of such repair or replacement.

3.16. **Relocation.** The landlord will not be permitted to relocate the tenant, except by mutual consent.

4. **Renewal, Termination of Lease, and Holding Over.**

4.1. **Renewal Term and Right to Renew.** Tenant is granted the number of options to renew the Initial Term set forth in Section 1.16, by mutual consent, for the period set forth in Section 1.17. Upon the expiration of the Initial Term or Renewal Term, if Tenant has fully performed all of its obligations and there is no then-existing event of default as set forth in Section 10.1, Tenant may request to renew the Lease subject to the provisions of this Section. Tenant may

City of Mesa Lease Template
6030 S. Kent Street

renew this Lease by the number of times provided in Section 1.16. Any renewal of this Lease beyond the number of times in Section 1.16 requires the prior written approval of Landlord, which Landlord may provide at its sole discretion. In the event Tenant elects to request to renew this Lease pursuant to this Section, Tenant shall remain subject to all the same terms, covenants, conditions, obligations, and exceptions of this Lease, unless otherwise provided in this Lease.

A. **Notice of Renewal.** Tenant shall provide advanced written notice to Landlord of its desire to renew the Lease. This notice shall be delivered to Landlord by the time specified in Section 1.18.

4.2. **Termination of Lease upon Expiration of Lease Term.** If Tenant does not renew the Lease pursuant to Section 4.1, the Lease shall terminate upon the expiration of the Term.

4.3 **Holding Over.** Holding over by the Tenant after the expiration of this Lease shall not constitute a renewal of this Lease or give Tenant any rights under this Lease or in the Premises. Notwithstanding this provision, however, any holding over after the expiration of the Term of this Lease, with the consent of Landlord, shall be construed to be a tenancy from month to month, terminable upon 30 Business Days written notice. The hold over rental rate shall be at a rate as specified in Section 1.11. Tenant shall be subject to all other terms and conditions, other than rental, as they existed during the last year of the Term hereof.

5. **Base Rent, Taxes, Security Deposit, and other Fees and Assessments.**

5.1. **Base Rent.** Tenant agrees to pay to Landlord Base Rent for each payment period as specified in Section 1.10. The Base Rent is payable in advance on the first Business Day of each payment period during the Term of this Lease without prior notice and demand and without any set-off or deduction. If this Lease commences on a date other than the first day of a month, the Base Rent for that payment period shall be prorated based on a 30 day month and shall be payable upon execution of this Lease without prior notice and demand and without any set-off or deduction. If the Lease expires or terminates on a date other than the last date of a month, the Base Rent for the final payment period shall be prorated based on a 30 day month and shall be payable on the first Business Day of that payment period without prior notice and demand and without any set-off or deduction. The Base Rent for the Renewal Term shall equal an amount agreed to by both Parties in writing prior to Tenant's election to renew the Lease and Landlord's approval of the election. This writing shall be incorporated into the Lease by reference upon execution by both Parties.

5.2. **Payment Location.** Tenant shall, without prior notice or demand and without any set-off or deduction, pay all Base Rent due and all other sums owed, except long distance and per seat charges, at Landlord's address as specified in Section 1.5a, or at any other place as may be designated by Landlord in writing from time to time. Long distance and per seat charges shall be paid at Landlord's address as specified in Section 1.5b.

5.3. **Interest and Late Charges.** All sums to be paid under this Lease by Tenant, if not paid when due, shall bear interest on the unpaid portion thereof at the rate of 15% per annum from the date when due. For each payment period as specified in Section 1.10, in which the Base Rent is not paid to Landlord within 10 Business Days of the due date, Tenant shall immediately pay to

City of Mesa Lease Template
6030 S. Kent Street

Landlord a sum equal to the greater of \$50.00 or 10% of the Base Rent for that payment period as special damages. Landlord's acceptance of any interest payments or late fees shall not constitute a waiver of Tenant's default with respect to the overdue sum or prevent Landlord from exercising any of its other rights and remedies under the Lease. In addition, Tenant agrees to pay to Landlord any and all costs incurred by Landlord in effecting the collection of past due sums, including attorneys' fees and collection agency fees.

5.4. **Landlord's Costs to Correct Tenant's Violations.** If Landlord shall pay any moneys, or incur any expenses to correct any violation of any covenant of Tenant set forth in this Lease, the amounts so paid, or incurred shall, at Landlord's discretion and on notice to Tenant, be considered additional Base Rent payable, and may be collected or enforced as by law provided with respect to rentals.

5.5. **Returned Checks.** Tenant shall pay to Landlord \$50.00 for each of Tenant's checks returned to Landlord unpaid by Tenant's bank.

5.6. **Taxes and Assessments on Tenant's Property.** Tenant shall pay before delinquency all taxes and charges specified in Section 1.13. Notwithstanding the previous sentence, Tenant shall also pay before delinquency any other taxes including personal property taxes and taxes on rents, leases or occupancy, if any, and GPLET, assessments, special assessments, enhanced municipal services district assessments, rates and charges, excises, levies, licenses and permit fees, and other governmental or quasi-governmental charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind or nature whatsoever relating to the Premises and any personal property of any kind owned or placed in, upon or about the Premises by Tenant ("**Impositions**"). Tenant hereby agrees to protect and hold harmless Landlord and the Premises from all liability for the taxes and charges specified in Section 1.13 and any and all Impositions together with any interest, penalties or other charges thereby imposed, and from any sale or other proceedings to enforce payment thereof, and to pay all taxes and charges specified in Section 1.14 and Impositions before they become a lien on the Premises.

5.7. **Rent Credit.** Tenant agrees to keep active and maintain the security/alarm services provided on SCIF capable room until a new tenant is secured and takes occupancy of the space. Landlord shall give tenant a credit stated in Section 1.2 against the base rent stated in Section 1.9.

