

# COMMERCIAL LEASE

## GROSS

1. PARTIES:

This Lease dated \_\_\_\_\_ is made by and between \_\_\_\_\_ (herein called "Landlord") and \_\_\_\_\_ (herein called "Tenant").

2. PREMISES:

2.1 Premises. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord for the term, at the rental, and upon all of the conditions set forth herein, that certain portion of the Office Building Complex located on \_\_\_\_\_ in particularly shown and identified on Exhibit "A" attached hereto and made a part hereof.

3. TERM:

3.1 Term. The term of this Lease shall be \_\_\_\_\_ years, commencing on \_\_\_\_\_ and ending on \_\_\_\_\_, unless sooner terminated pursuant to any provision hereof.

3.2 Early Possession; In the event that Landlord shall permit Tenant to occupy the Premises prior to the commencement date of the term, such occupancy shall be subject to all of the provisions of this Lease. Said early possession shall not advance the termination date of this Lease.

3.3 Renewals. Tenant may renew the Lease for one extended term of \_\_\_\_\_ months. Tenant shall exercise such renewal option by giving written notice to Landlord not less than 90 days prior to the expiration of the initial term. The renewal term shall

be at the rental rate set forth in Exhibit "A" and otherwise upon the same covenants, conditions and provisions as provided in this Lease.

4. RENT:

4.1 Base Rent. The net monthly base rent shall be \_\_\_\_\_  
\*paid monthly with the first payment payable on the commencement of the Lease and each monthly installment payable thereafter on the first day of each month. Said net monthly base rent is-hereafter referred to as the "base rent". Rent for any period during the term hereon, which is for less than one month shall be a pro-rata portion of the monthly rent.

\* Plus Escalations (See exhibit "A")

4.2 Additional Charges. This Lease is what is commonly called a gross lease, it being understood that Landlord shall receive the rent set forth in Article 4.1 without offset or deduction, (except as otherwise provided) and free and clear of any and all impositions, real estate taxes, liens, charges or expenses of any nature whatsoever in connection with the ownership and operation of the Premises.

5. SECURITY DEPOSIT:

5.1 A security deposit of \$ \_\_\_\_\_ has been made. If Tenant fails to pay rent or other charges due hereunder, or otherwise defaults with respect to any provision of this Lease, Landlord may use, apply or retain all or any portion of this deposit to remedy such default. Tenant shall restore the deposit to the full original amount within 10 days after written demand. Landlord will not be liable for payment of interest on this security deposit.

6. USE:

6.1 Use. The Premises shall be used and occupied for the purpose of \_\_\_\_\_ as long as such operation is not in violation of existing legal regulations or statutes. Tenant agrees to comply with the Office Building Complex and parking Rules as set forth in Exhibit B.

6.2 Compliance with Law. Except as otherwise provided in Article 6.1 hereof, Tenant shall, at Tenant's expense, comply promptly with all applicable statutes, ordinances, rules, regulations, orders and requirements in effect during the term or any part of the term hereof regulating the use by Tenant of the Premises. Tenant shall not use or permit the use of the Premises in any manner that will tend to create waste.

6.3 Condition of Premises. Landlord shall deliver the Premises to Tenant in a clean condition on the commencement date (unless Tenant is already in possession) and Landlord warrants to Tenant that the plumbing, lighting, air conditioning and heating system in the Premises is in good working order.

Tenant hereby accepts the Premises in its present condition as of the commencement date (or the date Tenant takes possession, which ever comes first) subject to all applicable zoning, municipal, county and state laws, regulations and ordinances governing and regulating the use of the Premises, and any easements, covenants or restrictions of record and accepts this Lease subject thereto. Tenant acknowledges that it has satisfied itself that the Premises is suitable for its intended use and that Landlord has not made any representation or warranty as to the present or future suitability of the Premises.