5.8. **Security Deposit.** Tenant shall, at execution of the Lease by Landlord, deposit with Landlord a security deposit in the amount specified in Section 1.14, with such deposit to be by cash or certified check ("**Security Deposit**"). The Security Deposit for the Premises shall be security for the full and faithful performance by Tenant of all of the terms and conditions of the Lease and any renewals or extensions thereof, including without limitation, payment of the Base Rent and all other sums owed by Tenant. The Security Deposit shall be returned to Tenant following termination of the Lease, provided Tenant is in compliance with all the terms of this Lease. Accrued interest earned on the Security Deposit shall not be payable to Tenant. Landlord shall not be required to keep the Security Deposit separate from its general funds. Upon the application or retention of any or all of the Security Deposit, Tenant shall, within 15 Business Days after written demand therefor, deposit cash or certified check with Landlord in an amount sufficient

to restore the Security Deposit to its original amount and Tenant's failure to do so shall be an event of default under the Lease.

6. Improvements and Repairs.

6.1. **Initial Improvements.** Tenant shall not make any temporary or permanent Improvements to the Premises without the prior written approval of Landlord. Landlord's approval shall be at Landlord's sole discretion. Any Landlord approval shall not waive any building permit, design approval, or other requirements otherwise applicable under City of Mesa ordinances and State and Federal law. Tenant shall submit to Landlord complete architectural, electrical and mechanical plans and specifications covering all such work, whether it is to be done by Tenant or others. All plans and specifications shall be prepared in such detail as Landlord may require, and Tenant agrees not to commence any such work upon any portion of the Premises until Landlord has approved all the plans and specifications. Any changes to any plans or specifications must be similarly approved by Landlord.

6.2. **Improvements, Construction and Maintenance.** All Improvements shall be constructed and maintained in a good and workmanlike manner in compliance with all laws, codes, rules, regulations, and orders of all governmental authorities having jurisdiction thereof. Tenant shall not occupy or use any Improvements for which a certificate of occupancy is required until a certificate of occupancy is issued for the Improvements. Tenant shall at Tenant's own expense promptly remove from the Premises area all trash, debris, and unsightly materials which may accumulate in connection with any work in or on the Premises or that may detract from the value or appearance of Landlord's adjacent property. Tenant shall at Tenant's own expense maintain the Premises or appurtenances thereto, in good order, condition and repair (including any replacement, periodic painting, and restoration as is required for the purpose) and in a safe, sanitary, weed and dust free, neat and attractive condition.

A. **Landlord's Right to Effect Repairs.** In addition to all other remedies allowed under this Lease, if Tenant does not properly repair or maintain the Premises within 15 Business Days after receiving written notice from Landlord, Landlord may cause such repair and maintenance to be made and may invoice Tenant for the costs of the repair and maintenance. If the repairs or maintenance involve an issue of health, safety, or welfare, no written notice by Landlord is required and Landlord may immediately begin repairs and maintenance. Tenant shall pay (as additional Base Rent without any deduction or set-off whatsoever) all costs of the repairs and maintenance within 30 Business Days following demand for payment. Nothing set forth in this Lease obligates Landlord to perform any maintenance or repairs of the Premises.

6.3. **Non-Liability of Landlord.** No review or approval by Landlord or any representative of Landlord of any of Tenant's improvement plans, safety plans, security plans, or other plans or drawings shall constitute any representation or warranty by Landlord that the materials are accurate, correct, or complete, and Landlord shall have no liability if the materials contain inaccuracies, errors, or deficiencies of any nature. Tenant shall indemnify, defend, and

City of Mesa Lease Template
6030 S. Kent Street

hold harmless Landlord against liability for all claims (i) arising from any construction, maintenance, operation, or repair of any Improvements on the Premises by Tenant or any representative or contractor of Tenant or (ii) asserting that Landlord is liable in any manner as a result of Landlord or any employee or representative of Landlord having approved the materials.

7. Insurance.

7.1. **Insurance.** Tenant and any assignee, sublessee, contractor, subcontractor, and agent of Tenant shall purchase and maintain, at their own expense, the minimum insurance coverage as specified herein, which shall remain in effect for the duration of this Lease, holdover, extension or renewal thereof. Tenant and any assignee, contractor, subcontractor, and agent of Tenant shall provide evidence of the insurance policies prior to execution of the Lease and upon Landlord's demand. The City of Mesa shall be named as an additional insured and shall be given 10 days prior notice of any lapse.

- a) Comprehensive general liability insurance on an "occurrence basis" against claims for "personal injury," including without limitation, bodily injury, death or property damage, occurring upon in, or about the premises including any buildings thereon and adjoining sidewalks, streets, and passageways, such insurance to afford immediate minimum protection at all times during the term of this Lease, with limits of liability in amounts approved from time to time by Landlord, but not less than ONE MILLION DOLLARS (\$1,000,000) in the event of bodily injury and death to any one or more persons in one accident, and not less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000) for property damage. Such insurance shall also include coverage against liability for bodily injury or property damage arising out of the acts or omissions by or on behalf of Tenant by any invitee or any other person or organizations, or involving nay owned, non-owned, or hired automotive equipment in connection with Tenant activities.
- b) If and to the extent required by law, workers' compensation and employer's liability or similar insurance in the form and amounts required by law or consistent with standard commercial practices for the activities that the Tenant intends to undertake on the Leased Premises.
- c) Tenant shall require its subtenants, as joint and several responsible parties with Tenant for those portions of the Premises under their control, to procure, carry and maintain at their expense the insurance required hereby, provided that the insurance carried by any subtenant is no less than the following:
- d) Standard all-risks Commercial Property insurance coverage for business fixtures, business personal property, improvements/facilities, and any betterments/alterations made to the Premises having limits based upon the full replacement cost value basis and business interruption coverage having limits of one (1) year of gross rents, subject to an extended period of indemnity. Such replacement value shall be determined by the Landlord, subject to adjustment not more frequently than once in any twelve month period unless there have been substantial changes to the Premises within such period. Such property insurance shall have: (i) a deductible appropriate to the subtenant's property interests as reasonably determined by the Tenant; (ii) standard commercially available

City of Mesa Lease Template
6030 S. Kent Street

coverages and limits; and (iii) any specialty coverages (e.g., flood, terrorism, etc.) if deemed appropriate by Tenant and available at reasonable rates. The property insurance policies shall provide that in the event of loss thereunder, the proceeds of the policy or policies shall be payable and be first used for the repair, restoration or replacement of the property damaged or destroyed. The standard all-risk property insurance policies issued by the insurer shall be for the mutual benefit of the Landlord and Tenant, such parties being named insureds or loss payees as to their respective interests.

- e) Commercial General Liability insurance, which may be provided under a combination of primary base liability insurance policy and excess liability coverage provided under blanket umbrella policy, shall be primary, non-contributory coverage having limits of liability of at least \$1,000,000 per occurrence, general aggregate and include coverage for fire, legal liability, and medical payments. The general aggregate limit of liability shall apply on a per location or per project basis. The policy issued by the insurer for commercial general liability insurance provided for in this subparagraph shall be for the benefit of the parties. The subtenant will designate the parties and/or any other appropriate entities on the commercial general liability and any excess umbrella liability policy (ies) has named insureds.
- f) Commercial workers' compensation insurance covering all persons employed in connection with the work and with respect to whom death or bodily injury claims could be asserted against the Landlord or Tenant, having at least limits of liability as required by the respective state statutory law(s). Waiver of Subrogation in favor of the Lessee must be evidenced in this insurance coverage.
- g) Commercial employers' liability insurance having at least limits of liability of \$1,000,000 each accident, \$1,000,000 per disease – each employee and \$1,000,000 per disease – policy limit.
- h) All policies of insurance which this lease requires Tenant's contractors and subtenants to carry and maintain or cause to be carried or maintained pursuant to this section shall be effected under valid and enforceable policies, in such forms and amounts as may, from time to time be required under this Lease, issued by insurance companies having a rating by A.M. Best's Key Rating Guide of not less than "A-/VIII." All such policies of insurance shall be for the mutual benefit of the Parties. Each such policy shall provide that any losses shall be payable notwithstanding any act or failure to act or negligence of the Parties or any other person; provide that no cancellation, reduction in amount, or material change in coverage thereof shall be effective until at least thirty (30) days after receipt by Tenant of written notice thereof with further notice to the Landlord; provided that the insurer shall have no right of subrogation against Landlord and reasonably satisfactory to the Parties in all other respects. In no circumstance will Tenant be entitled to assign to any third party rights of action which Tenant may have against Landlord. The foregoing notwithstanding, any cancellation of insurance coverage based on nonpayment of the premium shall be effective after fifteen (15) days written notice to Tenant. Tenant understands and agrees that cancellation of any

City of Mesa Lease Template
6030 S. Kent Street

insurance coverage required to be carried and maintained by one of Tenant's contractors or subtenants, under this section will constitute a failure to comply with the terms of the Lease.

- i) Tenant shall require its subtenants to deliver or cause to be delivered upon execution of any subleases or licenses (and thereafter not less than fifteen (15) days prior to the expiration date of each policy furnished pursuant to this section to Tenant's certificate(s) of insurance (in Acord or insurance binder at the option of the Grantee) evidencing the insurance required by lease.

- j) Each insurance policy required under this Lease must be in effect at or prior to the execution of this Lease and remain in effect for the duration of this Lease, holdover, extension or renewal thereof. Tenant and any assignee, contractor, subcontractor, and agent of Tenant shall provide evidence of the insurance policies prior to execution of the Lease and upon Landlord's demand. The City of Mesa shall be covered as an additional insured and shall be given 10 days prior notice of any lapse.

8. Limitation of Liability and Indemnification.

8.1. **No Liability of Landlord.** Landlord, its departments, officers, employees, officials, elected officials, volunteers, and agents shall not be liable for any loss, damage, death, or injury of any kind whatsoever caused by Tenant's use of the Premises, or by any defect in any building or Improvements erected thereon, or arising from any accident, fire, or from any other casualty on the Premises or from other cause whatsoever; and Tenant hereby waives on Tenant's behalf all such claims against Landlord.

8.2. **Tenant Indemnification.** In addition to and without limiting other indemnity obligations in this Lease, and to the fullest extent permitted by law, Tenant shall defend, indemnify and hold harmless Landlord, its officers, employees, officials, elected officials, volunteers, and agents from and against all claims, damages, losses, and expenses (including but not limited to attorneys' fees, court costs, and the costs of appellate proceedings), relating to, arising out of, or alleged to have resulted from: (i) this Lease or the use or occupancy of the Premises; (ii) any negligent acts, errors, mistakes or omissions by Tenant, or its agents, contractors, or employees in, on, or related to the Premises or Improvements; or (iii) Tenant's, or its agents', contractors', or employees' failure to comply with or fulfill the obligations established by this Lease.

- A. Tenant's duty to defend, indemnify, and hold harmless shall arise in connection with any claim for damage, loss, or expenses including but not limited to claims resulting in bodily injury, sickness, disease, death, and any claims for loss of business and lost profits, and any claims for injury to, impairment, or destruction of any person or property.

- B. The insurance coverage requirements in this Lease will in no way be construed as limiting the scope of Tenant's indemnity requirements in this Lease.

City of Mesa Lease Template
6030 S. Kent Street

- C. Tenant's duty to defend, indemnify, and hold harmless shall not include claims by third parties arising solely from the negligent acts or willful misconduct of the Landlord or its employees.

8.3. **Notice of Claims or Suits.** Tenant agrees to promptly notify Landlord of any claim, action, or proceeding and cause the same to be resisted and defended by counsel designated by Tenant and approved by Landlord. If any such action, suit or proceeding should result in a final judgment against Landlord, Tenant shall promptly satisfy and discharge the judgment or shall cause the judgment to be promptly satisfied and discharged.