7. MAINTENANCE, REPAIRS AND ALTERATIONS:

- 7.1 Tenant's Obligations. Except with respect to Landlord's obligations as set forth in this Agreement, Tenant shall, during the term of this Lease, keep in good order, condition and repair, the Premises and every part thereof, structural or non-structural, (including graffiti removal), and all adjacent sidewalks, landscaping, driveways, parking lots, fences and signs located in the areas which are adjacent to and included with the Premises.
- 7.2 Landlord's Obligations. Landlord shall keep the Premises in good condition and repair, provided however, that the Landlord shall not be obligated to paint, repair or replace wall coverings, or to repair or replace any improvements that are not ordinarily a part of the Premises. Except as otherwise provided, there shall be no abatement of rent or liability of Tenant on account of any personal injury or interference with Tenant's business with respect to any improvements, alterations or repairs made by Landlord to Premises or any part thereof. Tenant expressly waives the benefits of any statute now or hereafter in effect which would otherwise afford Tenant the right to make repairs at Landlord's expense or to terminate this Lease because of Landlord's failure to keep the Premises in good order, condition and repair.
- 7.3 Alterations. Tenant shall make no alterations to the Premises without Landlord's written consent. Any alterations made shall remain on and be surrendered with the Premises on expiration or termination of the term, except, that Landlord can elect within thirty (30) days before expiration of the term, or within ten (10) days after termination of the term, to require Tenant to remove any alterations that Tenant has

made to the Premises. If Landlord so elects, Tenant at its expense, shall restore Premises to the condition designated by the Landlord in its election, before the last day of the term, or within thirty (30) days after notice of election is given, whichever is later.

8. UTILITIES:

8.1 Services Provided by Landlord. Landlord shall provide heating, ventilation, air conditioning and janitorial services as reasonably required, reasonable amounts of electricity for normal lighting and office machines, water for reasonable and normal drinking and lavatory use, and replacement light bulbs and /or fluorescent tubes and ballasts for standard overhead fixtures. Such services and utilities shall be provided during generally accepted business days and hours or such days or hours as may hereafter be set forth.

8.2 Excess usage by Tenant. Tenant shall connect to the aforementioned utilities through existing outlets and will not use machinery and equipment in or about the Premises that uses excess water or electricity.

8.3 Interruptions. There shall be no abatement of rent and Landlord shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption, or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Landlord's reasonable control.

9. SURRENDER:

9.1 Surrender. On the last day of term hereof, or on any sooner termination, Tenant shall surrender the Premises to Landlord in good condition, broom clean, ordinary wear

and tear, damage by fire, acts of God or any other cause within the scope of the fire and extended coverage insurance contemplated hereunder is excepted. All structural alterations, improvements or additions which may be made on the Premises, shall become the property of Landlord and remain upon and be surrendered with the Premises at expiration of the term. Tenant's machinery, equipment and other trade fixtures other than that which is affixed to the Premises so that it cannot be removed without permanent damage to the Premises, shall remain the property of Tenant and may be removed by Tenant.

10. INSURANCE:

- 10.1 Liability. Tenant shall obtain and keep in force during the term of this Lease a policy of comprehensive public liability insurance insuring the Landlord and Tenant against any liability arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be in the amount of not less than \$1,000,000 per occurrence of bodily injury and property damage combined. Landlord shall be an additional named insured on said insurance policy or policies and said policy or policies shall provide that same cannot be canceled unless Landlord is given thirty (30) days written notice of such cancellation.
- 10.2 Other Coverage. Landlord shall maintain fire and extended coverage insurance on the Office Building Complex and the Premises in such amounts as Landlord shall deem appropriate. Tenant shall be responsible, at its expense, for fire and extended coverage insurance on all its personal property, including removable trade fixtures, located in the Premises.