9. **Environmental Indemnification.**

9.1. **Use of Hazardous Material.** Tenant shall not cause or permit any Hazardous Material (as defined below) to be generated, brought onto, used, stored, or disposed of in, on, or about the Premises or the Improvements by Tenant or its agents, employees, contractors, subtenants, or invitees. Tenant, however, may use limited quantities of Hazardous Material if they are necessary for Tenant's use in its ordinary course of business conducted on the Premises and Tenant discloses to Landlord the types, amounts, and uses of such Hazardous Materials prior to bringing it onto the Premises (this exception does not apply to, or allow for, the disposal of Hazardous Materials on the Premises). Landlord may limit the amounts of such Hazardous Materials or require additional safety measures. Further, Tenant shall:

- A. Use, store, and dispose of all such permitted Hazardous Material in strict compliance with all applicable statutes, ordinances, and regulations;
- B. Comply at all times during the Lease with all environmental laws; regulations, order and other applicable requirements and
- C. Comply with all manufacturers' recommendations regarding the use, storage, and disposal of permitted Hazardous Materials, to the extent the recommendations do not conflict with applicable legal requirements.

9.2. **Definition of Hazardous Material.** "Hazardous Material" means any hazardous or toxic substance, material, or waste that is or becomes regulated by the United States, the State of Arizona, or any local government authority having jurisdiction over the Premises or Improvements. Hazardous Material includes without limitation: (i) any "hazardous substance" as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") (42 U.S.C. §§ 9601 to 9675); (ii) any "hazardous waste" as defined in the Resource Conservation and Recovery Act of 1976 ("RCRA") (42 U.S.C. §§ 6901 to 6992K); (iii) any pollutant, contaminant, or hazardous, dangerous, or toxic chemical, material, or substance, within the meaning of any other applicable Federal, State, or local law, regulation, ordinance, or requirement; (iv) petroleum products; (v) radioactive material, including any source, special nuclear, or byproduct material as defined in 42 U.S.C. §§ 2011 to 2297G-4; (vi) asbestos in any form or condition; and (vii) polychlorinated biphenyls ("PCBs") and substances or compounds containing PCBs.

City of Mesa Lease Template
6030 S. Kent Street

9.3. **Notice of Release or Investigation.** If Tenant becomes aware of any actual or threatened release of any Hazardous Material on, under, or about the Premises or the Improvements, or becomes aware of any inquiry, investigation, proceeding, or claim by any government agency, or other person regarding the presence of Hazardous Material on, under, or about the Premises or the Improvements, Tenant shall (i) notify the Landlord within 24 hours after learning of it, (ii) provide written notice of each stage of the release or investigation within 5 Business Days after learning of it, and (iii) simultaneously with such notice, furnish to Landlord copies of any claims, notices of violation, reports, or other writings received by Tenant which provide notice concerning the release or investigation.

9.4. **Asbestos Notification.** Tenant acknowledges that Landlord has advised Tenant that any buildings located on the Premises contain or, because of age, are likely to contain asbestos-containing materials (“ACM”). If Tenant undertakes any alterations, additions, or improvements to the Premises, Tenant shall submit such plans to landlord for approval, inclusive of the ACM abatement plan that shall include but not be limited to encapsulation or removal of the ACMs in accordance with a Landlord approved asbestos-removal plan and in accordance with all applicable environmental laws, including giving all notices required by law. If possible, Tenant shall undertake the alterations, additions, or improvements in a manner that avoids disturbing any ACMs present in the building.

9.5. **Environmental Indemnification.** In addition to and without limiting other indemnity obligations in this Lease, and to the furthest extent permitted by law, Tenant shall, at Tenant’s sole expense and with counsel reasonably acceptable to Landlord, indemnify, defend, and hold harmless Landlord, and its employees, officers, and officials for all losses arising out of or resulting from the release or threatened release of any Hazardous Material in, on, or about the Premises or Improvements, or the violation of any environmental law, by Tenant or Tenant’s employees, agents, contractors, or invitees. Further, Tenant’s obligations to indemnify, defend, and hold harmless Landlord, and its employees, officers, and officials shall survive the expiration or termination of this Lease. The indemnification provided in this Section includes but is not limited to:

- A. Losses attributable to diminution in the value of the Premises, property, or Improvements at the Premises, and all adjacent real and personal property.
- B. Loss or restriction of use of rentable space in any adjacent property;
- C. Adverse effect on the marketing of the Premises or any adjacent property or part thereof.
- D. All other liabilities, obligations, penalties, fines, claims, actions (including remedial or enforcement actions of any kind and administrative or judicial proceedings, orders, or judgments), damages (including consequential and punitive damages), and costs (including attorneys’, consultants’, and experts’ fees and expenses) resulting from the release or violation.

9.6. **Remediation Obligations.** If the presence of any Hazardous Material brought onto the Premises or the Improvements by Tenant or Tenant’s employees, agents, contractors, or

City of Mesa Lease Template
6030 S. Kent Street

invitees results in contamination of the Premises or any Improvements on the Premises, including any building or structure, Tenant shall promptly take all necessary actions, at Tenant's sole expense, to return the Premises and any Improvements to the condition that existed before the introduction of the Hazardous Material. Tenant shall obtain Landlord's written approval of the proposed remedial action prior to commencing the remedial action. This provision does not limit the indemnification obligations set forth in this Lease.

10. Default and Remedies.

10.1. Events of Default. The occurrence of any of the following shall constitute an event of default by Tenant (which shall include any assignee or subtenant) under this Lease:

- A. **Monetary Default.** If default shall be made in the due and punctual payment of any Base Rent or any other sums due under this Lease and the default continues for 10 Business Days after written notice thereof to Tenant, it being understood that Tenant shall only be permitted two notices of any monetary default within any consecutive 12 month period during the Term of the Lease and a third monetary default within any consecutive 12 month period shall be deemed an immediate event of default hereunder, without Tenant having any further right to notice or cure; or
- B. **Drugs, Guns, Felony.** The occurrence of any of the following on the Premises: storage on the Premises of weapons, ammunition, or explosives in violation of applicable laws; use of the Premises as a location for manufacturing, handling, storing, or selling of illegal drugs; or the commission of any felony on the Premises by Tenant or any officer or employee of Tenant that Landlord determines is inconsistent with the safe and orderly operation of the Premises; or
- C. **Other Illegal Activities.** Operation or maintenance of the Premises in violation of applicable law and failure to cure the violation within 10 Business Days following notice thereof from Landlord, provided, however, that the violation shall constitute an immediate default and Tenant shall not be entitled to any notice or cure period if the violation constitutes an immediate danger to health or safety or is a felony under applicable State or Federal law; or
- D. **Abandonment of the Premises,** as provided in Section 11.2 hereof.
- E. **Insurance, Lapse or Termination.** The lapse or cancellation of any policy of insurance required herein, in whole or in part for the benefit of Landlord, and failure to cure the violation within 10 Business Days following notice thereof from Landlord. No cure of the default can be accomplished unless a new or renewed policy is issued which specifically provides the required coverage to the Landlord for any liability arising during the lapsed or previously uncovered period; or
- F. **Bankruptcy, Voluntary.** If Tenant shall file a voluntary petition in bankruptcy or shall be adjudicated as bankrupt or insolvent, or shall take the benefit of any relevant legislation that may be in force for bankrupt or insolvent debtors or shall

City of Mesa Lease Template
6030 S. Kent Street

file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief for itself under any present or future Federal, State, or other statute, law or regulation, or if Tenant shall seek or consent to or acquiesce in the appointment of any trustee, receiver, or liquidator of Tenant or of all or any substantial part of its properties, or shall make any general assignment for the benefit of creditors; or

- G. **Bankruptcy, Involuntary.** If a petition shall be filed against Tenant seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future Federal, State, or other statute, law or regulation, and shall remain undismissed or unstayed for 90 Business Days, of if any trustee, receiver or liquidator of Tenant, or of all or substantial part of its properties, shall be appointed without the consent or acquiescence of Tenant and the appointment shall remain unvacated and unstayed for 90 Business Days; or
- H. **All Other Defaults under the Lease.** If default shall be made by Tenant in the performance of or compliance with any of the covenants, agreements, terms, limitations, or conditions in this Lease other than those referred to in the foregoing subsections (A) through (G), and such default continues for a period of 30 Business Days after written notice thereof from Landlord to Tenant; provided, however, that if Tenant proceeds with due diligence during such 30 Business Day period to substantially cure such default and is unable by reason of the nature of the work involved, to cure the same within the required 30 Business Days, Tenant's time to do so shall be extended by the time reasonably necessary to cure the same as determined by Landlord, but in no event shall any cure period exceed 90 Business Days.

10.2. **Landlord's Remedies for Tenant's Default.** Upon the occurrence of any event of default, as stated in section 10.1 above, Landlord shall have the right, then or at any time thereafter, and in addition to and not in lieu of any other remedies, relief or rights available to Landlord at law or equity or contained in this Lease to do any of the following:

- A. Landlord by itself or its authorized agents may cure the default and charge Tenant for the costs of such cure, which charge shall be due and payable as additional Base Rent under this Lease immediately upon written notice to Tenant.
- B. Landlord may commence an action for specific performance of the terms of this Lease pertaining to the event of default.
- C. Landlord shall have the right to re-enter the Premises to assume and take possession of the whole or any part thereof, including any and all Improvements made by Tenant, and to remove all persons or personal property by direct or summary action, or in a different type of suit or proceeding, by force or otherwise, without being deemed guilty of trespass or other actionable wrong by reason thereof, Tenant or anyone in possession claiming under Tenant shall be deemed guilty of unlawful detainer and subject to such summary or other action as may be provided by law. Additionally, Landlord may re-let and rent the Premises as the agent for and in the

City of Mesa Lease Template
6030 S. Kent Street

name of Tenant, on terms and conditions at the sole discretion of Landlord. Proceeds from any such re-letting shall be applied first to the expense of re-letting, collecting, altering and repairing the Premises, including without limitation, any attorneys' fees or real estate commissions. Such proceeds shall be applied second to the payment of Base Rent, owed under this Lease, as the same come due, and toward the fulfillment of the other covenants and agreements of Tenant herein contained. The balance, if any, of the re-letting proceeds shall be paid to Tenant. Tenant hereby agrees that if Landlord shall recover or take possession of the Premises as aforesaid, and is unable to re-let and rent the same so as to realize a sum equal to the sums hereby due and payable, Tenant shall pay to Landlord any loss or difference of Base Rent and any other sums due for the remainder of the Term. Tenant shall peaceably vacate the Premises upon written notification by Landlord to Tenant of Landlord's intent to re-enter the Premises and Improvements placed thereon by Tenant.

- D. Landlord, irrespective of the date on which its right of re-entry shall have accrued or be exercised, shall have the right to forfeit this Lease and terminate the state of tenancy hereby created. This right to terminate is exercisable by written notice to Tenant, which written notice may be part of a notice of default previously delivered to Tenant, and, as such, may be conditioned upon Tenant's failure to cure the default. The termination may be made effective as of the event of default, or thereafter, and, if not forfeiture, Landlord shall be entitled to and may take immediate possession of the Premises, any other notice or demand being hereby waived. Such termination does not, however, release Tenant from liability for Base Rent or other sums then overdue or remaining under the Lease but shall operate to accelerate the entire balance of the Base Rent for the Term, which shall become immediately due and payable by Tenant, along with all overdue rentals and charges.
- E. In addition to all other rights and remedies of Landlord, Landlord shall have the right to recover from Tenant upon any termination of this Lease resulting from a Tenant default: (a) that portion of any other expenses incurred by Landlord in connection with this Lease that is allocable to the portion of the Term of the Lease following termination; and (b) the amount by which the present value of the Base Rent and other charges that would have been payable by Tenant during the remaining Term of this Lease in the absence of termination exceeds the present value of the rental value of the Premises during the remaining Term of this Lease.