- 10.3 Waiver of Subrogation. Tenant and Landlord each waives any and all rights of recovery against the other, or against the officers, employees, agents and representatives of the other, for loss or damage to such waiving party or its property or the property of others under its control, where such loss or damage is insured against under any insurance policy in force at the time of such loss or damage. Tenant and Landlord shall, upon obtaining the certificates or insurance required hereunder, give notice to the insurance carriers that the foregoing mutual waiver of subrogation is contained in this Lease.
- 10.4 Hold Harmless. Tenant shall indemnify, defend and hold harmless Landlord from all and any claims arising from use of the Premises by Tenant or any sub-lessee, assignee or permissive user of the Premises, or from the conduct of business or from any activity, work or things which may be permitted or suffered by Tenant in or about the Premises, and shall further indemnify, defend and hold Landlord harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Tenant's part to be performed under the provisions of this Lease, including the obligation to obtain and maintain liability and fire insurance, or arising from any negligence of Tenant, its agents, contractors, employees, sub-lessees, assignees, or invitees, and from any and all costs, reasonable attorney's fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon. Tenant hereby assumes all risk of damage to property or injury to person in or about the Premises from any cause, and Tenant hereby waives all claims in respect thereof against Landlord, excepting where said damage arises out of the active negligence of Landlord.

10.5 Exemption of Landlord from Liability. Tenant hereby agrees that Landlord shall not be liable for injury to Tenant's business or any loss of income therefrom or from damage to the goods, wares, merchandise or other property of Tenant, Tenant's employees, invitees, customers, or any other person in or about the Premises from any and all causes except the active negligence of Landlord.

11. DAMAGE OR DESTRUCTION:

11.1 Damage to Premises. In the event the improvements on the Premises are damaged or destroyed, partially or totally, from any cause covered by an insurance required to be maintained under Article 10, the Landlord shall repair, restore, and rebuild the Premises to their condition existing immediately prior to such damage or destruction. Such repair, restoration and rebuilding shall be commenced within a reasonable time after such damage or destruction.

11.2 Abatement of Rent. In the event the repairs made by the Landlord to the Premises pursuant to this Article cause the Premises to be unusable for the intended purpose, the rent payable hereunder for the period during which such repair continues to take place shall be abated - provided that the damage to the Premises was not the result of the negligence of the Tenant.

12. PROPERTY TAXES:

12.1 Personal Property Taxes. Tenant shall pay prior to delinquency all taxes assessed against and levied upon leasehold improvements, trade fixtures, furnishings, equipment and other personal property of Tenant contained in the Premises.

13. LATE CHARGES:

13.1 Late charges. If any installment due under this Lease is not received by Landlord within ten (10) days after the due date, Tenant agrees to pay Landlord a late charge equal to \_\_\_\_\_% of such overdue amount. Acceptance of such late charge shall in no event constitute a waiver of Tenant's default with respect to such overdue amount nor will it prevent the Landlord from exercising any other rights and remedies contained in this Lease.

14. ASSIGNMENT OF INTEREST:

14.1 Assignment of Interest. Tenant shall not voluntarily assign or encumber its interest in this Lease or in the Premises, or allow any person or entity (except Tenant's authorized representatives) to occupy or use all or any part of the Premises, without first obtaining Landlord's written consent. Any assignment or encumbrance without Landlord's consent shall be voidable and, at Landlord's election, shall constitute a further waiver of the provisions of this paragraph.

15. DEFAULT: REMEDIES:

15.1 Defaults. The occurrence of any one or more of the following events shall constitute a default and breach of this Lease by Tenant:

- a) Abandonment of the Premises by Tenant.
- b) The failure by Tenant to make any payment of rent or any other payment required to be made by Tenant hereunder, as and when due, where such failure shall continue for a period of thirty (30) days after written notice thereof from Landlord to Tenant.

- c) The failure by Tenant to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Tenant, other than described in paragraph (b) above, where such failure shall continue for a period of thirty (30) days after written notice thereof from Landlord to Tenant; provided, however, that if the nature of Tenant's default is such that more than thirty (30) days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant commenced such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.
- d) The making by Tenant of any general assignment or general arrangement for benefit of creditors; the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days); the appointment of a trustee or receiver to take possession of substantially all of the Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days.