10.3. **Termination for Default.** Upon the occurrence of any default by Tenant which is not cured within the applicable notice and grace periods, if any, set forth above, the Landlord at any time thereafter, but not after the default is cured, may give written notice to Tenant terminating this Lease and the Term hereby demised and all rights of Tenant under this Lease shall expire and terminate as though such date were the date originally set forth in the Lease for the termination of the Lease.

10.4. **Tenant Liability Post-Termination.** Expiration or termination of this Lease shall not relieve Tenant of its liabilities or obligations under this Lease which have accrued prior to the termination or expiration hereof.

10.5. Non-Waiver of Landlord's Remedies.

- A. It is expressly agreed that neither the taking of possession of the Premises nor the institution of any proceedings by way of unlawful detainer, ejectment, quiet title, or otherwise, to secure possession of said Premises, nor the re-entry by Landlord with or without the institution of such proceedings, nor the re-renting or subletting of said Premises, shall operate to terminate this Lease in whole or in part, nor of itself constitute an exercise of Landlord's option to do so, but only by the giving of the written notice specifically specifying termination shall such termination be effected.
- B. No failure by Landlord to insist upon the strict performance of any covenant, agreement, term, or condition hereof or to exercise any right or remedy consequent upon a default hereof, and no acceptance of full or partial Base Rent during the continuance of any such default, shall constitute a waiver of any default. To be effective, all waivers must be in writing and signed by the Party to be charged. No waiver shall affect any other then-existing default not specifically waived or any subsequent default.

10.6. Landlord's Remedies Not Exclusive. It is expressly understood that the enumeration herein of express rights, options, and privileges shall not limit or deprive Landlord of any other remedy or action or cause of action by reason of any default of Tenant, including the right to recover from Tenant any deficiency upon re-renting. The specific remedies to which Landlord may resort under the terms of this Lease and at law or equity are cumulative.

10.7. Continuation of Lease. If there is a Tenant default, this Lease shall continue in force and effect for so long as the Landlord does not terminate this Lease, and Landlord may enforce all rights and remedies of Landlord including, without limitation, the right to recover Base Rent as it becomes due hereunder. Acts of maintenance, preservation, or efforts to re-let the Premises, or the appointment of a receiver upon the initiation of the Landlord to protect the Landlord's interest under this Lease shall not constitute a termination of this Lease.

10.8. Default by Landlord. An event of default of this Lease by Landlord is defined as any failure of Landlord to comply with the terms and conditions of this Lease that is not cured within 30 Business Days of written notice from Tenant specifying the default and what is necessary to cure; provided, however, if the nature of Landlord's cure is such that more than 30 Business Days are reasonably required to cure the default, then Landlord will not be deemed to be in default if Landlord commences to cure within 30 Business Days and thereafter diligently and continuously pursues the cure to completion.

10.9. Tenant's Remedy. Tenant's sole and exclusive remedies against Landlord shall be to seek specific performance, injunction, special action, or declaratory relief. Tenant expressly waives any and all right to seek damages of any kind or nature as a remedy against Landlord. Landlord's liability shall be limited to Tenant's interest in the Premises and shall not include any special, indirect, or consequential damages.

11. **General Provisions.**

11.1 **Fire or Other Casualty.** Tenant shall give Landlord prompt notice of any accident, fire, or damage occurring on or to the Premises. Tenant's obligation to pay all monies owed when due under this Lease shall continue regardless of any partial or substantial destruction of any buildings or common areas.

11.2. **Abandonment.** If Tenant, prior to the expiration or termination of this Lease by lapse of time or otherwise, relinquishes possession of the Premises without Landlord's written consent, or fails to open for business under usual business hours for a period of 60 Business Days, such occurrence shall be deemed to be an abandonment of the Premises and an event of default under this Lease. If Tenant abandons the Premises or is dispossessed by process of law or otherwise, any personal property belonging to Tenant and left on the Premises 30 Business Days following such abandonment or dispossession shall be deemed to have been transferred to Landlord, and Landlord shall have the right, but not the obligation, to remove and to dispose of the same, without liability to account therefore to Tenant or to any person claiming under Tenant, or to require Tenant to dispose of the same, and, if Tenant fails to do so within 30 Business Days, to dispose of same and recover the costs of disposal from Tenant.

11.3. **Force Majeure.** If either Party hereto shall be delayed or prevented from the performance of any act required hereunder by reason of acts of God, strikes, lockouts, or other cause, without fault and beyond the control of the Party obligated (financial inability excepted), performance of such act shall be excused for the period of the delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay, provided however, under no circumstances shall delays caused by force majeure extend beyond 120 Business Days from the original act of force majeure. The Party whose performance is so affected shall promptly notify the other Party of all pertinent facts, identify the act of force majeure, the time within which the performance shall commence and also take all reasonable steps, promptly and diligently, to prevent such causes if it is feasible to do so, or to minimize or eliminate the effect thereof. Nothing in this Section shall excuse Tenant from the payment when due of any Base Rent or other charges required to be paid by Tenant hereunder, except as may be expressly provided elsewhere in this Lease.

11.4. **Condemnation.** If at any time during the Term of this Lease the Premises or any part thereof are taken or condemned under the laws of Eminent Domain by any governmental authority other than Landlord, then and in every such case the leasehold estate and interest of the Tenant in said Premises taken shall cease and terminate. Tenant shall be entitled to participate and receive any part of the damages or award, where said award shall provide for moving or other reimbursable expenses for the Tenant under applicable statute, in which event the latter sum shall be received by Tenant along with that portion of any award allocated to the taking of Tenant's building, Improvements, trade fixtures, equipment and personal property, or to a loss of business by Tenant. None of the awards or payments to Landlord shall be subject to any diminution or apportionment on behalf of Tenant or otherwise.

11.5. **Assignment and Subletting by Tenant.**

- A. **No Assignment or Sublease.** Tenant may not sublet, transfer, assign, mortgage, pledge, hypothecate, allow use of, or encumber the Premises or any part thereof, without Landlord's prior written approval, which may be granted or denied at Landlord's sole discretion. Any such transfer without said approval, whether voluntary or involuntary, shall be void and shall confer no right of occupancy upon said assignee, sublessee, or purchaser.
- B. **Assumption of Obligations.** Any transfer or assignment of this Lease that is approved by the Landlord shall include the agreement to perform all of the obligations of the Tenant under this Lease and to retain the Tenant as a guarantor of the original obligation.

11.6. **Successors and Assigns.** The covenants herein contained shall, subject to the provisions as to assignment, apply to and bind the heirs, successors, executors, administrators, and assigns of all the parties hereto; and all of the parties hereto shall be jointly and severally liable hereunder.

11.7. **Entry by Landlord.** Landlord reserves the right, without abatement of the Base Rent and other charges due hereunder from the Tenant, to enter upon or have its employees, agents, contractors, and assigns enter upon the Premises at any reasonable time for any reasonable purpose, including the inspection of the Premises to determine if the provisions of this Lease are being complied with, to conduct environmental assessments and audits, and to perform repairs and maintenance, including any actions necessary to remediate, abate, or cleanup any hazardous substances or environmental conditions at the Premises in accordance with Section 9.

- A. **Waiver of Claims.** Tenant hereby waives any claim for damage for any injury or inconvenience to or interference with Tenant's operations, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned by Landlord's entry unless the claim is a direct result of Landlord's negligent or intentional conduct. Landlord reserves the right to use any and all means which Landlord deems necessary to gain access to the Premises and Tenant's personal property in the event of an Emergency. "Emergency" shall be defined as any existing condition of disaster or extreme peril to the safety of persons or property within the area of the Premises caused by air pollution, fire, flood, storm, epidemic, riot, or earthquake. Such entry by Landlord shall not, under any circumstances, be construed or deemed to be a forcible, unlawful, negligent entry into, and shall not be construed or deemed as conduct intended to caused damage or injury to, or a detainer of, Tenant's personal property and the Premises or an eviction of Tenant from the Premises or any portion thereof.

11.8. **Attorneys' Fees.** In the event of any litigation between the parties in connection with this Lease, the Party prevailing in such action shall be entitled to recover from the other Party all of its costs and fees of litigation, whether or not they would be recoverable costs pursuant to court rule, together with reasonable attorneys' fees, which shall be determined by the court and

City of Mesa Lease Template
6030 S. Kent Street

not by the jury. In the event each of the Parties is awarded relief, such costs and fees shall be awarded as the court may determine.

11.9. **Non-Discrimination.** The Tenant, for itself, its personal representative, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (i) no person on the grounds of race, color, national origin, or disability, age, or familial status shall be excluded from participation, denied the benefits of, or be otherwise subject to unlawful discrimination in the use of said facilities; and (ii) that in the construction of any Improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, national origin, or disability shall be excluded from participation in, denied the benefits of, or otherwise be subject to unlawful discrimination.

11.10. **Compliance with Laws.** Tenant agrees to comply with all provisions of applicable Federal, State, and local laws, including without limitation those laws related to hiring, employment, non-discrimination, equal employment opportunity, and the Americans with Disabilities Act. Tenant acknowledges that noncompliance with any laws anticipated in this Section any part of this Section shall constitute a default of this Lease. In the event of such a default, Landlord shall have the right to judicially enforce the provisions under this section in any manner allowed by law.

11.11. **Incorporation of Provisions.** Tenant agrees that it shall insert and incorporate these provisions into any contract by which Tenant grants a right or privilege to any person, firm, or corporation to render accommodations or services to the public on the Premises.

11.12. **Partial Invalidity.** If any term, covenant, condition, or provision of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. If any term, covenant, condition, or provision of this Lease is found to be invalid, void, or in violation of any agreement or granting instrument from the United States of America, it shall be deemed to have been deleted from the Lease and the remainder of the provisions shall remain in full force and not be affected, impaired, or invalidated thereby.

11.13. **Notices.** All notices given, or to be given, by either Party to the other, shall be given in writing, by certified mail return receipt requested and shall be addressed to the parties at the addresses specified for each Party in this Lease at Sections 1.5 and 1.6 or at such other address as the Parties may, by written notice, hereafter designate.

11.14. **Change of Address.** It shall be Tenant's responsibility to notify Landlord in writing of any change in the address for notices to Tenant. Tenant's failure to give notice of change of address shall render notices sent by Landlord to an incorrect former address fully valid and binding on Tenant.

11.15. **Amendments to Be in Writing.** All amendments or other modifications to this Lease shall be in writing executed by the Parties or their respective successors in interest.

11.16. **Time of the Essence.** Time is of the essence of this Lease.

City of Mesa Lease Template
6030 S. Kent Street

11.17. **No Partnership; No Third Party Rights.** Nothing contained in this Lease shall create any partnership, joint venture, or other arrangement between Landlord and Tenant. Except as expressly provided herein, no term or provision of this Lease is intended to or shall be for the benefit of any person not a party hereto, and no such other person shall have any right or cause of action hereunder.

11.18. **No Agency.** Tenant is not an agent of Landlord, not an employee of Landlord, nor is it, its agents, employees, or contractors authorized to act for or on behalf of Landlord as its agent, employee, representative, or otherwise, for the purpose of constructing any Improvements at the Premises, or for any other purpose, and neither Landlord nor Landlord's interest in the Premises shall be subject to any obligations incurred by Tenant.