15.2 Remedies in Default. In the event of any such default or breach by Tenant, Landlord may at any time thereafter, with or without notice or demand and without limiting Landlord in the exercise of any right or remedy which Landlord may have by reason of such default or breach:

- a) Terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default including, but not limited to, the cost of recovering possession of the Premises; expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorney's fees, and any real estate commission paid; the worth at the time of award by the court having jurisdiction thereof of the amount by which the unpaid rent for the balance of the term after the time of such award exceeds the amount of such rental loss for the same period that Tenant proves could be reasonably avoided; and that portion of the leasing commission paid by Landlord applicable to the unexpired term of this Lease. Unpaid installments of rent or other sums bear interest from the date due at the rate of ten percent (10%) per annum. In the event Tenant shall have abandoned the Premises, Landlord shall have the option of (i) retaking possession of the Premises and recovering from Tenant the amount specified in this Article 15.2(a), or proceeding under Article 15.2 (b).
- b) Maintain Tenant's right to possession, in which case this Lease shall continue in effect whether or not Tenant shall have abandoned the Premises. In such event, Landlord shall be entitled to enforce all of Landlord's rights and remedies under this Lease, including the right to recover the rent as it becomes due hereunder.
- c) Pursue and other remedy now or hereafter available to Landlord under the laws or judicial decisions of the state of which the Premises are located.

d) Landlord, at any time after tenant commits a default, may cure the default at Tenant's cost. If Landlord at any time, by reason of Tenant's default, pays any sum or does any act that requires the payment of any sum, the sum paid by Landlord shall be due immediately from Tenant to Landlord at the time the sum is paid. The sum, together with interest hereon, shall be additional rent. All rent, including sums paid by Landlord pursuant to this Article 15.2 (d) shall bear interest at the rate of ten percent (10%) per annum from the date the sum is due until Landlord is reimbursed by Tenant.

16. CONDEMNATION:

16.1 Condemnation. If the Office Building Complex, Premises or any portion thereof are taken under the power of eminent domain, or sold by Landlord under the threat of the exercise of said power (all of which is herein referred to as "condemnation"), this Lease shall terminate as to the part so taken as of the date of the condemning authority takes title or possession, whichever occurs first. All awards for the taking of any part of the Premises or any payment made under the threat of the exercises of power of eminent domain shall be the property of Landlord, whether made as compensation for diminution of value of the leasehold or for the taking of the fee, or as severance damages; provided, however, that Tenant shall be entitled to any award for loss of damage to Tenant's trade fixtures and removable personal property.

17. GENERAL PROVISIONS:

- 17.1 Landlord's Interests. The term "Landlord" as use herein shall mean only the owner or owners at the time in question of the fee title or a tenant's interest in a ground Lease of the Premises. In the event of any transfer of such title or interest, Landlord herein named (and in case of any subsequent transfers the then grantor) shall be relieved from and after the date of such transfer of all liability as respects Landlord's obligations thereafter to be performed, provided that any funds in the hands of Landlord or then grantor at the time of such transfer, in which Tenant has an interest, shall be delivered to the grantee. The obligation contained in this Lease to be performed by Landlord shall, subject as aforesaid, be binding on Landlord's successors and assigns, only during their respective period of ownership.
- 17.2 Severability. The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction shall in no way affect the validity of any other provision hereof.
- 17.3 Time of Essence. Time is of essence.
- 17.4 Incorporation of Prior Agreement; Amendments. This Lease contains all agreements of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. This Lease may be modified in writing only, signed by the parties in interest at the time of the modification.
- 17.5 Holding Over. If Tenant remains in possession of the premises or any part thereof after the expiration of the term hereof with the express written consent of Landlord, such occupancy shall be a tenancy from month to month at a rental in the amount

\_\_\_\_\_ % of the last monthly rental plus all other charges payable hereunder, and upon the terms hereof applicable to month-to-month tenancy.

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

17.7 Covenants and Conditions. Each provision of this Lease performable by Tenant shall be deemed both a covenant and a condition.

17.8 Binding Effect. This Lease shall bind the parties, their personal representative, successors and assigns. This Lease shall be governed by the laws of the state where the Premises are located.

17.9 Subordination.

(a) This Lease, at Landlord's option, shall be subordinate to any ground lease, mortgage, deed or trust, or any other hypothecation for security now or hereafter placed upon the real property of which the Premises are a part and to any and all advances made on the security thereof and to all renewals, modifications, consolidation, replacements and extensions thereof. Notwithstanding such subordination, Tenant's right to quiet possession of the Premises shall not be disturbed if Tenant is not in default and so long as Tenant shall pay the rent and observe and perform all of the provision of this Lease, unless this Lease is otherwise terminated pursuant to its term. If any mortgagee, trustee or ground lessor shall elect to have this Lease prior to the lien to its mortgage, deed of trust or ground lease, and shall give written notice thereof to Tenant, this Lease shall

be deemed prior to such mortgage, deed of trust, or ground lease, whether his lease is dated prior or subsequent to the date of said mortgage, deed of trust or ground lease or the date of recording thereof.

(b) Tenant agrees to execute any documents required to effectuate such subordination or to make this Lease prior to the lien of any mortgage, deed to trust or ground lease, as the case may be.

17.10 Attorney's Fees. If either party named herein brings an action to enforce the terms hereof or declare rights hereunder, the prevailing party in any such action, on trial or appeal, shall be entitled to his reasonable attorney's fees to be paid by the losing party as fixed by the court.

17.11 Landlord's Access. Landlord and Landlord's Agents shall have the right to enter the Premises at reasonable times for the purpose of inspecting the same, showing the same to prospective purchasers, or lenders, and making such alterations, repairs, improvements or additions to the Premises or to the Office Building Complex of which they are a part as Landlord may deem necessary or desirable. Landlord may, at any time during the term of the Lease place any ordinary "for sale" sign, and during the last one hundred twenty (120) days of the term of the Lease place any ordinary "for lease" sign on or about the Premises, all without rebate of rent or liability to Tenant.

18. NOTICES:

Whenever under this Lease provision is made for demand, notice or declaration of any kind, or where it is deemed desirable or necessary by either party to give or serve such notice, demand or declaration to the other party, it shall be in writing and served either personally

or sent by United States Mail, postage prepaid, addressed at the addresses set forth herein  
below:

To Landlord at:

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To Tenant at:

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The parties hereto have executed this Lease at the place and on the date specified immediately adjacent to their respective signatures.

2.Landlord:

3.Executed at \_\_\_\_\_,

on \_\_\_\_\_

Name

\_\_\_\_\_  
Title

Tenant:

Executed at \_\_\_\_\_, California

on \_\_\_\_\_

Name

\_\_\_\_\_  
Title

**EXHIBIT A**

Description of Premises

Address

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Square Feet

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Floor Plan

(See attached)

Renewal Rental Rate

Lease Period

Rent Amount

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Rental Escalations

Escalations based on Consumer Price Index  
(See attached)

Escalations based on fixed amount:

Lease Period

Rent Amount

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EXHIBIT B

OFFICE BUILDING COMPLEX AND PARKING RULES

1. Tenant shall not allow the obstruction of any Common Areas, including driveways, walkways and stairways.
2. Landlord reserves the right to refuse access to any persons Landlord in good faith judges to be a threat to the safety, reputation, or property of the Office Building Complex and its occupants.
3. Tenant shall not make or permit any noise or odors that annoy or interfere with other tenants or persons having business within the Office Building Complex.
4. Tenant shall not keep animals or birds within the Office Building Complex, and shall not bring bicycles, motorcycles or other vehicles into areas not designated.
5. Tenant shall not make or permit litter except in appropriate receptacles for that purpose.
6. Tenant shall not alter any lock or install new or additional locks or bolts.
7. Tenant shall be responsible for the inappropriate use of any bathrooms, plumbing or other utilities. No foreign substances of any kind are to be inserted therein.
8. Tenant shall not deface the walls, partitions or other surfaces of the Premises or Office Building Complex.
9. Tenant shall not suffer or permit any thing in or around the Premises or building that causes excessive vibration or floor loading in any part of the Office Building Complex.
10. Furniture, significant freight and equipment shall be moved into or out of the building only with the Landlord's knowledge and consent, and subject to such reasonable limitations, techniques and timing, as may be designated by Landlord. Tenant shall be responsible for any damage to the Office Building Complex arising from any such activity.
11. Tenant shall not employ any service or contractor for services or work to be performed in the Building, except as approved by Landlord.
12. Landlord reserves the right to close and lock the Office Building Complex on Saturdays, Sundays and legal holidays, and on other days between the hours of \_\_\_\_\_ P.M. and \_\_\_\_\_ A.M. of the following day. If Tenant uses the Premises during such periods, Tenant shall be responsible for securely locking any doors it may have opened for entry.
13. Tenant shall return all keys at the termination of its tenancy and shall be responsible for the cost of replacing any keys that are lost.
14. No signs, banners, window coverings, shades or awnings shall be installed or used by Tenant.
15. No Tenant, employee or invitee shall go upon the roof of the Office Building Complex.
16. Tenant shall not permit smoking or carrying of lighted cigars or cigarettes in areas reasonably designated by Landlord as non-smoking areas.
17. Tenant shall not use any method of heating or air conditioning other than as provided by Landlord.
18. Tenant shall not install, maintain or operate any vending machines upon the Premises without Landlords written consent.
19. Tenant shall not use the Premises for lodging or manufacturing, cooking or food preparation.
20. Tenant shall comply with all safety, fire protection and evacuation regulations established by Landlord or any applicable governmental agency.
21. Landlord reserves the right to waive any one of these rules or regulations, and/or as to any particular Tenant, and any such waiver shall not constitute a waiver of any other rule or regulation or any subsequent application thereof to such Tenant.
22. Tenant assumes all risks from theft or vandalism and agrees to keep its Premises locked as may be required.
23. Landlord reserves the right to make such other reasonable rules and regulations as it may from time to time deem necessary for the appropriate operation and safety of the Office Building Complex and its occupants. Tenant agrees to abide by these and such rules and regulations.
24. Parking areas shall be used only for parking by vehicles no longer than full size, passenger automobiles herein called "Permitted Size Vehicles." Vehicles other than Permitted Size Vehicles are herein referred to as "Oversized Vehicles".
25. Tenant shall not permit or allow any vehicles that belong to or are controlled by Tenant or Tenant employees, supplies, shippers, customers, or invitees to be loaded, unloaded, or parked in areas other than those designated for such activities.
26. Landlord reserves the right to relocate all or a part of parking spaces from floor to floor, within one floor, and/or to reasonably allocate them between compact and standard size spaces, as long as the same complies with applicable laws, ordinances and regulations.
27. Users of the parking area will obey all posted signs and park only in the areas designated for vehicle parking.
28. Unless otherwise instructed, every person using the parking area is required to park and lock his own vehicle. Landlord will not be responsible for any damage to vehicles, injury to persons or loss of property, all of which risks are assumed by the party using the parking area.
29. The maintenance, washing, waxing or cleaning of vehicles in the parking structure or Common Area is prohibited.
30. Tenant shall be responsible for seeing that all of its employees, agents and invitees comply with the applicable parking rules, regulations, laws and agreements.
31. Landlord reserves the right to modify these rules and/or adopt such other reasonable and non-discriminatory rules and regulations as it may deem necessary for the proper operation of the parking area.

Tenant:

Landlord:

\_\_\_\_\_ Date

\_\_\_\_\_ Date