11.19. **Tenant's Broker(s).** Tenant warrants that it has employed no broker who has or may have a legitimate claim to a commission arising from Tenant's acceptance of the Lease, other than the broker or brokers specifically listed in Section 1.8. Unless otherwise agreed in writing by Landlord, any obligation or potential obligation for commission to the brokers so listed are the sole obligation of Tenant. Should a claim be made upon Landlord or the Premises by the named brokers or any other broker who in Landlord's discretion Landlord determines to have a legitimate claim for commission arising out of this transaction, whether such claim is ultimately upheld or not, Landlord may, but shall not be obligated to, discharge the claim either by paying the amount claimed to be due or by any other means. Tenant shall reimburse and pay to Landlord on demand any amount so paid by Landlord and all costs and expenses, including reasonable attorneys' fees incurred by Landlord in connection therewith, together with interest thereon at the rate of 15% per annum from the respective date of Landlord's notice to Tenant of the making of the payment or of the incurring of the cost and expense, including such attorneys' fees.

11.20. **Landlord's Broker(s).** Any commission or other compensation due brokers employed by Landlord shall be the sole responsibility of Landlord.

11.21. **Entire Agreement.** This Lease and the attached Exhibits and addendums (which are incorporated herein by this reference) constitute the entire agreement among the Parties pertaining to the subject matter hereof and shall not be changed or added to except in a writing signed by all Parties. All prior and contemporaneous agreements, representations and understandings of the Parties, oral or written, pertaining to the subject matter hereof are hereby superseded.

11.22. **Authority to Execute.** The person executing this Lease on behalf of or as representative for Tenant warrants that he or she is duly authorized to execute, bind and deliver this Lease on behalf of Tenant and that this Lease is binding upon Tenant in accordance with its terms.

11.23. **Construction of Terms.** The terms and provisions of this Lease shall be interpreted and construed in accordance with their usual and customary meanings. The Parties each hereby waive the application of any rule of law which would otherwise be applicable in connection with the interpretation and construction of this Lease that ambiguous or conflicting terms or provisions contained in this Lease shall be interpreted or construed against the Party who prepared or whose attorney prepared the executed Lease or any earlier draft of the same.

City of Mesa Lease Template
6030 S. Kent Street

11.24. **Margins and Captions.** The various headings and numbers herein and the grouping of the provisions of this Lease into separate sections and subsections are for the purpose of convenience only and shall not be considered a part hereof.

11.25. **Opportunity for Consultation with Counsel.** Landlord and Tenant understand that the execution of this Lease creates certain legal rights and responsibilities between the Parties. Landlord and Tenant represent and warrant that they have had an opportunity to consult with legal counsel regarding the legal effect of this Lease, and that they have consulted with counsel prior to executing this Lease, or have voluntarily chosen not to consult with counsel.

11.26. **Additional Acts.** The Parties agree to execute promptly such other documents and to perform such other acts as may be reasonably necessary to carry out the purpose and intent of this Lease.

11.27. **Notice regarding A.R.S. § 38-511.** Notice is hereby given of the applicability of A.R.S. § 38-511.

11.28. **Governing Law.** This Lease shall be governed by the laws of Arizona. The forum selected for any proceeding or suit in law or equity arising from or incident to this Lease shall exclusively be Maricopa County, Arizona.

11.29. **Survival of Provisions.** All warranties, representations, and duties to indemnify, defend, and hold harmless shall survive the termination or expiration of this Lease. Additionally, any other section which reasonably should survive shall survive.

11.30. **No Binding Contract until Execution.** NEITHER THE PREPARATION NOR THE DELIVERY OF THIS LEASE TO TENANT FOR EXAMINATION SHALL BE DEEMED TO BE AN OFFER BY LANDLORD TO LEASE THE PREMISES TO TENANT BUT SHALL BE MERELY A PART OF THE NEGOTIATIONS BETWEEN LANDLORD AND TENANT. THE EXECUTION OF THIS LEASE BY TENANT SHALL BE DEEMED TO CONSTITUTE AN OFFER BY TENANT TO LEASE THE PREMISES FROM LANDLORD UPON THE TERMS AND CONDITIONS CONTAINED IN THIS LEASE, WHICH OFFER MAY BE ACCEPTED BY LANDLORD ONLY BY THE EXECUTION OF THIS LEASE BY LANDLORD.

11.31. **Additional Provisions.** The following conditions and notices are imposed upon Tenant:

- a) Tenant acquires no property or contractual rights with respect to or against the United States;
- b) Upon expiration of the Term or earlier revocation/termination of this Lease, subtenant has no rights to remain on the property;
- c) Tenant's leasehold interest is subordinate to and subject to all terms and conditions imposed upon Landlord; and,

City of Mesa Lease Template
6030 S. Kent Street

11.32 **Counterparts.** This Lease may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same instrument. A photocopy of this Lease, as signed by a Party, which is transmitted either by facsimile or by email message, shall be deemed to be a counterpart original copy of this Lease executed by such Party, and shall be binding on such Party when transmitted by facsimile or email message to the other Party.

11.33. **For City's Convenience.** This Agreement is for the convenience of the City and, as such, may be terminated without cause after receipt by Tenant of thirty (30) day prior written notice by the City.

IN WITNESS WHEREOF, the parties hereto have executed this COMMERCIAL LEASE AGREEMENT as of the day and year first hereinabove written.

**City of Mesa Lease Template
6030 S. Kent Street**

TENANT:

By: _____

Name: _____

Title: _____

Date Signed: _____

LANDLORD:

CITY OF Mesa, a Municipal Corporation

By: _____

Name: William Jabjiniak

Title: Director of Economic Development

Confidential City of Mesa

EXHIBIT "A"

Description of Premises: